



STUDY MATERIAL FOR B.COM.,
BUSINESS TAXATION
SEMESTER – V



ACADEMIC YEAR 2023-24

PREPARED BY

COMMERCE DEPARTMENT



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



INDEX

UNIT	CONTENT	PAGE NO
I	Indirect taxes	4-10
II	Good and Service Tax Introduction	11-23
III	Levy and Collection	24-44
IV	Integrated GST	45-55
V	Customs Laws in India	56-96



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



BUSINESS TAXATION

Unit I:

Indirect taxes – Meaning and Nature - Special features of Indirect Taxes- Contribution to government revenues - Taxation under the Constitution - Advantages and Disadvantages of Indirect Taxes.

Unit II Good and Service Tax Introduction

Meaning - Need for GST - Advantages of GST - Structure of GST in India – Dual concepts - SGST- CGST-IGST-UTGST Types of Rates under GST – Taxes subsumed under State Goods and Services Tax Act 2017- Taxes subsumed under Central Goods and Services Tax Act 2017. Meaning of important terms: Goods, services, supplier, business, manufacture, casual taxable person, aggregate turnover, input tax and output tax.

Unit III Levy and Collection

Levy and Collection under SGST/CGST Acts - Concept of supply – Composite and Mixed supplies - Composition Levy - Time of supply of goods and services -Value of Taxable supply - Input Tax credit - Eligibility and conditions for taking input credit- Reverse charge under the GST- Registration procedure under GST- Concept of e-way Bill - Filing of Returns.

Unit IV Integrated GST

Levy and Collection under The Integrated Goods and Services Tax Act 2017-Meaning of important terms: Integrated tax, intermediary, location of the recipient and supplier of services, output tax. Levy and Collection of Tax-Determination of nature of Supply- Inter-State supply and Intra-State supply-Place of Supply of Goods or Services - zero-rated supply.

Unit V Customs Laws in India

Introduction to Customs Laws in India – The Customs Act 1962 - The Customs Tariff Act 1975- Levy and Exemption from Custom duty - Taxable event -Charge of Custom duty Exemptions from duty – Customs procedures for in port and export - Meaning of Classification of goods - Methods of valuation of imported goods - Abatement of duty in damaged or deteriorated goods -Remission on duty on lost, destroyed or abandoned goods - Customs duty drawback.



UNIT - I

INDIRECT TAXES

MEANING OF INDIRECT TAXES

Indirect taxes are a type of taxation where the tax burden is shifted from the person or entity that is legally responsible for paying the tax to another person or entity. These taxes are not directly levied on income but are imposed on the production, sale, purchase, or consumption of goods and services.

1. **Passing on the burden:** Unlike direct taxes (e.g., income tax), indirect taxes are often passed on to the end consumer. Businesses collect these taxes from consumers when they purchase goods or services, and the businesses then remit the collected taxes to the government.
2. **Types of indirect taxes:** Common types of indirect taxes include value-added tax (VAT), goods and services tax (GST), sales tax, excise duty, customs duty, and others. Each type of tax may have specific rules and regulations governing its application.
3. **Consumption-based:** Indirect taxes are typically consumption-based, meaning that they are imposed on the consumption of goods and services. The more one consumes, the more indirect taxes one is likely to pay.
4. **Regressive nature:** Indirect taxes can be regressive, meaning that they take a higher proportion of income from low-income individuals compared to high-income individuals. This is because everyone pays the same tax rate on the goods and services they consume, regardless of their income level.
5. **Government revenue:** Indirect taxes contribute significantly to government revenue. By taxing the consumption of goods and services, governments can generate funds for public expenditures, infrastructure development, and other essential services.
6. **Encouraging savings and investment:** Since indirect taxes are not directly linked to income, they may not discourage savings and investment as much as direct taxes. Individuals have more control over how much they pay in indirect taxes based on their consumption choices.

Definition:

- Indirect taxes are taxes imposed on goods and services rather than on income or profits.
- These taxes are paid by consumers when they purchase goods or services, but the actual burden may be passed on to others in the supply chain.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Nature of Indirect Taxes:

1. Not Directly Imposed on Income or Profits:

- Indirect taxes are not directly levied on individuals or businesses' income or profits.
- They are imposed on the production, sale, or consumption of goods and services.

2. Paid by Intermediaries:

- Businesses act as intermediaries in the collection process. They collect taxes from consumers when they purchase goods or services.

3. Passed on to Consumers:

- The burden of indirect taxes is ultimately borne by the end consumer, as businesses usually include these taxes in the prices of their products or services.

4. Broad-Based:

- Indirect taxes are often broad-based and can apply to a wide range of goods and services.

5. Regressive Nature: Indirect taxes tend to be regressive, meaning that they take a higher percentage of income from low-income individuals than from high-income individuals. This is because everyone pays the same tax rate on the goods and services they consume.

6. Widespread Impact: Indirect taxes impact a broad section of the population since they are levied on consumption. This makes them an important source of government revenue.

7. Examples of Indirect Taxes:

- Value Added Tax (VAT)
- Goods and Services Tax (GST)
- Excise Duty
- Customs Duty
- **Value Added Tax (VAT):** A tax imposed at each stage of the production and distribution chain based on the value added to the product.
- **Goods and Services Tax (GST):** Similar to VAT, GST is a comprehensive indirect tax levied on the supply of goods and services.
- **Excise Duty:** A tax on the production or sale of specific goods, such as alcohol, tobacco, or fuel.
- **Customs Duty:** A tax levied on goods imported into or exported out of a country.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Collection Mechanism:

- Indirect taxes are typically collected by intermediaries, such as businesses, and passed on to the government.
- Consumers indirectly bear the tax burden as the taxes are included in the prices of goods and services.

Economic Impact:

- Indirect taxes can influence consumer behaviour and spending patterns. For example, an increase in taxes on certain goods may lead to a decrease in their consumption.

Special Features for Business Tax Notes:

1. Input Tax Credit (ITC):

- Businesses are often allowed to claim input tax credit, which means they can deduct the taxes they paid on inputs (raw materials, services, etc.) from the taxes they collect on their outputs (final products or services).

2. Compliance Requirements:

- Businesses must comply with various documentation and reporting requirements to ensure accurate calculation and payment of indirect taxes.

3. Impact on Pricing Strategy:

- Indirect taxes influence a business's pricing strategy, as the tax burden needs to be considered when setting the prices of goods and services.

4. International Trade Considerations:

- Customs duties, a type of indirect tax, play a crucial role in international trade. Businesses engaged in cross-border transactions need to consider customs duties and tariffs.

5. Sector-Specific Considerations:

- Different sectors may be subject to specific indirect taxes or exemptions. For example, certain essential goods or services may be taxed differently than luxury items.

6. Government Revenue Source:

- Indirect taxes contribute significantly to government revenue. Business tax notes may highlight the importance of indirect taxes in funding public services and infrastructure.

7. Changes in Tax Rates and Policies:

- Businesses need to stay updated on changes in tax rates and policies as they can directly impact the cost structure and profitability.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Advantages and Disadvantages:

- **Advantages:** Indirect taxes are relatively easy to administer and can be a stable source of revenue for the government.
- **Disadvantages:** They can be regressive, placing a higher burden on lower-income individuals. Additionally, they may lead to inflationary pressures as businesses pass on the tax costs to consumers.

Contributions to Government Revenues through business taxes are crucial for funding public services and meeting various needs of the country. Here are some key points about business tax contributions:

1. **Types of Business Taxes:** Businesses may be subject to different types of taxes, including corporate income tax, payroll taxes, sales tax, property tax, and excise taxes. The specific taxes imposed on businesses can vary depending on the jurisdiction and industry.
2. **Corporate Income Tax:** Corporate income tax is imposed on a business's profits. The tax rate may vary depending on the country and the size of the company. It is one of the significant contributors to government revenues, especially for larger corporations.
3. **Payroll Taxes:** Payroll taxes are deducted from employees' wages to fund social security, healthcare, and other benefit programs. Employers are responsible for withholding these taxes and contributing a portion of them as well. This tax helps support government-funded programs and services.
4. **Sales Tax:** Sales tax is levied on the purchase of goods and services. Businesses collect the tax from customers and remit it to the government. This tax contributes to government revenues based on the volume of taxable sales in a particular jurisdiction.
5. **Property Tax:** Property tax is assessed on real estate, including land and buildings. Businesses, as property owners, pay property tax based on the value of their holdings. This tax helps fund local government services like schools, infrastructure, and public safety.
6. **Excise Taxes:** Excise taxes are imposed on specific goods or activities, such as alcohol, tobacco, fuel, and luxury items. Businesses involved in the production, sale, or importation of these products pay excise taxes. These taxes generate revenue for the government and may also discourage the consumption of certain products.
7. **Import and Export Taxes:** International trade activities are subject to various taxes and tariffs. Customs duties, tariffs, and value-added taxes (VAT) are levied on imported and exported goods. These taxes contribute to government revenues and protect domestic industries.
8. **Tax Incentives and Deductions:** Governments sometimes provide tax incentives and deductions to businesses to encourage certain activities or investments. These incentives



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



aim to stimulate economic growth, job creation, or innovation. While they reduce tax revenue in the short term, they can have long-term benefits for the economy.

Overall, business taxes make significant contributions to government revenues, helping finance public services, infrastructure development, social welfare programs, and other essential functions of the government. The specific impact of business taxes varies depending on the economic and regulatory environment of each country.

Taxation under the Constitution

Taxation under the Constitution plays a fundamental role in the collection of revenues by the government, including business taxes. Here are some key points to understand how taxation for business is structured under the Constitution:

1. **Power of Taxation:** The power to impose taxes is vested in the government by the Constitution. In many countries, this power is explicitly granted to the legislature, which is responsible for enacting tax laws.
2. **Uniformity and Equality:** The Constitution often requires that taxes be imposed uniformly and equally across the country to ensure fairness. This means that businesses operating in the same industry or engaging in similar economic activities should be subject to the same tax rates and regulations.
3. **Due Process and Equal Protection:** The Constitution guarantees that taxpayers have the right to due process and equal protection under the law. This means that tax laws and regulations must be applied fairly and consistently to all businesses, without any arbitrary or discriminatory treatment.
4. **Direct and Indirect Taxes:** The Constitution may distinguish between direct and indirect taxes. Direct taxes are imposed directly on individuals or entities, such as corporate income tax or property tax. Indirect taxes, like sales tax or value-added tax (VAT), are levied on goods and services and are ultimately borne by consumers.
5. **Limitations on Taxation:** The Constitution may impose certain limitations on the government's power to tax. For example, it may prohibit the imposition of export taxes, protect against double taxation, or require specific procedures for imposing new taxes or increasing tax rates.
6. **Interstate Commerce and Foreign Trade:** The Constitution often includes provisions to regulate taxation in relation to interstate commerce and foreign trade. These provisions aim to prevent discriminatory taxes that could hinder the free flow of goods and services between states or countries.
7. **Taxation and Economic Policies:** The Constitution may provide the framework for establishing tax policies that promote economic growth, investment, and job creation.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Governments may use business tax incentives, deductions, or credits as tools to encourage specific economic activities or industries.

It is important to note that the specific provisions related to taxation can vary from country to country, as different jurisdictions have different constitutional frameworks. Understanding the constitutional principles of taxation can help ensure that business taxes are imposed and administered in a fair, transparent, and constitutionally sound manner.

Advantages of Indirect Taxes:

1. **Ease of Administration:** Indirect taxes are generally easier to administer compared to direct taxes. The collection of indirect taxes is integrated into the sales transaction process, making it more efficient and cost-effective for the government to collect revenue.
2. **Broad-based Revenue Source:** Indirect taxes can generate significant revenue due to their broad-based nature. These taxes are typically imposed on a wide range of goods and services consumed by individuals and businesses, allowing the government to collect revenue from a large portion of the population.
3. **Invisible to Businesses:** Unlike direct taxes that businesses must calculate and pay directly, indirect taxes are usually borne by the final consumer. From the perspective of businesses, it reduces the administrative burden and makes it easier to manage their finances.
4. **Economic Stability:** Indirect taxes can contribute to economic stability by providing a steady source of revenue for the government. Even during economic downturns, people still need to consume goods and services, ensuring a relatively stable tax base.
5. **Behavioural Impact:** Indirect taxes can be used to influence consumer behaviour. By selectively taxing certain goods or services, the government can encourage or discourage specific consumption patterns. For example, higher taxes on cigarettes may discourage smoking.

Disadvantages of Indirect Taxes:

1. **Regressive Nature:** Indirect taxes tend to be regressive, meaning they place a relatively higher burden on low-income individuals. Since everyone pays the same tax rate regardless of their income, a higher proportion of income is taken from lower-income households, potentially exacerbating income inequality.
2. **Impact on Consumption:** Indirect taxes can reduce consumer purchasing power. When taxes increase the cost of goods and services, consumers may have less discretionary income to spend on other goods and services, potentially impacting economic growth.
3. **Price Distortion:** Indirect taxes can lead to price distortions in the market. Higher taxes on certain products may encourage the proliferation of black markets or smuggling activities, as consumers seek lower-priced alternatives.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



4. **Administrative Costs:** While indirect taxes are generally easier to administer than direct taxes, there are still administrative costs associated with collection, enforcement, and monitoring of compliance. These costs can add to the overall administrative burden on both businesses and the government.
5. **Complexity:** Indirect taxes can become complex when multiple rates or exemptions are introduced to accommodate different goods and services. This complexity can lead to compliance challenges for businesses and regulatory complexities for the government.

It is important to consider these advantages and disadvantages in the context of specific tax systems and economic conditions. Governments must carefully design and implement indirect taxes to balance their revenue-generating objectives with the potential impacts on economic growth, fairness, and consumer behaviour.

KAMARAJ WOMEN'S COLLEGE



UNIT – II

GOODS AND SERVICE TAX

Introduction

The goods and services tax (GST) is a value-added tax (VAT) levied on most goods and services sold for domestic consumption. The GST is paid by consumers, but it is remitted to the government by the businesses selling the goods and services. GST may disproportionately burden people whose self-reported income are in the lowest and middle income brackets, making it a regressive tax.¹ These critics argue that GST can therefore exacerbate income inequality and contribute to social and economic disparities. In order to address these concerns, some countries have introduced GST exemptions or reduced GST rates on essential goods and services, such as food and healthcare. Others have implemented GST credits or rebates to help offset the impact of GST on lower-income households.

Goods and services tax should not be confused with the generation-skipping trust, also abbreviated GST (and its related taxation, GSTT).

The goods and services tax (GST) is an indirect federal sales tax that is applied to the cost of certain goods and services. The business adds the GST to the price of the product, and a customer who buys the product pays the sales price inclusive of the GST. The GST portion is collected by the business or seller and forwarded to the government. It is also referred to as Value-Added Tax (VAT) in some countries.

Most countries with a GST have a single unified GST system, which means that a single tax rate is applied throughout the country. A country with a unified GST platform merges central taxes (e.g., sales tax, excise duty tax, and service tax) with state-level taxes (e.g., entertainment tax, entry tax, transfer tax, sin tax, and luxury tax) and collects them as one single tax. These countries tax virtually everything at a single rate.

Critiques of the GST

A GST is generally considered to be a regressive tax, meaning that it takes a relatively larger percentage of income from lower-income households compared to higher-income households.

"GST may be a regressive tax, but part of a progressive system: Shawn Huang & WP's Louis Chua clash over GST."

This is because GST is levied uniformly on the consumption of goods and services, rather than on income or wealth.

Lower-income households tend to spend a larger proportion of their income on consumables, such as food and household goods, which are subject to GST. As a result, GST can disproportionately burden lower-income households.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Because of this. Some countries with GST are discussing possible adjustments that might make the tax more progressive, which takes a larger percentage from higher-income earners.⁹

India's Adoption of the GST

India established a dual GST structure in 2017, which was the biggest reform in the country's tax structure in decades.¹⁰ the main objective of incorporating the GST was to eliminate tax on tax, or double taxation, which cascades from the manufacturing level to the consumption level.¹¹

Government of India, Department of Revenue. "Goods and Services Tax One Country One Tax One Market FAQs on Goods and Services Tax (GST)."

For example, a manufacturer that makes notebooks obtains the raw materials for, say, Rs. 10, which includes a 10% tax. This means that they pay Rs. 1 in tax for Rs. 9 worth of materials. In the process of manufacturing the notebook, the manufacturer adds value to the original materials of Rs. 5, for a total value of Rs. 10 + Rs. 5 = Rs. 15. The 10% tax due on the finished good will be Rs. 1.50. Under a GST system, the previous tax paid can be applied against this additional tax to bring the effective tax rate to Rs. 1.50 – Rs. 1.00 = Rs. 0.50.

In turn, the wholesaler purchases the notebook for Rs. 15 and sells it to the retailer at a Rs. 2.50 markup value for Rs. 17.50. The 10% tax on the gross value of the good will be Rs. 1.75, which the wholesaler can apply against the tax on the original cost price from the manufacturer (i.e., Rs. 15). The wholesaler's effective tax rate will, thus, be Rs. 1.75 – Rs. 1.50 = Rs. 0.25.

Similarly, if the retailer's margin is Rs. 1.50, his effective tax rate will be (10% x Rs. 19) – Rs. 1.75 = Rs. 0.15. Total tax that cascades from manufacturer to retailer will be Rs. 1 + Rs. 0.50 + Rs. 0.25 + Rs. 0.15 = Rs. 1.90.

India has, since launching the GST on July 1, 2017, implemented the following tax rates:

- A 0% tax rate applied to certain foods, books, newspapers, homespun cotton cloth, and hotel services.
- A rate of 0.25% applied to cut and semi-polished stones.
- A 5% tax on household necessities such as sugar, spices, tea, and coffee.
- A 12% tax on computers and processed food.
- An 18% tax on hair oil, toothpaste, soap, and industrial intermediaries.
- The final bracket, taxing goods at 28%, applies to luxury products, including refrigerators, ceramic tiles, cigarettes, cars, and motorcycles.

The previous system, with no GST, implies that tax is paid on the value of goods and margin at every stage of the production process. This would translate to a higher amount of total taxes paid, which is carried down to the end consumer in the form of higher costs for goods and



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



services. The implementation of the GST system in India is, therefore, a measure that is used to reduce inflation in the long run, as prices for goods will be lower.

Who Has to Pay GST

In general, goods and services tax (GST) is paid by the consumers or buyers of goods or services. Some products, such as from the agricultural or healthcare sectors, may be exempt from GST depending on the jurisdiction.

Need of GST in India

There are various taxes that have to pay at every stage and differently collected by State and Central Government and rates differ from one state to another. If we talk about GST, it will unified whole nation and taxes will be divided among Central and State Government, which will make easier to provide services and goods across country, as no more additional state taxes will be imposed.

Need for GST

Imposing several taxes on goods and services can lead to high cost and inefficient tax structure which can subject to shirking and revenue disclosures. The need for GST in Indian Taxation System will add value at each stage and will set off the rates both at state and at central level. Introducing GST, will increase the efficiency of taxation, improves the economic growth and it will bring whole nation to one national market.

What happen in present scenario? Our present taxation system is very complex and very confusing, corruption chance is there, which leads to distrust of government, there are hidden tax for exports, whereas no charge applicable on Importing of Goods/Services from one state to another.

Just to overcome these issues, Rajya Sabha introduced GST bill, which will bring transparency to taxation and consumer will get to know how much tax amount they are paying to government for sale/ purchase/ manufacturing.

Tax Structure will be Simple: – At present, there are huge number of taxes that has to pay by consumers, with GST it will single tax to pay, which is much easier to understand. For businesses, accounting complexities will reduce and results less paperwork, which will save both time and money. GST will increase economic **GDP** by 2%-2.5%.

Tax revenue will increase: Simple tax structure will bring more tax payers and in return it will be revenue for government.

Competitive pricing: What GST will do? Well, it will eliminate all other taxes of indirect taxes and this will effectively mean that tax amount paid by end users (consumers) will reduce. As in Economics, lower will the prices, more will be demand for that product, results in more consumption of goods, which will be benefited to companies.

Boost to exports: If Indian market will be competitive in pricing, then more and more foreign players will try to enter the market, which results in more numbers of exporters and benefits to



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Indian Market. As far there is no tax rate is finalized, but yes GST is much needed in the countries where, it lacks transparency and complex taxation system. There is a question in everyone's mind....."Do we have to pay tax at different rates and at different levels? Is there no solution to this? Yes, the solution to this is implementation of GST. GST will take away cascading effect of various taxes that are charged on sale/ production/ purchase and so. Products reaches to customers at very high rate as compared to manufacturing, so with GST there will be only one tax and it will reduce burden to pay off.

Advantages of GST

1. **Simplified Tax Structure:** GST has replaced multiple indirect taxes with a single tax, simplifying the tax structure.
2. **Higher Tax Compliance Levels:** GST has introduced a single cumulative tax return that the taxpayer needs to file, elevating tax compliance and reducing tax evasion.
3. **Greater Revenue Collection:** More people are filing tax returns, complying with the GST requirements, and avoiding evasion of taxes, resulting in increased tax revenue for various central and state government agencies.
4. **Increasingly Efficient Logistics:** GST has moved goods and services across states easier, reduced the overheads incurred by companies, and improved overall logistics and operations.
5. **Increased Transparency:** GST is a transparent tax system that provides a clear and comprehensive view of the taxes paid and collected, reducing corruption within the tax administration and related agencies.
6. **Easy Accessibility:** GST returns can be filed anytime and from anywhere using a web-enabled device like a smart phone, tablet, or PC, encouraging higher compliance.
7. **Convenience for Small Businesses:** GST has simplified the tax structure for small businesses, reducing the burden of adhering to multiple compliances and simplifying the protocols for micro, small, and medium enterprises (MSMEs).
8. **Encouragement for Foreign Investments:** The elimination of disparate taxes and increased transparency has made India a highly-attractive investment avenue for foreign investors, with the export of Indian commodities surging while foreign companies are flocking to set up operations here.
9. **Digitisation:** GST has encouraged the digitisation of businesses, increasing efficiency in operations and heightened transparency in reporting.
10. **Boost to the Economy:** More taxes collected and a more efficient inter-state supply chain have benefited the entire economy, especially the less-developed states that can now benefit from the additional GST amount that can be distributed across the country.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Disadvantages of GST

1. **Increased Costs:** To comply with the GST-suggested accounting practices, businesses need to upgrade their software. The specialised GST-compliant software comes with additional costs of purchasing, installation, training, and maintenance. All of this has increased the overall operational expenses of businesses.
2. **Higher Tax Liability of SMEs:** Before GST, small and medium enterprises (SMEs) with a turnover in excess of ₹1.5 Cr were liable to pay excise duty. However, under GST, any business with a turnover of more than ₹20 L has to pay taxes. Although, for businesses with an annual turnover of less than ₹1 Cr, a composition scheme exists that allows them to reduce their burden, its caveats and conditions require an in-depth cost-benefit analysis.
3. **Penalties and Fines:** Most SMEs usually lack the resources and infrastructure to comply with the new tax system. Then, there is the complication of grasping the GST-related nuances. If not fully on board with the new process, companies can face fines and penalties adding to their operational costs.
4. **Impact on Unorganised Sector:** While the unorganised sector such as construction and textile has come under the ambit of GST, the businesses operating within it are still struggling to become GST-compliant in their infrastructure.
5. **Other Teething Issues:** GST was hurriedly implemented in 2017. Since the financial year was already underway, many companies found it challenging to comprehend the new requirements and adopt the system. However, this has become more congenial in the last six years.

Structure of GST

The four-tier tax structure contains four separate rates: a zero rate, a lower rate, a standard rate, and a higher rate. This article is aimed at providing a brief overview of each GST rate.

Zero rate

The zero rate tax is a nil tax rate that is applied on goods and services. This is equivalent to tax exemption and does not have any effect on the price of the product. Items that are eligible for zero rate tax are decided by the government.

The zero rate tax is applied on 50% of the items of the consumer price index (CPI) basket - an index that constantly measures prices of commonly purchased consumer goods and services to measure inflation. The zero rate items includes items such as, food grains, milk, curd, and other food items like eggs, cereal and meat. Also, metro travel, education and healthcare are exempted from GST.

The zero rate of the GST structure will keep the prices of basic items in check, regardless of whether the government decides to increase tax rates in the future.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Lower rate

A lower rate of 5% is applied on the rest of the items in the CPI basket and other items of mass consumption. This includes food items like sugar, tea, coffee, oil, and other essentials like PDS kerosene and LPG. Since the taxation on coal has reduced from 11.69% to 5% under the GST regime, electricity generation has said to be less expensive. The GST council had placed transport services in the 5% sector, which is applicable to Ola and Uber aggregators. Air-conditioned train tickets are taxed at a rate of 5%, while non-AC train tickets are exempt from GST. This, along with the zero rate tax, helps prevent inflation from having much of an impact on zero rate and lower rate items, keeping the prices of all essential items in check.

Standard rate

There are two standard rates: 12% and 18%. Finance Minister Arun Jaitley, in his address to the press, said that the Council had finalized two standard rates in order to keep inflation in check.

Imagine a product, which was previously taxed at 13%, charged a rate of 18% GST. This would increase the price of the product by 5%, leading to inflation. To avoid this, the GST council decided to tax all goods and services that were taxed at 9-15% at a standard rate of 12%. Processed foods are taxed at 12%. The rest of the goods and services are taxed the second standard rate of 18%. Toiletries like hair oil, soap, and toothpaste are taxed at 18%. Also, capital goods, industrial intermediaries, iron and steel, financial and telecom services are included under this sector.

Higher rate

A higher rate of 28% is levied on white goods such as washing machines, air conditioners, refrigerators, small cars, etc. Aerated drinks and cement are also included in this tier.

Previously, the tax on white goods was around 27% (including an excise of 12.5% and VAT of 14.5%), but the cascading effect elevated the tax as high as 30-31%. This is minimized by the new higher rate of 28%.

Additional cess

People worried that demerit goods (such as tobacco products and aerated drinks), which were previously taxed at 65% and 40%, would become cheaper and too easily accessible with the new higher rate of GST set at 28%. Keeping this in mind, the GST structure collects an additional cess on top of 28% GST. The cess will only be applied on certain demerit goods. The percentage of additional cess has been fixed by the government as 15% for luxury vehicles, 1% for petrol powered small cars and 3% for diesel powered small cars. Motorcycles with an engine capacity of over 350 cc are liable for an additional cess of 3%.

The idea of the GST structure is to lower the burden of the common man by taxing items of mass consumption at 0-5%, followed by taxing most major goods and services at a standard rate of 18%.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Dual GST Model in India

Dual GST model or dual GST structure is a simple tax with two different taxation components. Central Goods and Service Tax (CGST) and the State Goods and Service Tax (SGST) are the tax components that can be levied on a single transaction in India within a state on account of its federal nature.

Moreover, both governments have been assigned distinct responsibilities, as prescribed under the division of powers statute of the Constitution. Overall, a dual GST structure is designed to align with the Constitutional requirements of fiscal federalism.

Features of the Dual GST Model

- a) The GST or Goods and Service Tax has two components – one levied by the central government (referred to as Central GST or CGST), and the other collected by the State governments (referred to as State GST or SGST)
- b) Both CGST and SGST apply to all transactions pertaining to goods and services
- c) Both CGST and SGST are paid to the respective accounts of the Central and the States governments individually
- d) CSGT and SGST are treated individually, implying that the taxes paid against the CGST are allowed to be considered as Input Tax Credit (or ITC)
- e) Cross utilization of the Input Tax Credit between CGST and SGST is not permitted, except for the inter-state supply of goods and services
- f) Credit accumulation based on the GST refund is to be avoided by both the Central and State governments except in the case of exports, input tax at a higher rate than output tax, and purchase of capital goods, among others
- g) There is a uniform procedure for collection of both CGST and SGST, as prescribed in their respective legislation
- h) The composition or compounding scheme for GST has an upper ceiling and a floor tax rate concerning the gross annual turnover
- i) As a taxpayer, you must submit periodic returns, in a standard format, to both the CGST and SGST authorities
- j) Each taxpayer is allotted a 14-15 digit PAN-linked taxpayer identification number

Benefits of Dual GST

The Dual GST structure is a transparent and straightforward tax model with a pre-defined set of CGST and SGST rates. The benefits of having a dual GST structure include –

- a) Reduction in the total number of taxes levied by the Central and State governments
- b) A decrease in the effective tax rate for different goods
- c) Elimination of the existing cascading effect of taxes
- d) Reduction of the taxpayer's transaction costs through simplified tax compliance
- e) Increased tax collections based on a broader tax base and improved compliance



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Impact and Implications of Dual GST Model

The dual GST model has been a replacement for the overly complicated tax structure that existed before. So, the biggest beneficiaries of the new system have been the merchants and businesses who had to track, record, collect and file multitudes of taxes every month.

Another area of improvement, which was also a goal of the new GST Model, was the rate of final goods and services to the consumer. The Dual GST model aims to eliminate the cascading effect of indirect taxation on the final goods and services. Thus, if the benefits of lower taxes pass on to the consumers, they should experience lower prices.

Since dual GST means both State and Central Governments can impose and collect taxes, there is a possibility of dispute. The GST Council is expected to draw the guidelines for resolving such disputes.

Ultimately, the dual GST model should benefit the taxpayers and consumers the most. It is simpler to follow and provides easier tax filing methods, which small business owners can easily manage.

GST rates in India

Various GST rates have been defined to enhance transparency and trust between the customers and sellers in the taxation process. Each of these slabs includes different categories of items depending on certain parameters.

These rates are decided by the GST Council. This Council revises the rate slab of goods and services periodically. The GST rates are usually high for luxury supplies and low for essential needs. In India GST rate for various goods and services is divided into four slabs: they are 5% GST, 12% GST, 18% GST, & 28% GST.

You can calculate the applicable GST on your business goods for free based on the above mentioned different tax slabs using Razorpay's online GST calculator

Checkout Razorpay's GST Search Tool, a powerful resource designed to streamline GST verification and search for Central and State GST jurisdiction

GST Rate changes from 1st January 2023

The government has raised the goods and services tax on items such as clothes, textiles, and footwear from 5% to 12%. The GST rate on textiles has been raised to 12% from 5%, and the GST rate on garments of any value has been raised to 12% from 5%.

In addition, Razorpay can help you grow your business through an automated payment system with GST-compliant tariffs.

Classification of items under the several GST rate slabs

Let's look at GST rates or GST tax slab rates for India's various popular goods and services.



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BUSINESS TAXATION



Common Nil Rated or 0% GST Products in India

Below are some common examples of the lowest i.e. 0% GST rate products in India:

Fresh Milk and Pasteurised Milk

Rice (not labelled or pre-packaged)

Fresh Meat (not pre-packaged) and Eggs

Fresh Curd and Paneer (not pre-packaged)

Fresh Fruits and Vegetables

Natural Honey (not branded/pre-packaged)

Some everyday goods that feature the 5% GST rate in India are as follows:

Sugar and Tea

Milk food items for babies

Indian sweets

Hearing aids

Radio/App-based Taxis

Economy-class flight and Railway tickets

Some daily use goods that feature the 12% rate of GST are listed below:

Computers and Mobile phones

Packaged Ghee

Business class flight tickets

Fruit juices or Fruit Pulp-based drinks

Preserved Fruits and Vegetables

Condensed Milk

Quite a few GST goods feature 18% GST rate some of these are as follows:

Mineral Water (natural or artificial)

Pasta

Life Insurance and Health Insurance

Cornflakes



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Toothpaste

Computer Monitors

Examples of highest GST rate include the following:

Caffeinated Beverages

Cigars and Cigarettes (tobacco-based),

Pan Masala

Passenger Cars

Portland/Slag/Aluminous Cement

Air Conditioners

Dish Washing Machines

GST rates calculation formula-

Goods and Services Tax amount = (Original price x Current GST rate) / 100

Determine the net price= GST amount + Original price of product/ service

Suppose a product or a service costs Rs. 800, and the GST applicable is 12%, then you net price of product will be $800 + (800 \times (12/100)) = 896$.

Taxes Subsumed Under GST

GST, or Goods and Services Tax, is a broad-based, indirect consumption tax. Before the introduction of GST, there were multiple types of indirect taxes that varied from state to state, like sales tax, excise duty, VAT, octroi, etc. The presence of different types of taxes led to a lot of complexity and cascading effects of taxes.

GST was introduced with the aim of eliminating the multiplicity of taxes and the cascading effect of taxes. It was designed to subsume most of the existing indirect taxes in India. It subsumed the existing indirect taxes that were levied on the sale of goods and services by the Central or State government. In this guide, we talk about the taxes that were subsumed under GST

Principles of Tax Subsumation

Various types of Central, State, and Local taxes were identified to be subsumed in GST. The principles given below were used to identify taxes that can be subsumed under GST -

- **Indirect Taxes:** The taxes subsumed in GST should be indirect in nature. These taxes should be levied on the supply of either services or goods. Taxes not related to the supply of services and goods should not be included in GST.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- **Part of the Transaction Chain:** The taxes selected for subsumption should be a part of the transaction chain that starts with the import, manufacture, and production of goods or services and ends with the consumption of goods and services.
- **Free Flow of Tax Credit:** This subsumation must lead to a free flow of tax credit on inter-state and intra-state levels.
- **Revenue Fairness:** The subsumation should be done keeping in mind the fairness of revenue for both the states and unions individually.

State Taxes Subsumed Under GST

- **State VAT -** VAT is a value-added tax levied on goods and services at every stage of the supply chain. VAT varies from state to state.
- **Central Sales Tax -** It refers to the tax levied on the sales generated during interstate trade and commerce in the industry.
- **Luxury Tax -** Luxury tax is the indirect tax levied on the goods and services that are considered to be luxurious.
- **Entry Tax of all Types -** It refers to a tax levied by the state governments on the movement of goods from one area to another.
- **Entertainment and Amusement Tax -** It is a tax levied on commercial entertainment events by the state government.
- **Taxes on Advertisements -** The tax levied on the advertisements published in print media like magazines, newspapers, etc.
- **State Surcharges and Cesses -** All the surcharges and cesses levied by the state governments.

The implementation of GST has indeed streamlined India's tax structure by subsuming a multitude of complex and cascading indirect taxes. However, the transition is not without its intricacies, and the classification of taxes under GST can be complex. It's crucial to understand the nuances of this system to ensure compliance with tax provisions.

Seeking advice from a tax expert can be a wise move to navigate your taxes. Their expertise can help businesses and individuals reduce tax liabilities and enhance financial efficiency.

What Central Taxes were Subsumed in GST?

After applying the above-mentioned principles, a set of taxes was selected to be subsumed under the GST. Given below are the Central taxes that were subsumed under GST -

- **Central Excise Duty (CENVAT) -** Central excise duty is the indirect tax levied on the goods and services at the time when they are transferred from the production unit to the warehouse.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- **Additional Excise Duties** - This tax is levied on the goods scheduled under section 3 of the Additional Duties Act of 1957.
- **Duties of Excise (Toilet and Medicinal Preparations)** - It is the indirect tax or excise duty that is levied on the toilet and medicinal preparations.
- **Additional Duties of Excise (Goods of Special Importance)** - It is the additional duty levied on special goods such as tobacco, sugar, and textiles made in a mill.
- **Additional Duties of Excise (Textiles and Textile Products)** - The excise duty levied on textile products is known as additional excise duties.
- **Additional Duties of Custom (CVD)** - Additional CVD or special countervailing duty is the tax or duty imposed on imported goods to equalize the value of imported goods with domestic products to protect the interests of domestic manufacturers.
- **Service Tax** - Service tax is an indirect tax imposed on the services provided by cable operators, travel agents, restaurants, cab services, etc.
- **Central Surcharge and Cesses** - All the surcharges and cesses were also subsumed under GST.

Meaning of important terms

Goods

“Goods” has been defined as every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

Services

“Services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

Supplier

“Supplier” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and. shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

Business

As per section 2(17) of CGST Act[1], 2017 “Business” includes— Any trade, commerce, manufacture, profession, vocation, adventure, wager, or any other similar activity, whether or not it is for a pecuniary benefit



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Manufacture

“Manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly.

Casual taxable person

“Casual taxable person” means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

Aggregate turnover

“Aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed.

Input Tax Credit

‘Input Tax Credit’ or ‘ITC’ means the Goods and Services Tax (GST) paid by a taxable person on any purchase of goods and/or services that are used or will be used for business. ITC value can be reduced from the GST payable on the sales by the taxable person only after fulfilling some conditions.

Output tax credit

“Output tax” in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis. Previous article Non-taxable territory section 2(79) of CGST Act.



UNIT – III

LEVY AND COLLECTION

Levy under SGST/CGST Acts:

1. Dual Structure:

The GST system in India follows a dual structure, with both the central and state governments having the authority to levy and collect taxes on the supply of goods and services. The CGST Act is applicable to intra-state supplies (transactions within a state), while the SGST Act is specific to the respective states.

2. Taxable Event:

The levy under the SGST/CGST Acts is triggered by the occurrence of a taxable event, which is the supply of goods or services. "Supply" is a comprehensive term that includes all forms of supply, such as sale, transfer, barter, exchange, license, rental, lease, or disposal.

3. Taxable Persons:

The Acts apply to taxable persons, which include individuals, businesses, and other entities engaged in the supply of goods or services above a specified threshold turnover. These entities are required to register for GST.

4. Rate Structure:

The GST system has multiple tax rates for different goods and services. The rates are decided by the GST Council, which comprises representatives from both the central and state governments. The rates are categorized into four slabs: 5%, 12%, 18%, and 28%, with some items attracting a 0% rate or falling under specific cess categories.

Collection under SGST/CGST Acts:

1. Output Tax:

Taxpayers are required to collect GST on their outward supplies of goods or services, known as output tax. The output tax is calculated based on the applicable GST rate and the value of the supply.

2. Input Tax Credit:

Taxpayers are allowed to claim Input Tax Credit (ITC) on the GST paid on their inward supplies (purchases). This means that the tax paid at the time of procurement can be set off against the tax collected on sales, reducing the overall tax liability.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



3. Payment to Government:

The net tax liability (output tax minus ITC) is paid to the government. This process ensures that tax is collected at each stage of the supply chain, but the burden is ultimately borne by the final consumer.

4. Filing Returns:

Taxpayers are required to file regular GST returns, which include details of their outward and inward supplies, along with the tax paid and collected. This information is used to reconcile the tax liability and claim ITC.

5. Compliance and Enforcement:

The SGST and CGST Acts include provisions for compliance and enforcement. Non-compliance with GST regulations may result in penalties and legal action.

It's crucial for businesses to stay updated with the latest amendments and notifications issued by the government to ensure compliance with the SGST and CGST Acts. Additionally, consulting with tax professionals can provide specific guidance based on individual circumstances.

Supply

The concept of supply is a fundamental aspect of the Goods and Services Tax (GST) framework, and it plays a pivotal role in determining the taxability of transactions involving goods and services. The concept of supply under GST is comprehensive, encompassing various transactions and activities that attract taxation. Let's explore the key aspects of the concept of supply.

Definition of Supply:

Under GST, the term "supply" is defined in a broad and inclusive manner. According to the GST law, supply includes all forms of supply of goods or services or both, such as sale, transfer, barter, exchange, license, rental, lease, or disposal made or agreed to be made for a consideration in the course of business.

Concept of supply

Inclusive Nature:

The inclusive nature of the definition ensures that a wide range of transactions falls within the ambit of supply, preventing the evasion of taxes through creative structuring of transactions.

Scope of Supply:

The concept of supply encompasses both goods and services. It covers the transfer of title or right to use goods, as well as the provision of services in various forms. The supply can be made for a consideration (monetary or non-monetary) in the course of business.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Taxable and Non-Taxable Supplies:

Not all supplies are subject to taxation. The GST law categorizes supplies into taxable, exempt, and non-GST supplies. Taxable supplies attract the levy of GST, while exempt supplies and non-GST supplies do not.

Composite and Mixed Supplies:

GST recognizes composite and mixed supplies. A composite supply comprises two or more taxable supplies of goods or services or both, which are naturally bundled and supplied in conjunction with each other. A mixed supply involves a combination of taxable and non-taxable elements, with the taxable element determining the tax treatment.

Time and Place of Supply:

The time and place of supply are critical in determining when and where the tax liability arises. The time of supply refers to the point when the transaction is deemed to have occurred, and the place of supply determines the jurisdiction (state or union territory) where the tax is payable.

Inclusions and Exclusions:

The GST law provides a list of specific inclusions and exclusions from the definition of supply. Certain transactions, such as gifts without consideration, activities undertaken by employees in the course of employment, and transactions between related persons without consideration, may be excluded from the definition of supply.

Continuous Supply of Goods or Services:

The concept of continuous supply is relevant when a supply extends over a period of time. In such cases, the time of supply is determined periodically, and tax liability arises accordingly.

Import of Services:

Even if the supplier is located outside India, the concept of supply includes the import of services, making the recipient liable to pay tax under the reverse charge mechanism.

Composite supply under GST

A composite supply is characterised as giving at least two products or administrations typically packaged and given together in the standard course of business under India's wares and Services Tax (GST) system. One part of a composite stockpile is considered the essential inventory, and different parts are viewed as strengthening or coincidental to the essential supply. How the significant inventory is classified decides a composite supplier's tax treatment. Here are a few fundamental plans regarding composite supplies subject to GST:

- One of the items or services in a composite supply—the principle supply—is the primary element and determines the composite supply's fundamental characteristics. The central supply determines the tax bracket and categorisation of the composite supply.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- Other supplies made in addition to the main supply are referred to as ancillary or incidental supplies because they are not separately identifiable. They are delivered as a unit with the primary supply.
- Taxation treatment: The central supply's relevant GST rate determines the GST rate that applies to a composite supply. The tax calculation for composite supplies is made more accessible as a result. The primary supplier's tax rate applies to the total value of the composite supply.
- A composite supply's value is calculated by considering the total cost of the package, which is then utilised to compute GST.
- A typical illustration of a composite supply is a dinner at a restaurant, where both the food and the beverages are provided. Food supply is commonly regarded as the primary supply in such a scenario, and the GST rate that applies to the entire meal is based on the rate for food.

The composition levy under GST is an alternative method of GST Return filing for small taxpayers with an annual turnover of less than Rs. 1.5 crore (75 Lakh in the case of some states) in the previous financial year. This scheme was introduced to simplify the taxation process for small taxpayers and reduce their compliance burden. The composition scheme is optional, whereby the eligible taxpayers have the option to file annual returns along with quarterly payment of taxes.

Advantages

The major advantages of the composition levy are listed below,

1. Simplified Compliance: Taxpayers under the composition scheme of GST have lesser compliance formalities to follow.
2. Easier Return Filing: Registered taxpayers need to file an annual return instead of multiple monthly/quarterly returns.

Disadvantages

The major disadvantages of the composition levy are as follows,

1. Limited Territory: Taxpayers under the composition scheme cannot make inter-state supplies, limiting the territory for business, except in some specified cases.
2. No ITC: Input Tax Credit cannot be availed under the GST Composition Scheme.
3. Eligibility: Only certain taxpayers can opt for the composition scheme under GST. Moreover, for multiple businesses under a single PAN, the taxpayer will have to opt for the composition scheme for all businesses.

Registered taxpayers with an annual turnover of less than 1.5 crores are eligible for the composition levy under GST. This limit is reduced to 75 Lakh for the following states,



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- Arunachal Pradesh
- Assam
- Manipur
- Meghalaya
- Mizoram
- Nagaland
- Sikkim
- Tripura
- Himachal Pradesh

It must be noted that the turnover of all businesses under the same PAN has to be added up to calculate the turnover for the purpose of the composition scheme.

Mixed Supply

- Mixed supply under GST means a combination of two or more goods or services made together for a single price.
- Each of these items can be supplied separately and is not dependent on any other.

Under GST, a mixed supply will have the tax rate of the item which has the highest rate of tax. For example- A Diwali gift box consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices supplied for a single price is a mixed supply. All are also sold separately. Since aerated drinks have the highest GST rate of 28%, aerated drinks will be treated as principal supply and 28% will apply on the entire gift box.

How to determine if it is a mixed supply or a composite supply?

We have to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. If the items can be sold separately, i.e., the supplies not naturally bundled in the ordinary course of business, then it would be a mixed supply. For example: If a person buys canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices separately and not as a Diwali gift box, then it is not considered a mixed supply. All items will be taxed separately.

Differences between mixed and composite supplies

Particulars	Composite Supply	Mixed supply
Main item	Principal item	Item with highest tax rate



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Tax rate applicable	Tax rate of principal item	Highest tax rate of all the items
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Listed below are the tax payers who cannot opt for the composition levy under GST,

- a. Casual taxable persons or non-resident taxable persons.
- b. Suppliers with an aggregate turnover in the preceding financial year exceeding Rs. 1.5 Cr (or 75 Lakh in the case of North-Eastern States and Himachal Pradesh).
- c. Suppliers who have purchased any goods or services from an unregistered supplier unless he has paid GST on such goods or services on a reverse charge basis.
- d. Supplier of services, other than restaurant service.
- e. Persons supplying goods that are not taxable under GST law.
- f. Persons making any Inter-State outward supplies of goods.
- g. Suppliers making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52.
- h. A manufacturer of the following goods:
 - Ice cream and other edible ice, whether or not containing cocoa
 - Pan masala
 - Tobacco and manufactured tobacco substitutes

Rules for the composition scheme

1. Input Tax Credit (ITC) cannot be claimed by the composition dealer.
2. Taxpayers under the composition scheme cannot supply goods and services that are not taxable under GST.
3. Normal GST rates shall be applicable for transactions under the Reverse Charge Mechanism (RCM).
4. If the taxpayer has multiple businesses under the same PAN, then all such businesses are required to be registered under the scheme collectively.
5. The word “Composition Taxable Person” must be mentioned on every notice, signboard, and bill of supply issued by the business.
6. As per the CGST (Amendment) Act, 2018, a supply of services up to an extent of 10% of the turnover, or Rs 5 Lakhs, whichever is higher, can now be made by the manufacturer or trader w.e.f. 1st Feb 2019.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



GST Rates for the composition scheme

Category of Registered Person	Rate of Tax
Manufacturers, other than manufacturers of such goods as may be notified by the Government (ice cream, pan masala, tobacco products, etc.)	1% (0.5% CGST + 0.5% SGST/UTGST)
Restaurant Services, not serving alcohol	5% (2.5% CGST + 2.5% SGST/UTGST)
Eligible service providers (or goods and service suppliers)	6% (3% CGST + 3% SGST / UTGST)
Traders or any other supplier eligible for composition levy	1% (0.5% CGST + 0.5% SGST/UTGST)

The registered taxpayers who are eligible can opt for the composition levy scheme by submitting Form CMP-02 on the common portal. New taxpayers who are not registered under GST are required to submit Form GST REG-01 to opt for the composition scheme.

What are the applicable returns and forms under the composition levy?

- A composition dealer is required to pay taxes in the CMP-08 quarterly by the 18th of the month after the end of the quarter.
- Form GSTR-4 is required to be filed by the composition taxpayer annually.

Time, Place and Value of Supply

- **Time of supply** means the point in time when goods/services are considered supplied'. When the seller knows the 'time', it helps him identify due date for payment of taxes.
- **Place of supply** is required for determining the right tax to be charged on the invoice, whether IGST or CGST/SGST will apply.
- **Value of supply** is important because GST is calculated on the value of the sale. If the value is calculated incorrectly, then the amount of GST charged is also incorrect

Time of Supply

Time of supply means the point in time when goods/services are considered supplied'. When the seller knows the 'time', it helps him identify due date for payment of taxes.

CGST/SGST or IGST must be paid at the time of supply. Goods and services have a separate basis to identify their time of supply.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Time, Place and Value of Supply

Under GST, 3 types of taxes can be charged in the invoice. SGST and CGST in case of an intra-state transaction and IGST in case of an interstate transaction. But deciding whether a particular transaction is inter or intrastate is not an easy task.

Think about an online training where customers are sitting in different parts of the world.

Say in case, hotel services, where the receiver may have an office in another state and may be visiting the hotel only temporarily, or where goods are sold on a train journey passing through different states.

To help address some of these situations, the IGST act lays down certain rules which define whether a transaction is inter or intrastate. These rules are called the place of supply rules.

Why are time place and value of supply important?

- **Time of supply** means the point in time when goods/services are considered supplied'. When the seller knows the 'time', it helps him identify due date for payment of taxes.
- **Place of supply** is required for determining the right tax to be charged on the invoice, whether IGST or CGST/SGST will apply.
- **Value of supply** is important because GST is calculated on the value of the sale. If the value is calculated incorrectly, then the amount of GST charged is also incorrect

Time of Supply

Time of supply means the point in time when goods/services are considered supplied'. When the seller knows the 'time', it helps him identify due date for payment of taxes.

CGST/SGST or IGST must be paid at the time of supply. Goods and services have a separate basis to identify their time of supply. Let's understand them in detail.

Time of Supply of Goods

Time of supply of goods is earliest of:

1. Date of issue of invoice
2. Last date on which invoice should have been issued
3. Date of receipt of advance/ payment*.

For example:

Mr. X sold goods to Mr. Y worth Rs 1,00,000. The invoice was issued on 15th January. The payment was received on 31st January. The goods were supplied on 20th January.

Time of supply is earliest of –

- Date of issue of invoice – 15th January



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- Last date on which invoice should have been issued – 20th January.

Thus the time of supply is 15th January.

What will happen if, in the same example an advance of Rs 50,000 is received by Mr. X on 1st January?

The time of supply for the advance of Rs 50,000 will be 1st January (since the date of receipt of advance is before the invoice is issued). For the balance Rs 50,000, the time of supply will be 15th January.

Time of Supply for Services

Time of supply of services is earliest of:

- Date of issue of invoice
- Date of receipt of advance/ payment.
- Date of provision of services (if invoice is not issued within prescribed period)

Let us understand this using an example:

Mr. A provides services worth Rs 20000 to Mr. B on 1st January. The invoice was issued on 20th January and the payment for the same was received on 1st February.

In the present case, we need to 1st check if the invoice was issued within the prescribed time. The prescribed time is 30 days from the date of supply i.e. 31st January. The invoice was issued on 20th January. This means that the invoice was issued within a prescribed time limit.

The time of supply will be earliest of –

- Date of issue of invoice – 20th January
- Date of payment = 1st February

This means that the time of supply of services will be 20th January.

Place of supply

It is very important to understand the term 'place of supply' for determining the right tax to be charged on the invoice.

Here is an **example**:

Location of Service Receiver	Place of supply	Nature of Supply	GST Applicable
Maharashtra	Maharashtra	Intra-state	CGST + SGST



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Maharashtra	Kerala	Inter-state	IGST
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Place of Supply of Goods

Usually, in case of goods, the place of supply is where the goods are delivered. So, the place of supply of goods is the place where the ownership of goods changes.

For example: In case of sales in a supermarket, the place of supply is the supermarket itself.

Place of supply in cases where goods that are assembled and installed will be the location where the installation is done.

For example, a supplier located in Kolkata supplies machinery to the recipient in Delhi. The machinery is installed in the factory of the recipient in Kanpur. In this case, the place of supply of machinery will be Kanpur.

Place of Supply for Services

Generally, the place of supply of services is the location of the service recipient.

In cases where the services are provided to an unregistered dealer and their location is not available the location of service provider will be the place of provision of service.

Special provisions have been made to determine the place of supply for the following services:

- Services related to immovable property
- Restaurant services
- Admission to events
- Transportation of goods and passengers
- Telecom services
- Banking, Financial and Insurance services.

In case of services related to immovable property, the location of the property is the place of provision of services.

Example 1:

Mr. Anil from Delhi provides interior designing services to Mr. Ajay(Mumbai). The property is located in Ooty(Tamil Nadu).

In this case, place of supply will be the location of the immovable property i.e. Ooty, Tamil Nadu.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Example 2:

A registered taxpayer offers passenger transport services from Bangalore to Hampi. The passengers do not have GST registration. What will be the place of supply in this case?

The place of supply is the place from where the departure takes place i.e. Bangalore in this case.

Value of Supply of Goods or Services

Value of supply means the money that a seller would want to collect for the goods and services supplied. The amount collected by the seller from the buyer is the value of supply.

But where parties are related and a reasonable value may not be charged, or transaction may take place as a barter or exchange; the GST law prescribes that the value on which GST is charged must be its 'transactional value'. This is the value at which unrelated parties would transact in the normal course of business. It makes sure GST is charged and collected properly, even though the full value may not have been paid.

To generate GST compliant invoices and file GST Returns use our Clear Tax GST software.

Input Tax Credit under GST - Conditions to Claim

'Input Tax Credit' or 'ITC' means the Goods and Services Tax (GST) paid by a taxable person on any purchase of goods and/or services that are used or will be used for business.

ITC value can be reduced from the GST payable on the sales by the taxable person only after fulfilling some conditions. These conditions given under the GST law are more or less in line with the pre-GST regime, except for a few additional ones such as GSTR-2B. These rules are direct and maybe stringent in nature.

Conditions to claim an input tax credit under GST

Section 16 of the CGST Act lays down the conditions to be fulfilled by GST registered buyers to claim ITC. The conditions are summarised as follows-

- Such input tax credit is eligible for claims if the goods or services purchased are further used for business purposes and not personal use.
- Buyer must hold such tax invoice or debit note or document evidencing payment towards the purchase.

For example, Mr Manoj wants to claim an ITC of Rs.5,600 as he found the ITC entry in GSTR-2B of January 2022 as of 10th February 2022 but he has not received the invoice till 20th February 2022, being the date of filing the returns. He cannot claim Rs.5,600 as ITC while filing GSTR-3B of January 2022 due to the absence of the invoice.

- Such tax invoice or debit note is filed by the supplier in Form GSTR-1 and it appears in the buyer's Form GSTR-2B.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



For example, Mr Manoj received a tax invoice dated 13th January 2022 for purchases and wants to claim an ITC of Rs.5,600 but has not found the ITC entry in GSTR-2B of January 2022 as of 20th February 2022. He cannot claim Rs.5,600 as ITC while filing GSTR-3B of January 2022.

- From 1st January 2022, the benefit of provisional ITC claims is no longer available as per Section 16(2)(aa). It means the amount of ITC reported in GSTR-3B will be a total of actual ITC in GSTR-2B. The provisional ITC of 5% of actual ITC in GSTR-2B will no longer be allowed. Hence, a regular matching of the purchase register or expense ledger with GSTR-2B is crucial. Until 31st December 2021, a regular taxpayer could have claimed provisional ITC in GSTR-3B to the extent of 5% of the ITC available in GSTR-2B, in addition to ITC in GSTR-2B.
- The buyer has received the goods and/or services. The goods are said to be received if it is delivered by the supplier to the buyer or his representative or agent or another person as directed, against a document of transfer of title of goods. On the other hand, the services are said to be received if it is rendered by the supplier to the buyer or another person as directed.

For instance, Mr Manoj received a tax invoice for purchases dated 10th January 2022 but has not yet received goods until 20th February 2022. The taxpayer cannot report ITC on that tax invoice in GSTR-3B for January 2022 and may claim it in future once goods are delivered.

- The buyer must furnish the GST returns in Form GSTR-3B.
- Where the goods are received in lots or instalments, ITC will be allowed to be availed when the last lot or instalment is received.
- The buyer must pay towards the supply of goods and/or services within 180 days from the invoice date. If they fail to, then the ITC already claimed will need to be paid to the government, along with interest payable under Section 50.* The ITC claim can be again made once the payment is made to the supplier.
- No ITC will be allowed if depreciation has been claimed on the tax component of a capital good purchased.
- ITC on a tax invoice or debit note belonging to a financial year must be claimed within the time limit given by the GST provisions, explained in the next section.
- Common credit of ITC must be identified and split as it is used together for selling both exempt and taxable supplies, and/or business and non-business activity.
- There are certain items listed down that are not eligible for ITC claims under Section 17(5) of the CGST Act, known as blocked credits under Section 17(5) of the CGST Act.

*This provision will come into force once notified by the CBIC.

Time limit to claim an input tax credit under GST



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



The time limit to claim ITC against an invoice or debit note is earlier of two dates, given below:

- 30th November of the next financial year.
- The date of filing the annual returns in form GSTR-9 relating to that financial year.

For instance, XY Corp, a buyer with a purchase invoice dated 8th December 2021 (FY 2021-22), wants to claim GST paid on that purchase. As per the criteria laid down to find out the time limit, the two dates are as follows:

- 30th November 2022.
- The date of filing GST annual return for FY 2021-22 is 31st December 2022.

The earlier of the two is the date up till when the XY Corp can claim ITC of FY 2021-22. Therefore, the last date is 30th November 2022 and XY Corp can claim this ITC in any of the tax periods between April 2021 to October 2022.

Note: For debit notes, the above condition must be considered with respect to the debit note itself and not the original invoice that it is linked to.

Items on which ITC is not allowed

The input tax credit is not available for claims in the following cases-

- **Motor vehicles**, with a seating capacity of less than or equal to 13 persons (including the driver), **goods transport agencies, vessels and aircraft**, except for a few cases. So as an exception, ITC is allowed in the below cases:
 - Such motor vehicles and conveyances are further supplied i.e. sold.
 - Transport of passengers and goods.
 - Conveyance is used for imparting training on driving, flying, and navigating such vehicles or conveyances.
- **Services of general insurance, servicing, repair and maintenance** relating to motor vehicles, vessels or aircraft in Sl. no.1.
- **Food and beverages**, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery.
But if the goods and/or services are taken to deliver the same category of services or as a part of a composite supply, the input tax credit will be available

Clear Solutions to claim accurate and 100% ITC

Many conditions are there to claim ITC before the last date passes. An Indian enterprise must verify the ITC details before claiming it in Form GSTR-3B for a tax period. It involves regular



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



reconciliation of GSTR-2B with books of accounts. Further, it requires frequent follow-ups with suppliers who have not reported tax invoices or debit notes.

All these require a robust and smart solution that requires the least manual effort!

Clear GST ensures that your GSTR-2B data is fetched without manual intervention. Our advanced reconciliation engine matches data between books and GSTR-2B to identify gaps, with the option to define custom matching logic and claim 100% ITC in GSTR-3B.

Clear GST also allows users to annually reconcile ITC across financial years for accurate preparation of GSTR-9 and GSTR-9C.

Clear Max ITC is India's first end-to-end enterprise solution for maximising the claims of the input tax credit. Clear Max ITC platform has exclusive features to improve your input tax credit claims with value additions such as the following-

1. It hosts the fastest AI-based reconciliations to match invoices without any errors and help you identify 100% ITC.
2. Automated data reconciliations take place by direct data pulls from the GSTN and the ERP at regular intervals.
3. Automated vendor communication helps you to keep follow-up efforts at a bare minimum.
4. Smart payment decisions are synced to a business's ERP based on automated vendor categorisation through an intelligent vendor scoring mechanism.
5. Advanced user access management helps you define access rights for each team and keeps data absolutely secure.

The platform firstly sets up a two-way connection between it and your ERP/accounting system. It schedules automatic reconciliations of the GST details at regular time intervals and also syncs vendor payment decisions.

Your team can fix the vendor payment terms to automatically hold the GST value or the entire invoice due if your vendor has not filed GST returns. It further syncs this decision with the ERP for all future payments. If any invoice is missing and identified so, communication is auto-sent to the concerned vendor via email, WhatsApp, etc.

With passing time, you will notice that the Clear Max ITC solution has helped you reduce the number of defaulting vendors, optimise input tax credit, and unblock your working capital. We've seen that the solution has helped many of our clients reduce their GST cash outflows and increase profits by up to 7% just by way of ITC maximisation.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



How to Register for GST India Online – Guide for GST Registration process Online

Steps to fill up Part-A of GST Registration Application

Step 1 – Go to GST portal. Click on Services. Then, click on the 'Registration' tab and thereafter, select 'New Registration'.

Step 2 – Enter the following details in Part A –

- Select New Registration radio button
- In the drop-down under 'I am a' – select Taxpayer
- Select State and District from the drop down
- Enter the Name of Business and PAN of the business
- Key in the Email Address and Mobile Number. Please note that you don't have to enter your email id and mobile number if your contact details are linked with PAN.
- You will receive OTPs on the registered email id and mobile number or PAN-linked contact details, as the case may be.
- Click on Proceed

Step 3 – Enter the two OTPs received on the email and mobile or the PAN-linked contact details. Click on Continue. If you have not received the OTP click on Resend OTP.

Step 4 – You will receive the 15-digit Temporary Reference Number (TRN) now. This will also be sent to your email and mobile or PAN-linked contact details. Note down the TRN. You need to complete filling the part-B details within the next 15 days.

Step 5 – Once again go to the GST portal. Select the 'New Registration' tab.

Step 6 – Select Temporary Reference Number (TRN). Enter the TRN and the captcha code and click on Proceed.

Step 7 – You will receive an OTP on the registered mobile and email or PAN-linked contact details. Enter the OTP and click on Proceed

Step 8 – You will see that the status of the application is shown as drafts. Click on Edit Icon.

Steps to fill Part-B of GST registration application

Step 9 – Part B has 10 sections. Fill in all the details and submit appropriate documents. The Aadhaar authentication section was added and the bank account section was made non-mandatory in 2020.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Here is the list of documents you need to keep handy while applying for GST registration-

- Photographs
- Constitution of the taxpayer
- Proof for the place of business
- Bank account details*
- Verification and aadhaar authentication, if chosen

* Bank account details are non-mandatory at the time of GST registration since 27th December 2018.

Step 10 – Under the Business Details section, enter the trade name, business constitution and district.

Note: Trade name is completely different from the legal name of the business.

Moving on, select 'Yes/No' to opt-in or out of the composition scheme, against the field- "Option for Composition". Further, choose the type of registered person as manufacturers or service providers of work contract or any other person eligible for composition scheme.

Step 11 – Under the Promoters/Partners tab, you may enter the details of up to 10 Promoters or Partners.

Personal details such as name, address, mobile number, date of birth, email address and gender and identity details such as Designation / Status and Director Identification Number if the taxpayer is a company, whether or not an Indian citizen, PAN and Aadhaar numbers must all be entered.

Fill in the residential address and upload a photograph of the stakeholder. You are allowed to upload PDF or JPEG files with maximum file size for upload of 1 MB.

If the promoter is also the primary authorised signatory, then make the necessary selection. Click on the 'SAVE & CONTINUE' button to proceed.

Step 12 – Enter details of the Authorised signatory similar to the details entered for promoters/partners, in step 10.

Step 13 – Enter Principal Place of Business details.

The taxpayer's principal place of business is the primary location within the state where he or she conducts business. The principal place of business is usually the address where the company's books of accounts and documents are stored, as well as where the company's president or top management is based.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Report the address, district, sector/circle/ward/charge/unit, commissioner ate code, division code and range code. Also, enter the official contact number of taxpayer and nature of possession of premises as rented or owned or shared, etc.

Next up, upload supporting documents, including consent letter or NOC for business on premises rented out and upload the proof of SEZ Unit/SEZ Developer approval for the premises, if applicable. Also, checkmark the Nature of business activities in the premises and add any additional places of businesses. Click on the 'SAVE & CONTINUE' button.

Step 14 – Submit details of goods and services in the next tab along with the HSN codes or SAC for up to a maximum of 5 goods and 5 services on the top of your list.

Step 15 – Next, enter the Bank details of the taxpayer for up to 10 bank accounts. Submission of bank accounts details has been made optional from 27th December 2018. If you do not report these details at the time of GST registration, then after GSTIN is granted, you will get a prompt upon logging in for the first time on the GST portal to file a non-core amendment application to submit the bank details.

Also, upload supporting documents together with the details.

Step 16 – Under the State Specific Information tab, enter the professional tax employee code number, PT registration certificate number and State Excise License number with the name holding the license. Click on 'SAVE & CONTINUE'.

Step 17 – Next, choose whether or not you are willing to do Aadhaar authentication. Learn more about the process and options available from our page, "All you need to know about Aadhaar authentication and steps".

Step 18 – Once all the details are filled in go to the Verification page. Tick on the declaration and submit the application using any of the following ways:

- Companies and LLPs must submit application using DSC
- Using e-Sign – OTP will be sent to Aadhaar registered number
- Using EVC – OTP will be sent to the registered mobile

Step 19 – A message is displayed on successful application and Application Reference Number(ARN) is sent to registered email and mobile.

eWay Bill

eway bill

e-way bill is short for Electronic Way Bill. GST E-way bill is a document used to track goods in transit introduced under the Goods and Service Tax. A taxable person registered under GST involved in the transportation of goods with a value of over Rs.50,000 must possess an E-way bill generated on the GST Portal.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



LEDGERS has made E-way bill generation and management very simple for business. The Ledgers E-way bill tool is synced to GST invoices, bills of supply, purchases invoices, and customer or supplier accounts.

eWay Bills can be generated seamlessly at the click of a button and shared with the customers or suppliers. The procedure for moving the movements of goods is prescribed in the E-way bill rules. However, it is to be noted that when the GST Act came into being on the 1st of July, the E-way bill implementation was deferred.

Who should Generate an eWay Bill?

The following cases wherein a person having GST registration are causing goods movement should generate an E-way bill.

- eWay Bills generation is done when there is a movement of goods of more than Rs.50,000 value to or from a registered person. The registered person can even generate an E-way bill if the goods' valuation is less than Rs.50,000.
- An unregistered person is also required to generate an E-way bill. When an unregistered person makes a supply to a registered person, the receiver must ensure that all the compliances are complied with.
- A transporter carrying goods via road, air, rail, etc., is required to generate an E-way bill if the supplier has not generated any E-way Bill.

Documents required to generate eWay Bills

1. Invoice/ Bill of supply/ Challan relevant to the consignment of goods
2. In case of Transport by road- Transporter ID or the vehicle number
3. Transport by rail, air, or ship- Transporter ID, Transport document number, and date.

eWay bill format

The E-way bill consists of two parts Part A and B. The Part A of the E-way bill collects the details related to consignment, usually the invoice details. Accordingly, the following information needs to be submitted.

- GSTIN of the recipient must be submitted.
- The Pin code of the place where goods are delivered needs to be mentioned.
- The invoice or the challan number against which the goods are supplied must be submitted.
- The value of consignment is to be mentioned.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- HSN code of the goods which are transported should be entered. If the turnover is up to INR 5 crores, the HSN code's first two digits should be mentioned. If the turnover is more than INR 5 crores, a four-digit HSN code is required.
- The reason for transportation should be predefined, and the most appropriate one needs to be selected.
- The transport document number should be indicated. It includes goods receipt number, railway receipt number, airway bill number.

Generate eWay Bill

An E-Way Bill (EWB) is an 'electronic way' bill for movement of goods which can be generated on the E-Way Bill Portal. Any supplier or a transporter transporting goods with a value of more than Rs.50,000 (Single Invoice/bill/delivery challan) in a single vehicle should carry a GST e-way bill as per the GST Council regulations. The supplier or the transporter of the goods must register with GST to obtain GST E-Way bill. This bill shall come into effect from 1st April 2018.

After generating the E-Way bill on the portal using required credentials, the portal generates a unique E-Way Bill Number (EBN) and allocates to the registered supplier, recipient, and the transporter. In this article, we look at the steps to generate a e-way bill on the Government website.

The supplier or the transporter can create the E-way bill through the following ways:

- LEDGERS Software,
- E-Way bill portal
- SMS,
- Android App and through,
- Site-to-Site Integration (through API).

Steps to generate e-Way Bill on the e-Way Bill portal

E-way bill can be generated on the GST E-Way Portal. To use the portal, you will need a GST registration and transporter registration.

Setp 1: Access the E-Way bill generation portal at <https://ewaybill.nic.in/> and enter the login detail to enter the platform.

Setp 2: Click on the "Generate New" option from the E-Way bill- Main menu page to create a new E-Way bill.

e-way Bill Generate Online

Setp 3: A new EWB bill generation form appears. Fill in the details required similar to creating a GST invoice.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Select outward, if you are the supplier and inward, if you are the recipient. Enter details of the supplier and recipient along with GSTIN, wherever applicable.

When a registered GSTIN is entered in the field provided in the form, other details gets pulled into the empty fields. Before proceeding to the next step kindly check the details.

Enter Goods Description

Setp 4: The second half of the page will contain information to be filled as follows:

- Product Name and Description must be completed similar to a tax invoice.
- HSN Code for the Product must be entered. Click here to find HSN code.
- Quantity and Unit of the goods.
- Value of the products along with Tax rate.
- IGST or CGST Rates applicable. IGST would be applicable for inter-state transport and SGST / CGST for intra-state transport.
- Approximate distance of transport along with Transporter Name and Transporter ID. This shall determine the validity of the E-Way bill.

Setp 5: Generate E-way bill

After filling all the necessary details, click on the **“SUBMIT”** button to create the EWB. The Portal shall display the E-Way bill containing the E-Way Bill number and the QR Code that contains all the details in the digital format. The printed copy of the bill should be provided to the transporter who will carry it throughout the trip till it is being handed over to the consignee.

Setp 6: Consolidate E-way Bill Generation

A consolidated EWB can also be created which contains all the details on the transaction and is also easy to create it by providing just the **‘E-Way bill number’** in the required field. Click on **“SUBMIT”** to generate the consolidated EWB.

An E-Way bill can be updated once it is created. Details on the transporter, consignment, consignor and also the GSTIN of both the parties can be updated in the existing E-Way bill provided the bill is not due on its validity.

Cases When E-Way Bill is exempted or not required

When the below-mentioned goods are being transported E-way bill is not required:

- Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers;
- Kerosene oil sold under PDS;
- Postal baggage transported by Department of Posts;



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71);
- Jewelry, goldsmiths and silversmiths wares and other articles (Chapter 71);
- Currency;
- Used personal and household effects;
- Coral, unworked (0508) and worked coral (9601)

GST Return

A GST return is a document containing details of all income/sales and/or expenses/purchases that a GST-registered taxpayer (every GSTIN) is required to file with the tax administrative authorities. This is used by tax authorities to calculate net tax liability.

Under GST, a registered dealer has to file GST returns that broadly include:

- Purchases
- Sales
- Output GST (On sales)
- Input tax credit (GST paid on purchases)

To file GST returns or for GST filings, check out the Clear GST software that allows the import of data from various ERP systems such as Tally, Busy, custom Excel, to name a few. There is also the option to use the desktop app for Tally users to directly upload data and file.

Who should file GST RETURNS?

Under the GST regime, regular businesses having more than Rs.5 crore as annual aggregate turnover (and taxpayers who have not opted for the QRMP scheme) have to file two monthly returns and one annual return. This amounts to 25 returns each year.

Taxpayers with a turnover of up to Rs.5 crore have the option to file returns under the QRMP scheme. The number of GSTR filings for QRMP filers is 9 each year, which include 4 GSTR-1 and GSTR-3B returns each and an annual return. Note that QRMP filers have to pay tax on a monthly basis even though they are filing returns quarterly.

There are also separate statements/returns required to be filed in special cases such as composition dealers where the number of GSTR filings is 5 each year (4 statement-cum-challans in CMP-08 and 1 annual return GSTR-4).



UNIT - IV

INTEGRATED GST

This is the charging provision of the IGST Act. It provides that all inter-State supplies would be liable to IGST at rate recommended by the Council and notified subject to a ceiling rate of 40%. The provision of this section is comparable to the provision under section 9 of the CGST Act and section 7 of the UTGST Act. The levy is on all goods or services or both except alcoholic liquor for human consumption. Further, GST may be levied in supply of petroleum crude, high speed diesels, motor spirit (petrol), natural gas and aviation turbine fuel with effect from the date notified by the Government on the recommendations of GST Council.

LEVY AND COLLECTION AS PER CGST ACT, 2017:

U/s 9(1) of CGST Act, 2017 there shall be levied a tax

- Called the Central Goods and Services Tax(CGST);
- On all the intra-state supplies of goods or services or both, except on supply of alcoholic liquor for human consumption;
- On the value determined u/s 15; and
- At such a rate (maximum 20%,) as notified by the Central Government on recommendation of GST Council; and
- Collected in such a manner as may be prescribed; and
- Shall be paid by the taxable person.

U/s 9(2) of CGST Act 2017, the CGST of following supply shall be levied with the effect from such date as notified by the Central Government on recommendation of GST Council-

- Petroleum crude
- High speed diesel
- Motor spirit (commonly known as petrol)
- Natural gas Aviation turbine fuel

(c) U/s 9(3), CGST is to be paid on reverse charge basis by the recipient on notified goods/ services or both (liability to pay tax by the recipient of supply of goods / services rather than supplier of goods/ services under forward charge)

(d) U/s 9(4), CGST on taxable supply of goods/ services to registered supplier from unregistered supplier is to be paid on reverse charge basis by the recipient.

(e) U/s 9(5), E-Commerce operator is liable to pay CGST on notified intra-state supplies.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Levy and collection as per IGST Act, 2017

U/s 5(1) of IGST Act, 2017 there shall be levied a tax –

- Called the Integrated Goods and Services Tax (IGST);
- On all the inter-state supplies of goods or services or both, except on supply of alcoholic liquor for human consumption;
- On the value determined u/s 15 of CGST Act, 2017; and
- At such a rate (maximum 40%,) as notified by the Central Government on recommendation of GST Council; and
- Collected in such a manner as may be prescribed; and
- Shall be paid by the taxable person.

Provided further that IGST will be imposed on goods/ services imported into India.

U/s 5(2) of IGST Act, 2017, the CGST of following supply shall be levied with the effect from such date as notified by the Central Government on recommendation of GST Council

- Petroleum crude
- High speed diesel
- Motor spirit (commonly known as petrol)
- Natural gas
- Aviation turbine fuel

U/s 5(3), IGST is to be paid on reverse charge basis by the recipient on notified goods/ services or both (liability to pay tax by the recipient of supply of goods/ services rather than supplier of goods/ services under forward charge).

U/s 5(4), IGST on taxable inter-state supply of goods/ services to registered supplier in respect of specified categories of goods or services or both received from unregistered supplier is to be paid on reverse charge basis by the recipient.

U/s 5(5), E-Commerce operator is liable to pay CGST on notified inter-state supplies.

IT (INTEGRATED TAX)/IGST (INTEGRATED GOODS AND SERVICES TAX)

IGST full form translates to Integrated Goods and Services Tax. IGST is one of the three components of Goods and Services Tax. IGS tax is levied when there is an inter-state transfer of goods and services.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



The three components of GST are:-

- CGST: Central Goods and Services Tax
- SGST: State Goods and Services Tax
- IGST: Integrated Goods and Services Tax

When GST was introduced by the central government in July 2017, the idea was to subsume all the various indirect taxes into one. The reason to implement GST was to simplify the indirect taxation system for the supply and demand side. India is a federal country and we have many levels of governance. In terms of finance, both central and state governments are permitted to collect and levy taxes.

For the same reason, it was logistically difficult to have just one simple tax category. Therefore we have three categories to accommodate for the different levels of transactions and taxation.

INTERMEDIARY [Section 2(13) of IGST Act]-

The term 'intermediary' is defined under section 2(13) of the Integrated Goods and Services Tax Act, 2017. The important features of the same are highlighted hereunder-

- An intermediary can be a broker or an agent or any other person;
- An intermediary, who between two/ more persons, arranges/ facilitates the supply of goods or services or securities;
- However, an intermediary doesn't include the person who supplies the goods or services or securities on his own account.

In simple terms, the person arranging as well as facilitating supplies between two or more persons are covered within the definition of intermediary. However, an independent supplier is not covered.

Place of supply of service in case of intermediary services [Section 13(8)(b) of IGST Act]-

The taxability of any service is determined on the basis of the 'Place of Supply' of the said service. Specified service will be taxed as inter-state or intra-state depends on the place of supply of said service.

Provisions of section 13(8)(b) of the IGST Act specifically defines the place of supply of intermediary services. As per the said provision, the location of the service provider will be the place of supply in case of intermediary services.

Intermediary services vis-à-vis export of services-

The term 'export of services' is defined under section 2(6) of the IGST Act, 2017. Accordingly, 'export of services' means supplies of services that qualifies all the following conditions-

1. The service provider should be located in India;



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



2. Service receiver should be located outside India;
3. Place of supply of service should be outside India;
4. The payment for the service is received in convertible foreign exchange; and
5. Service provider and service receiver is not merely establishments of distinct persons.

Thus, the following can be concluded, when the provisions of export of services are co-related with the provisions of the place of supply in case of intermediary services-

- For qualifying as export of services, the place of supply of service should be outside India.
- As seen above, in terms of section 13(8)(b) of the IGST Act, the place of supply of service in the case of intermediary service is the location of a service provider. Thus, the service provider being located in India will obviously result in the place of supply of service being in India.
- Resultantly, when the place of supply is in India, the same will not qualify as export of services.
- Thus, even when the intermediary service satisfies all the other conditions of export of services. The same will not qualify as export of services and similarly will not have the benefits of export of services, since it doesn't satisfy the condition of the place of supply being outside India.

Thus, the contradictory conclusion to above is that even when the recipient of service is located outside India, the intermediary service will be treated as services performed in India because the place of supply will be the location of the service provider i.e. India. Accordingly, such intermediary services provided to service receiver located outside India will be taxable under GST.

Judicial rulings in the matter-

Some of the judicial rulings supporting above conclusion is summarized hereunder-

1. Material Recycling Association of India Vs. Union of India and others -

Honourable Gujarat HC has held that provisions of section 13(8)(b) of the IGST Act read with section 2(13) of the IGST Act are not ultra vires. Further, it is held that intermediary services in cross border transactions will be liable to CGST and SGST. Such intermediary services will not be considered as export.

2. West Bengal authority for advance rulings in the matter of **M/s. Global Reach Education Services Pvt. Ltd.-**

It is held that in the case of intermediary services, the place of supply will be determined as per provisions of section 13(8)(b) of the IGST Act and not as per provisions of section 13(2) of the IGST Act.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Accordingly, it is held that since the condition specified under section 2(6)(iii) of the IGST Act is not satisfied. Hence, services provided to foreign universities don't qualify as 'export of services' and hence such services are taxable under the GST Act.

Specific exemption available to intermediary services-

Let us look at one of the specific exemption made available to intermediary service vide notification no. 20/2019- Integrated Tax (Rate) dated 30th September 2019.

Entry no. 12AA of the said notification provides an exemption to the services provided by the intermediary services when the location of supplier and recipient of goods is outside India. In nutshell, IGST is not payable on intermediary services when both the supplier and recipient of goods are located outside India.

However, for availing the exemption, the intermediary service provider is required to maintain the following documents for a minimum period of 5 years-

- Copy of Bill of Landing;
- Copy of commission debit note raised by the intermediary service provider located in the taxable territory (i.e., India) from the receipt of service located in a non-taxable territory (i.e., outside India);
- Copy of contract executed between the supplier and the recipient of the goods;
- Copy of Certificate of Origin issued by the service recipient located in a non-taxable territory;
- Declaration letter from the intermediary service provider located in the taxable territory, on the company's letterhead, confirming that the commission debit note raised relates to the contract when both the supplier and the recipient of goods are outside the taxable territory.

LOCATION OF RECIPIENT OF SERVICE [SECTION 2(64)]

'Location of recipient of service' means:

where a supply is received at a place of business for which registration has been obtained, the location of such place of business;

(ii) where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;

(iii) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

in absence of such places, the location of the usual place of residence of the recipient;



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



According to Rule 2(i) of Place of Provision Rules, 2012, 'location of the service receiver' means:

- a) where the recipient of service has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;
- b) where the recipient of service is not covered under sub-clause (a):
 - (i) the location of his business establishment; or
 - (ii) where services are used at a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or
 - (iii) where services are used at more than one establishment, whether business or fixed, the establishment most directly concerned with the use of the service; and
 - (iv) in the absence of such places, the usual place of residence of the recipient of service. 'Usual place of residence' in case of a body corporate means the place where it is incorporated or otherwise legally constituted. In the case of telecommunication service, the usual place of residence shall be the billing address. In GST law, it is proposed to have focus on place of business and business establishment. In case of receipt of supply of service at registered place, place of business shall be the location of service supplier. Where supply is received at a place which is not registered i.e., a fixed establishment elsewhere, location of service recipient will be such fixed establishment and not place of business.

LOCATION OF SUPPLIER OF SERVICE [SECTION 2(65)]

'Location of supplier of service' means:

- (i) where a supply is made from a place of business for which registration has been obtained, the location of such place of business ;
- (ii) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- (iii) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- (iv) in absence of such places, the location of the usual place of residence of the supplier;

According to present Rule 2(h) of Place of Provision of Rules, 2012 'location of the service provider' means-

- a) where the service provider has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;
- b) where the service provider is not covered under sub-clause (a):
 - (i) the location of his business establishment; or



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



(ii) where the services are provided from a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or

(iii) where services are provided from more than one establishment, whether business or fixed, the establishment most directly concerned with the provision of the service; and

(iv) in the absence of such places, the usual place of residence of the service provider. Thus the location in GST regime shall be based on place of business or fixed establishment, depending upon registration of place. Where service is supplied from more than one establishment, the location most directly concerned with supply shall be considered as location of supplier of service. Where it can not be identified as such, usual place of residence will be considered as the location of supplier of service.

OUTPUT TAX

Output tax liability has been defined under section 2(82) of the CGST Act. It refers to the money that a business owes to the government for the sale of taxable goods and services. This amount is supposed to be collected by the government at the time of sale.

For example, if you are a registered business involved in selling laptops worth Rs.50,000 each and the rate of GST on laptops is 18%. Then the amount of output tax will be - $\text{Rs.50,000} \times 18\% = \text{Rs.9,000}$ each.

Benefits of Output Tax Credit

Prevents Double Taxation - Output tax credit prevents the cascading effect of taxes in which tax is calculated on the already paid tax amount. This system makes sure that tax is levied only on the value added at each stage and not levied twice on the same value of the product.

Reduces Tax Liability - It also helps businesses claim an input tax credit and adjust it with the output tax credit to reduce the overall tax liability. This is extremely beneficial for businesses having significant amounts of input tax credits.

Helps Maintain Compliance - Output tax credit motivates businesses to maintain proper books of accounts and ensure compliance with the provisions of GST. This is required because businesses need to match their sales and purchases to claim credit.

More Cost Efficient - It is a cost-efficient method as the GST paid on inputs can be passed on to the consumers in the form of reduced prices.

Provides Competitive Advantage - Businesses that utilize the output tax credit facility can provide lower prices to their customers and gain a competitive advantage over others.

Output Tax Liability Calculated:

The calculation of output tax liability under GST is very easy and straightforward. Here's the Formula for the computation of output tax liability -

Output Tax Liability = Total Taxable Value of Goods Supply x GST Rate



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



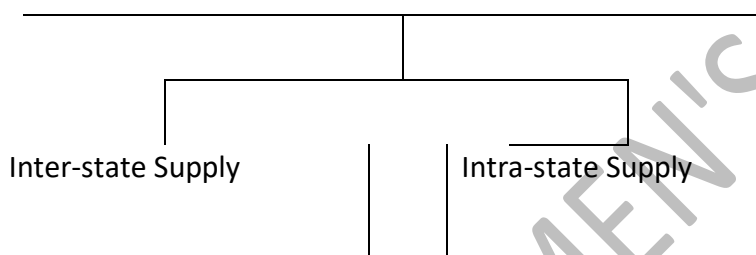
Let's understand with an example: If you sold ten fridges worth Rs.50,000 each. Then, the total taxable value of goods sold should be Rs.5,00,000. The output tax liability will be Rs.90,000 (Rs.5,00,000 x 18%).

DETERMINATION OF NATURE OF SUPPLY AND PLACE OF SUPPLY OF SERVICES

Nature of Supply and Place of supply are two of the most important concepts under GST. Determination of Nature of supply is very important to determine whether a supply is inter-state or intra-state. CGST and SGST will be levied on intra-state supply while inter-state supplies will be charged to IGST.

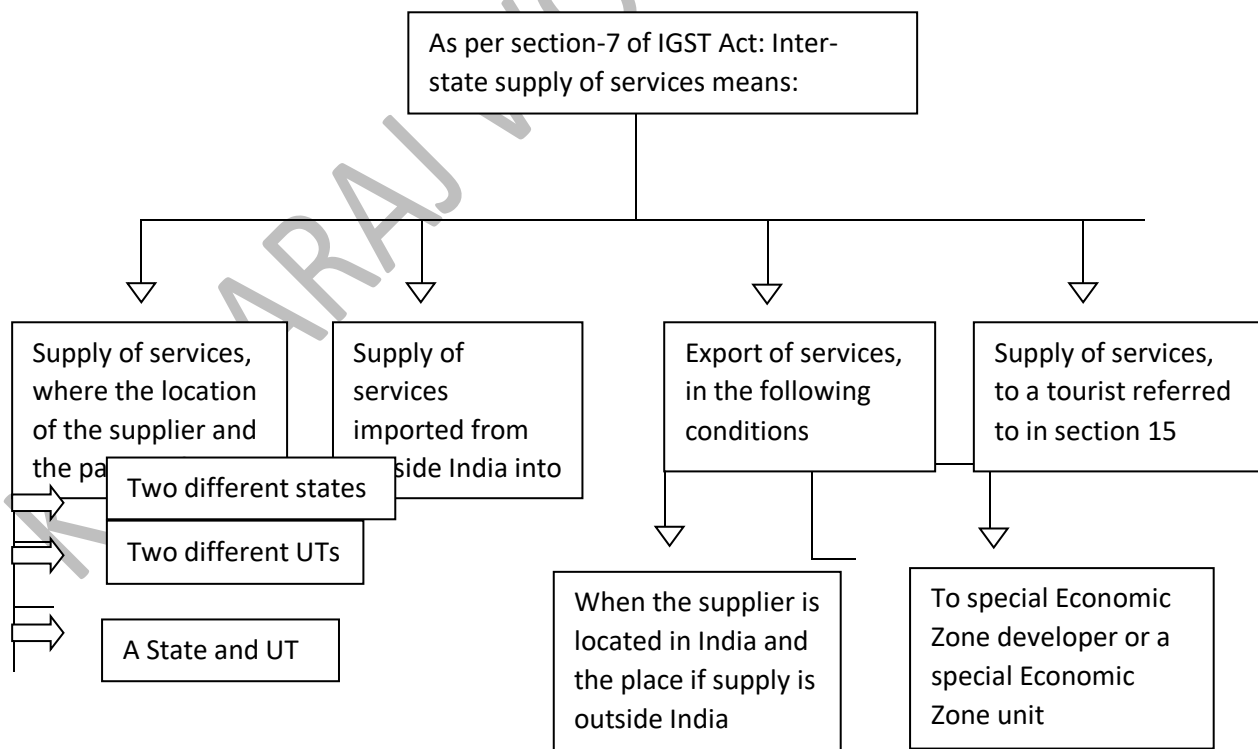
Also, inter-state and intra-state concept may be important for taking input credit on goods and services.

Nature of Supply



Determine inter-state and intra-state supply

The following tables describe how to determine whether a supply is inter-state or intra-state:

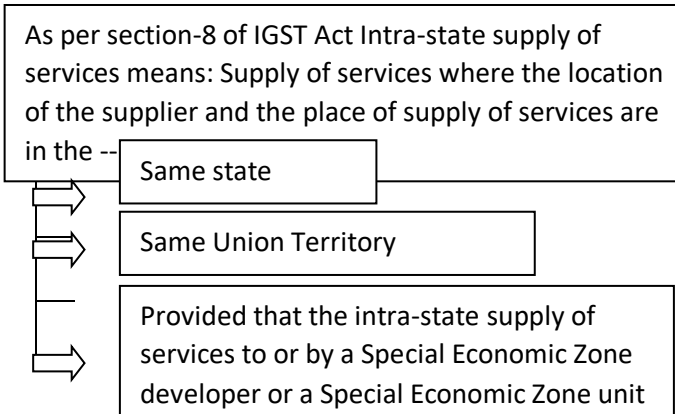




ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Intra-state supply:



Therefore, in order to determine whether a supply is intra-state or inter-state we need to determine the location of supplier and the place of supply.

PLACE OF SUPPLY OF GOODS OR SERVICES:

The provisions relating to Place of supply of services are given under sections 12 & 13 of the IGST Act'2017. The rules for determination of place of supply of services can be categorized into the following two situations:

1. Place of supply of services where location of supplier and recipient is in India.
2. Place of supply of services where location of supplier or location of recipient is outside India.

Place of supply of services where location of supplier and recipient is in India- Sec 12 of IGST Act'2017

General Rule- Section 12(2) of the IGST Act' 2017

a) The place of supply of services, except the services specified in sub-sections (3) to (14):

(a) made to a registered person shall be the location of such person;

(b) made to any person other than a registered person shall be,-

(i) the location of the recipient where the address on record exists; and

(ii) the location of the supplier of services in other cases.

The place of supply of services, except the services specified in sub-services (3) to (14),--

Made to a registered person shall be the location of such

Made to any person other than a registered person shall be,

The location of the recipient where the address on record exists.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



The location of the supplier of services in other cases.

The above is the general rule for determination of Place of supply of services where location of supplier and recipient is in India.

However, there are specific situations/ nature of services where the location of the supplier and the recipient is in India in which the place of supply is to be determined as per the table given as below:

Nature of Services	Place of supply
Services directly in relation to immovable property	location at which the Immovable property is located or intended to be located
Restaurant, Catering, personal grooming, fitness, beauty treatment, cosmetic and plastic surgery	Location where the services The place of supply of services in relation to
training and performance appraisal	If provided to: A registered person, shall be the location of such person; A person other than a registered person, shall be the location where the services are actually performed
Services of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park.	Place where the event is actually held or where the park is located.
a. Services of organisation of a cultural, artistic, sporting, scientific, and educational or entertainment event. services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events	If provided to: (i) to a registered person, shall be the location of such person; (ii) to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.
Supply of services by way of transportation of goods, including by mail or courier	If provided to: a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Passenger transportation service	If provided to: (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey.
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ZERO RATED SUPPLIES:

In any economy, the government tries to increase its exports as much as possible. This helps the government in maintaining the country's economic growth, employment and balance of payments. To boost exports, the government provides certain reliefs and benefits to business houses. One such relief provided under the GST regime is called Zero Rated Supplies in GST.

Any supplies made by a registered dealer as an export (both goods and services) or supply to an SEZ qualifies for Zero Rated Supplies in GST. The rate of tax on such supplies is 'Zero' or we can say the supplies are tax-free. The supplies to a developer of an SEZ is also covered under Zero-Rated Supplies in GST as no tax is levied on these supplies as well. There are certain supplies on which there is no incidence of GST. It is important to understand the underlying difference among all such supply criterions:

Particulars	NIL Rated Supplies	Non-Taxable Supplies	Exempt Supplies	Zero-Rated Supplies
Meaning	Goods and services on which 0% GST is applicable	Goods and services on which GST is not levied at all	Supplies which are exempt from payment of GST	Goods or services which are exported or supplied to SEZ
Input credit availability	Not available	Not available	Not available	Available
GST applicability	Falls within GST ambit	Doesn't fall within GST ambit	Falls within GST ambit	Falls within GST ambit
Example	Hotel accommodation with tariff below Rs. 1,000	Supply of alcohol for human consumption	Inward supplies from unregistered dealers	Export of shoes to South Africa



UNIT – V

THE CUSTOM ACT OF INDIA

INTRODUCTION

Customs law is a branch of indirect tax law that governs the import and export of goods across international borders. It regulates the collection of duties on imported goods and imposes restrictions on exports and imports. Custom duty is a tax levied on goods imported into a country. The rate of customs duty is usually determined by the value of the goods, their weight or volume, or a combination of these factors. The customs authorities collect the customs duty at entry into the country. Customs law also governs the procedures for the clearance of goods through customs. This includes the submission of customs declarations, the payment of duties and taxes, and the inspection of goods by customs officials. Customs law also imposes restrictions on the import and export of certain goods.

Customs law is an essential branch of indirect tax law that regulates the import and export of goods across international borders. It imposes customs duties on imported goods, restricts the import and export of certain goods, and regulates the procedures for the clearance of goods through customs.

THE CUSTOMS ACT, 1962

Custom Duty:

Custom Duty is a duty or tax charged on goods imported into India or exported outside India.

The basic law for levy and collection of customs duty is Customs Act, 1962.

On Imports, goods are allowed to be entered India only if custom is paid

Similarly in case of exports, goods are allowed to be exported outside India only if custom duty is paid.

Aim & Objectives of Custom Act–

Indirect Tax - Customs Duty is a type of indirect tax levied on goods imported into India as well as on goods exported from India.

Taxable Event - Taxable event is import into or export from India.

Provisions - It provides for levy and collection of duty on imports and exports, import/export procedures, prohibitions on imports and exports of goods, penalties, offences, etc.

Apex Body - The Central Board of Excise & Customs (CBEC) is the apex body for customs matters.

There are 2 laws of Customs -

The Customs Act, 1962 - Containing procedures of Customs



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



The Customs Tariff Act, 1975 - Containing rates of Customs Duty

Different Rate of Duties

There are 2 types of rates in Custom

1. Preferential Rate of Duty
2. Standard Rate of Duty

If goods are imported from the preferential areas [as notified by the Central Government] otherwise, Standard rate will be applicable.

Definition of "goods" according to Section 2(22) of Customs Act-

vessels, aircraft and vehicles;

stores;

baggage;

currency and negotiable instruments; and

any other kind of movable property;

Applicable- whole of India

Non-Applicability- According to Section 44 the provisions of this Chapter shall not apply to

baggage, and

goods imported or to be exported by post.

Assessment of duty (Section 17) -

Examination and Testing - After an importer has entered any imported goods, or an exporter has entered any export goods the imported goods or the export goods, as the case may be, or such part thereof as may be necessary may, without undue delay, be examined and tested by the proper officer.

Duty leviable - After such examination and testing, the duty, if any, leviable on such goods shall, save as otherwise, be assessed.

Furnishing Information - For the purpose of assessing duty, the proper officer may require the importer, exporter or any other person to produce any contract, broker's note, policy insurance, catalogue or other document whereby the duty leviable on the imported goods or export goods, as the case may be, and thereupon the importer, exporter or such other person shall produce such document and furnish such information.

Re – Assessment - If information so furnished is not true in respect of any matter relevant to the assessment, the goods may, without prejudice to any other action which may be taken under this Act, be re-assessed to duty.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Provisional assessment of duty (Section 18) - The proper officer may direct that the duty leviable on such goods may,

pending the production of such documents or

furnishing of such information or

completion of such test or enquiry, be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

Refund of export duty in certain cases (Section 26) -

Where on the exportation of any goods any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if-

the goods are returned to such person otherwise than by way of re-sale;

the goods are re-imported within one year from the date of exportation; and

an application for refund of such duty is made before the expiry of six months from the date on which the proper officer makes an order for the clearance of the goods.

Penalty for Improper Importation of Goods, Etc. {Section 112} -
In the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding five times the value of the goods or one thousand rupees, whichever is the greater.

THE CUSTOMS TARIFF ACT, 1975, (ACT NO. 51 OF 1975)

[18th August, 1975] An Act to consolidate and amend the law relating to Customs Duties.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows -

Short title, extent and commencement. -

This Act may be called the Customs Tariff Act, 1975.

It extends to the whole of India.

It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Duties specified in the Schedules to be levied. -
The rates at which duties of customs shall be levied under the Customs Act, 1962 (52 of 1962), are specified in the First and Second Schedules.

Levy of additional duty equal to excise duty. -

Any article which is imported into India shall, in addition, be liable to a duty (hereafter in this section referred to as the additional duty) equal to the excise duty for the time being leviable on a



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



like article if produced or manufactured in India and if such excise duty on a like article is leviable at any percentage of its value, the additional duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article.

Explanation. — In this section, the expression "the excise duty for the time being leviable on a like article if produced or manufactured in India" means the excise duty for the time being in force which would be leviable on a like article if produced or manufactured in India, or, if a like article is not so produced or manufactured, which would be leviable on the class or description of articles to which the imported article belongs, and where such duty is leviable at different rates, the highest duty.

For the purpose of calculating under this section, the additional duty on any imported article, where such duty is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in Section 14 of the Customs Act, 1962 (52 of 1962), be the aggregate of —

the value of the imported article determined under sub-section (1) of the said Section 14 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

any duty of customs chargeable on that article under Section 12 of the Customs Act, 1962 (52 of 1962), and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include (with retrospective effect from 1st day of March 2002)-

the special additional duty referred to in section 3(A)

the safeguard duty referred to in section 8B and 8C;

the countervailing duty referred to in section 9.

anti-dumping duty referred to in section 9A and

the duty referred to in sub section (1).

In relation to which it is required, under the provisions of the standards of Weights and Measures Act, 1976 or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such article; and

where the like article produced or manufactured in India, or in case where such like article is not so produced or manufactured, then, the class or description of articles to which the imported article belongs, is the goods specified by notification in the Official Gazette under sub-section (1) of section 4A of the Central Excise Act, 1944.

Explanation: - Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article whether on such article duty is leviable under sub-section (1) or not such additional duty as would counter-balance the excise duty leviable on any raw materials, components and ingredients of the same nature as, or similar to those, used in the production or manufacture of such article, it may, by notification in the Official Gazette, direct that such imported article shall, in addition, be liable to an additional duty representing such portion of the excise duty leviable on such raw materials, components and ingredients as, in either case, may be determined by rules made by the Central Government in this behalf.

In making any rules for the purposes of sub-section (3), the Central Government shall have regard to the average quantum of the excise duty payable on the raw materials, components or ingredients used in the production or manufacture of such like article.

The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

The provisions of the Customs Act, 1962 (52 of 1962), and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties, shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act.

3A. Special additional duty. -

Any article which is imported into India shall in addition be liable to a duty (hereinafter referred to in this section as the special additional duty), which shall be levied at a rate to be specified by the Central Government, by notification in the Official Gazette, having regard to the maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India :

Provided that until such rate is specified by the Central Government, the special additional duty shall be levied and collected at the rate of eight per cent of the value of the article imported into India.

Explanation. — In this sub-section, the expression "maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India" means the maximum sales-tax, local tax, other charges for the time being in force, which shall be leviable on a like article, if sold or purchased in India, or if a like article is not so sold or purchased which shall be leviable on the class or description of articles to which the imported article belongs.

For the purpose of calculating under this section the special additional duty on any imported article, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962 (52 of 1962) or section 3 of this Act, be the aggregate of-



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962) or the tariff value of such article fixed under sub-section (2) of that section, as the case may be;

any duty of customs chargeable on that article under section 12 of the Customs Act, 1962 (52 of 1962), and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include (with retrospective effect from 1st day of March 2002) -

the safeguard duty referred to in section 8B and 8C;

the countervailing duty referred to in section 9.

anti-dumping duty referred to in section 9A;

special additional duty referred to in sub-section (1) and

the additional duty of customs chargeable on that article under section 3 of this Act.

The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

The provisions of the Customs Act, 1962 (52 of 1962), and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act.

Nothing contained in this section shall apply to any article, which is chargeable to additional duties levied under sub-section (1) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957).

Levy of duty where standard rate and preferential rate are specified. —

Where in respect of any article a preferential rate of revenue duty is specified in the First Schedule, or is admissible by virtue of a notification under Section 25 of the Customs Act, 1962 (52 of 1962), the duty to be levied and collected shall be at the standard rate, unless the owner of the article claims at the time of importation that it is chargeable with a preferential rate of duty, being the produce or manufacture of such preferential area as is notified under sub-section (3) and the article is determined, in accordance with the rules made under sub-section (2), to be such produce or manufacture.

The Central Government may, by notification in the Official Gazette, make rules for determining if any article is the produce or manufacture of any preferential area.

For the purposes of this section and the First Schedule, "preferential area" means any country or territory which the Central Government may, by notification in the Official Gazette, declare to be such area.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Notwithstanding anything contained in sub-section (1), where the Central Government is satisfied that, in the interests of trade including promotion of exports, it is necessary to take immediate action for discontinuing the preferential rate, or increasing the preferential rate to a rate not exceeding the standard rate, or decreasing the preferential rate, in respect of an article specified in the First Schedule, the Central Government may, by notification in the Official Gazette, direct an amendment of the said Schedule to be made so as to provide for such discontinuance of, or increase or decrease, as the case may be, in the preferential rate.

Every notification issued under sub-section (3) or sub-section (4) shall, as soon as may be after it is issued, be laid before each House of Parliament.

Also see Notification 101/82-Cus., dated 1-4-1982

Levy of a lower rate of duty under a trade agreement. -

Where under a trade agreement between the Government of India and the Government of a foreign country or territory, duty at a rate lower than that specified in the First Schedule is to be charged on articles which are the produce or manufacture of such foreign country or territory, the Central Government may, by notification in the Official Gazette, make rules for determining if any article is the produce or manufacture of such foreign country or territory and for requiring the owner to make a claim at the time of importation, supported by such evidence as may be prescribed in the said rules, for assessment at the appropriate lower rate under such agreement.

If any question arises whether any trade agreement applies to any country or territory, or whether it has ceased to apply to India or any foreign country or territory, it shall be referred to the Central Government for decision and the decision of the Central Government shall be final and shall not be liable to be questioned in any court of law.

Power of Central Government to levy protective duties in certain cases. —

Where the Central Government, upon a recommendation made to it in this behalf by the Tariff Commission established under the Tariff Commission Act, 1951 (50 of 1951), is satisfied that circumstances exist which render it necessary to take immediate action to provide for the protection of the interests of any industry established in India, the Central Government may, by notification in the Official Gazette, impose on any goods imported into India in respect of which the said recommendation is made, a duty of customs of such amount, not exceeding the amount proposed in the said recommendation, as it thinks fit.

Every duty imposed on any goods under sub-section (1) shall, for the purposes of this Act, be deemed to have been specified in the First Schedule as the duty leviable in respect of such goods.

Where a notification has been issued under sub-section (1), the Central Government shall, unless the notification is in the meantime rescinded, have a Bill introduced in Parliament, as soon as may be, but in any case during the next session of Parliament following the date of the issue of the notification to give effect to the proposals in regard to the continuance of a protective duty of customs on the goods to which the notification relates, and the notification shall cease to have



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder :

Provided that if the notification under sub-section (1) is issued when Parliament is in session, such a Bill shall be introduced in Parliament during that session :

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in Parliament, the notification shall cease to have effect on the expiration of the said period of six months, but without prejudice to the validity of anything previously done thereunder.

Duration of protective duties and power of Central Government to alter them.—

When the duty specified in respect of any article in the First Schedule is characterized as protective in Column (5) of that Schedule, that duty shall have effect only up to and inclusive of the date, if any, specified in that Schedule.

Where in respect of any such article the Central Government is satisfied after such inquiry as it thinks necessary that such duty has become ineffective or excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in India and that circumstances exist which render it necessary to take immediate action, it may, by notification in the Official Gazette, increase or reduce such duty to such extent as it thinks necessary.

Every notification under sub-section (2), insofar as it relates to increase of such duty, shall be laid before each House of Parliament if it is sitting as soon as may be after the issue of the notification, and if it is not sitting within seven days of its re-assembly, and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

For the removal of doubts, it is hereby declared that any notification issued under sub-section (2), including any such notification approved or modified under sub-section (3), may be rescinded by the Central Government at any time by notification in the Official Gazette.

Emergency power of Central Government to increase or levy export duties. —

Where, in respect of any article, whether included in the Second Schedule or not, the Central Government is satisfied that the export duty leviable thereon should be increased or that an export duty should be levied, and that circumstances exist which render it necessary to take immediate action, the Central Government may, by notification in the Official Gazette, direct an amendment of the Second Schedule to be made so as to provide for an increase in the export duty leviable or, as the case may be, for the levy of an export duty, on that article.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



The provisions of sub-sections (3) and (4) of Section 7 shall apply to any notification issued under sub-section (1) as they apply in relation to any notification increasing duty issued under sub-section (2) of Section 7.

8A. Emergency power of Central Government to increase im port duties. —

Where in respect of any article included in the First Schedule, the Central Government is satisfied that the import duty leviable thereon under section 12 of the Customs Act, 1962 (52 of 1962) should be increased and that circumstances exist which render it necessary to take immediate action, it may, by notification in the Official Gazette, direct an amendment of that Schedule to be made so as to provide for an increase in the import duty leviable on such article to such extent as it thinks necessary:

Provided that the Central Government shall not issue any notification under this sub-section for substituting the rate of import duty in respect of any article as specified by an earlier notification issued under this sub-section by that Government before such earlier notification has been approved with or without modifications under sub-section (2).

The provisions of sub-sections (3) and (4) of section 7 shall apply to any notification issued under sub-section (1) as they apply in relation to any notification increasing duty issued under sub-section (2) of section 7.

8B. Power of Central Government to impose safeguard duty. —

If the Central Government, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India in such increased quantities and under such conditions so as to cause or threatening to cause serious injury to domestic industry, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article:

The Central Government may, pending the determination under sub-section (1), impose a provisional safeguard duty under this sub-section on the basis of a preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry :

Provided that where, on final determination, the Central Government is of the opinion that increased imports have not caused or threatened to cause serious injury to a domestic industry, it shall refund the duty so collected :

* (2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under sub-section (1) or any safeguard duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent. Export-oriented undertaking or a unit in a free trade zone or in a special economic zone.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Explanation: - For the purposes of this section, the expressions "hundred per cent. export-oriented undertaking", "free trade zone" and "special economic zone" shall have the meanings assigned to them in Explanation 2 to sub-section (1) of section 3 of Central Excise Act, 1944.

The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

The duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition :

Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the safeguard duty should continue to be imposed, it may extend the period of such imposition :

Provided further that in no case the safeguard duty shall continue to be imposed beyond a period of ten years from the date on which such duty was first imposed.

The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for safeguard duty may be identified and for the manner in which the causes of serious injury or causes of threat of serious injury in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

For the purposes of this section, -

"developing country" means a country notified by the Central Government in the Official Gazette for the purposes of this section;

"domestic industry" means the producers -

as a whole of the like article or a directly competitive article in India; or

whose collective output of the like article or a directly competitive article in India constitutes a major share of the total production of the said article in India;

"serious injury" means an injury causing significant overall impairment in the position of a domestic industry;

"threat of serious injury" means a clear and imminent danger of serious injury.

Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

8C. Power of Central Government to impose transitional product specific safeguard duty on imports from the people's Republic of China.

Notwithstanding anything contained in section 8B,



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



if the Central government after conducting such enquiry as it deems fit, is satisfied that any article is imported into India, from the people's Republic of China, in such condition so as to cause or threatening to cause market disruption to domestic industry, then it may, by notification in the official Gazette, impose a safeguard duty on that article:

The Central government may, pending the determination under sub-section (1), impose a provisional safeguard duty under this sub-section on the basis of a preliminary determination that increased imports have caused or threatened to cause market disruption to a domestic industry:

Provided that where, on final determination, the Central government is of the opinion that increased imports have not caused or threatened to cause market disruption to a domestic industry, it shall refund the duty so collected:

Provided further that the provisional safeguard duty shall not remain in force for more than two hundred days from the date on which it was imposed.

Notwithstanding anything contained in sub- (1) and (2), a notification issued under sub-section (1) or any safeguard duty imposed under sub-section (2) , unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred percent. Export-oriented undertaking or a unit in a free trade zone or in a special economic zone.

Explanation:-For the purpose of this section , the expressions "hundred percent. Export-oriented undertaking", "free trade zone" and "special economic zone" shall have the meanings respectively assigned to them in Explanation 2 to sub-section (1) of section 3 of the central Excise Act, 1944.

The duty chargeable under this section shall be in addition to any other duty imposed under this act or under any other law for the time being in force.

the duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition; Provided that if the Central government is of the opinion that such article continues to be imported into

India, from people's Republic of china, in such increased quantities so as to cause or threatening to cause market disruption to domestic industry and the safeguard duty should continue to be imposed, it may extend the period of such imposition for a period not beyond the period of ten years from the date on which the safeguard duty was first imposed.

The central Government may, be notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for safeguard duty may be identified and for the manner in



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



which the cause of market disruption or cause of threat of markets disruption in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

For the purpose of this section,-

" domestic industry" means the producers—

as a whole of a like article or a directly competitive article in India ; or

Whose collective output of a like article or a directly competitive article in India constitutes a major share of the total production of the said article in India;

" Market disruption" shall be caused whenever imports a like article or a directly competitive article produced by the domestic industry, increase rapidly, either absolutely or relatively, so as to be a significantly cause of material injury, or threat of material injury, to the domestic industry;

"Threat of market disruption" means a clear and imminent danger of market disruption.

Every notification issued under this section shall, as soon as may be after it is issued, be laid before each house of Parliament;

Refund of additional duty of Customs in certain cases.

Notwithstanding anything contained in section 25 of the Customs Act, barge mounted power plants, falling under heading 98.01 of the First Schedule to the Customs Tariff Act, shall be deemed to have been exempted from the whole of the additional duty of Customs leviable thereon under sub-section (1) of section 3 of the customs Tariff Act, within the period commencing from the 8th December,2000 and ending with the 28th february,2002 (both the dates inclusive) and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, barge mounted power plants shall be deemed to be, and always to have been, exempted from the said additional duty of customs as if the exemption given by this sub-section had been in force at all material times.

for the purpose of sub-section (1), the central Government shall have and shall be deemed to have the power to exempt the goods referred to in the said sub-section with retrospective effect as the Central Government had the power to exempt the said goods under sub-section (1) of section 25 of the customs act, retrospectively at all material times.

Refund shall be made of all such additional duty of customs which have been collected but which would have not been so collected if the exemption referred to in sub-section (1) had been in force at all material times.

Notwithstanding anything contained in section 27 of the Customs Act, an application for the claim of refund of the additional duty of customs under sub-section (3) shall be made within six months from the date on which the Finance Bill, 2002 receive the assent of the President.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Countervailing duty on subsidized articles. —

Where any country or territory pays, bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any article including any subsidy on transportation of such article, then, upon the importation of any such article into India, whether the same is imported directly from the country of manufacture, production or in the Official Gazette, impose a countervailing duty not exceeding the amount of such subsidy

- there is financial contribution by a Government, or any public body within the territory of the exporting or producing country, that is, where -
- a Government practice involves a direct transfer of funds (including grants, loans and equity infusion), or potential direct transfer of funds or liabilities, or both;
- Government revenue that is otherwise due is foregone or not collected (including fiscal incentives);
- a Government provides goods or services other than general infrastructure or purchases goods;
- a Government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in clauses (i) to (iii) above which would normally be vested in the Government and the practice in, no real sense, differs from practices normally followed by Governments; or
- a Government grants or maintains any form of income or price support, which operates directly or indirectly to increase export of any article from, or to reduce import of any article into, its territory, and a benefit is thereby conferred.

The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the amount of subsidy, impose a countervailing duty under this sub-section not exceeding the amount of such subsidy as provisionally estimated by it and if such countervailing duty exceeds the subsidy as so determined, -

- the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such countervailing duty; and
- refund shall be made of so much of such countervailing duty which has been collected as is in excess of the countervailing duty as so reduced.

Subject to any rules made by the Central Government, by notification in the Official Gazette, the countervailing duty under sub-section (1) or sub-section (2) shall not be levied unless it is determined that -

- the subsidy relates to export performance;
- the subsidy relates to the use of domestic goods over imported goods in the export article; or



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- the subsidy has been conferred on a limited number of persons engaged in manufacturing, producing or exporting the article unless such a subsidy is for-
- research activities conducted by or on behalf of persons engaged in the manufacture, production or export;
- assistance to disadvantaged regions within the territory of the exporting country; or
- Assistance to promote adaptation of existing facilities to new environmental requirements.

If the Central Government, is of the opinion that the injury to the domestic industry which is difficult to repair, is caused by massive imports in a relatively short period, of the article benefiting from subsidies paid or bestowed and where in order to preclude the recurrence of such injury, it is necessary to levy countervailing duty retrospectively, the Central Government may, by notification in the Official Gazette, levy countervailing duty from a date prior to the date of imposition of countervailing duty under sub-section (2).

The countervailing duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

The countervailing duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition: Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension:

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

The amount of any such subsidy as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may, by notification in the Official Gazette, make rules for the identification of such article and for the assessment and collection of any countervailing duty imposed upon the importation thereof under this section.

Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

9A. Anti-dumping duty on dumped articles. -

Where any article is exported from any country or territory (hereinafter in this section referred to as the exporting country or territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an anti-dumping duty not exceeding the margin of dumping in relation to such



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



article.

Explanation. - For the purposes of this section, -

"margin of dumping", in relation to an article, means the difference between its export price and its normal value;

"export price", in relation to an article, means the price of the article exported from the exporting country or territory and in cases where there is no export price or where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6);

"normal value", in relation to an article, means-

the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or

when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either -

comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the normal value and the margin of dumping in relation to any article, impose on the importation of such article into India an anti-dumping duty on the basis of a provisional estimate of such value and margin and if such anti-dumping duty exceeds the margin as so determined: -



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such anti-dumping duty; and
- refund shall be made of so much of the anti-dumping duty which has been collected as is in excess of the anti-dumping duty as so reduced.

* (2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under sub-section (1) or any anti-dumping duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a free trade zone or in a special economic zone.

Explanation:- For the purposes of this section, the expressions "hundred per cent. export-oriented undertaking", "free trade zone" and "special economic zone" shall have the meanings assigned to them in Explanation 2 to sub-section (1) of section 3 of Central Excise Act, 1944.

If the Central Government, in respect of the dumped article under inquiry, is of the opinion that - there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury; and

the injury is caused by massive dumping of an article imported in a relatively short time which in the light of the timing and the volume of imported article dumped and other circumstances is likely to seriously under-mine the remedial effect of the anti-dumping duty liable to be levied,

the Central Government may, by notification in the Official Gazette, levy anti-dumping duty retrospectively from a date prior to the date of imposition of anti-dumping duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section, and notwithstanding anything contained in any law for the time being in force, such duty shall be payable at such rate and from such date as may be specified in the notification.

The anti-dumping duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension :

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



remain in force pending the outcome of such a review for a further period not exceeding one year.

The margin of dumping as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for any anti-dumping duty under this section may be identified, and for the manner in which the export price and the normal value of, and the margin of dumping in relation to, such articles may be determined and for the assessment and collection of such anti-dumping duty.

Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, relating to non-levy, short levy, refunds and appeals shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.

9AA. Refund of anti-dumping duty in certain cases. -

Where an importer proves to the satisfaction of the Central Government that he has paid any anti-dumping duty imposed under sub-section (1) of section 9A on any article, in excess of the actual margin of dumping in relation to such article, he shall be entitled to refund of such excess duty:

Provided that such importer shall not be entitled to refund of so much of such excess duty under this sub-section which is refundable under sub-section (2) of section 9A.

Explanation - For the purposes of this sub-section, the expressions, "margin of dumping", "export price" and "normal value" shall have the meanings respectively assigned to them in the Explanation to sub-section (1) of section 9A.

The Central Government may, by notification in the Official Gazette, make rules to -

provide for the manner in which and the time within which the importer may make application for the purposes of sub-section (1);

authorise the officer of the Central Government who shall dispose of such application on behalf of the Central Government within the time specified in such rules; and

provide the manner in which the excess duty referred to in sub-section (1) shall be -

(A) determined by the officer referred to in clause (ii); and



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



(B) refunded by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, after such determination.

9B. No levy under section 9 or section 9A in certain cases. -

Notwithstanding anything contained in section 9 or section 9A,-

- no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization;
- the Central Government shall not levy any countervailing duty or anti-dumping duty -
- under section 9 or section 9A by reasons of exemption of such articles from duties or taxes borne by the like article when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes;
- under sub-section (1) of each of these sections, on the import into India of any article from a member country of the World Trade Organisation or from a country with whom Government of India has a most favoured nation agreement (hereinafter referred as a specified country), unless in accordance with the rules made under sub-section (2) of this section, a determination has been made that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India;

under sub-section (2) of each of these sections, on import into India of any article from the specified countries unless in accordance with the rules made under sub-section (2) of this section, a preliminary findings has been made of subsidy or dumping and consequent injury to domestic industry; and a further determination has also been made that a duty is necessary to prevent injury being caused during the investigation:

Provided that nothing contained in sub-clause (ii) and (iii) of clause (b) shall apply if a countervailing duty or an anti-dumping duty has been imposed on any article to prevent injury or threat of an injury to the domestic industry of a third country exporting the like articles to India;

The Central Government may not levy -

any countervailing duty under section 9, at any time, upon receipt of satisfactory voluntary undertakings from the Government of the exporting country or territory agreeing to eliminate or limit the subsidy or take other measures concerning its effect, or the exporter agreeing to revise the price of the article and if the Central Government is satisfied that the injurious effect of the subsidy is eliminated thereby;

any anti-dumping duty under section 9A, at any time, upon receipt of satisfactory voluntary undertaking from any exporter to revise its prices or to cease exports to the area in question at dumped price and if the Central Government is satisfied that the injurious effect of dumping is eliminated by such action.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which any investigation may be made for the purposes of this section, the factors to which regard shall be at in any such investigation and for all matters connected with such investigation.

9C. Appeal. -

An appeal against the order of determination or review thereof regarding the existence, degree and effect of any subsidy or dumping in relation to import of any article shall lie to the Customs, Excise and Service tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Appellate Tribunal).

Every appeal under this section shall be filed within ninety days of the date of order under appeal:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against.

The provisions of sub-sections (1), (2), (5) and (6) of section 129C of the Customs Act, 1962 (52 of 1962) shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Customs Act, 1962 (52 of 1962).

Every appeal under sub-section (1) shall be heard by a Special Bench constituted by the President of the Appellate Tribunal for hearing such appeals and such Bench shall consist of the President and not less than two members and shall include one judicial member and one technical member.

Rules to be laid before Parliament. — Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of Central Government to alter duties under certain circumstances. —

Where the Central Government is satisfied that it is necessary so to do for the purpose of giving effect to any agreement entered into before the commencement of this Act with a foreign Government, it may, by notification in the Official Gazette, increase or reduce the duties referred to in section 2 to such extent as each case may require :



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Provided that no notification under this sub-section increasing or reducing the duties as aforesaid shall be issued by the Central Government after the expiration of a period of one year from the commencement of this Act.

Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

Repeal and saving. —

The Indian Tariff Act, 1934 (32 of 1934), and the Indian Tariff (Amendment) Act, 1949 (1 of 1949), are hereby repealed.

Notwithstanding the repeal of any of the Acts mentioned in sub-section (1), anything done or any action taken (including any notification published and any rules and orders made or deemed to have been made under the provisions of those Acts and in force immediately before the commencement of this Act) shall, insofar as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

Consequential amendment of Act 52 of 1962 - In the Customs Act, 1962, in sub-section (1) of Section 12 and in sub-section (1) of Section 14, for the words and figures "Indian Tariff Act, 1934", the words and figures "Customs Tariff Act, 1975" shall be substituted.

LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES

Dutiable goods. -

Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, on goods imported into, or exported from, India.

The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.

Duty on pilfered goods. - If any imported goods are pilfered after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.

Valuation of goods for purposes of assessment. -

For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force where under a duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the course of international trade, where (a) the seller and the buyer have no



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



interest in the business of each other ; or (b) one of them has no interest in the business of the other, and the price is the sole consideration for the sale or offer for sale :

Provided that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill or bill of export, as the case may be, is presented under section 50;

(1A) Subject to the provisions of sub-section (1), the price referred to in that sub-section in respect of imported goods shall be determined in accordance with the rules made in this behalf.

Notwithstanding anything contained in sub-section (1) or sub-section (1A), if the Board is satisfied that it is necessary or expedient so to do it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

For the purposes of this section -

- "rate of exchange" means the rate of exchange -
- determined by the Board, or
- ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;
- "foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Regulation Act, 1999.

Date for determination of rate of duty and tariff valuation of imported goods. -

The rate of duty and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force, -

in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section;

in the case of goods cleared from a warehouse under section 68, on the date on which the bills of entry for home consumption in respect of such goods is prescribed under that section;

in the case of any other goods, on the date of payment of duty:

Provided that if a bill of entry has been presented before the date of entry inwards of the vessel or the arrival of the aircraft by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival, as the case may be.

The provisions of this section shall not apply to baggage and goods imported by post.

Date for determination of rate of duty and tariff valuation of export goods.-



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



The rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force, -

in the case of goods entered for export under section 50, on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51;

in the case of any other goods, on the date of payment of duty.

The provisions of this section shall not apply to baggage and goods exported by post.

Assessment of duty. -

After an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50 the imported goods or the export goods, as the case may be, or such part thereof as may be necessary may, without undue delay, be examined and tested by the proper officer.

After such examination and testing, the duty, if any, leviable on such goods shall, save as otherwise provided in section 85, be assessed.

For the purpose of assessing duty under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any contract, broker's note, policy of insurance, catalogue or other document whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained, and to furnish any information required for such ascertainment which it is in his power to produce or furnish, and thereupon the importer, exporter or such other person shall produce such document and furnish such information.

Notwithstanding anything contained in this section, imported goods or export goods may, prior to the examination or testing thereof, be permitted by the proper officer to be assessed to duty on the basis of the statements made in the entry relating thereto and the documents produced and the information furnished under sub-section (3); but if it is found subsequently on examination or testing of the goods or otherwise that any statement in such entry or document or any information so furnished is not true in respect of any matter relevant to the assessment, the goods may, without prejudice to any other action which may be taken under this Act, be re-assessed to duty.

Provisional assessment of duty. -

Notwithstanding anything contained in this Act but without prejudice to the provisions contained in section 46 -

where the proper officer is satisfied that an importer or exporter is unable to produce any document or furnish any information necessary for the assessment of duty on the imported goods or the export goods, as the case may be; or

where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test for the purpose of assessment of duty thereon; or



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



where the importer or the exporter has produced all the necessary documents and furnished full information for the assessment of duty but the proper officer deems it necessary to make further enquiry for assessing the duty, the proper officer may direct that the duty leviable on such goods may, pending the production of such documents or furnishing of such information or completion of such test or enquiry, be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

When the duty leviable on such goods is assessed finally in accordance with the provisions of this Act, then -

in the case of goods cleared for home consumption or exportation, the amount paid shall be adjusted against the duty finally assessed and if the amount so paid falls short of, or is in excess of the duty finally assessed, the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be;

in the case of warehoused goods, the proper officer may, where the duty finally assessed is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.

Determination of duty where goods consist of articles liable to different rates of duty. –

Except as otherwise provided in any law for the time being in force, where goods consist of a set of articles, duty shall be calculated as follows:-

articles liable to duty with reference to quantity shall be chargeable to that duty;

articles liable to duty with reference to value shall, if they are liable to duty at the same rate, be chargeable to duty at that rate, and if they are liable to duty at different rates, be chargeable to duty at the highest of such rates;

articles not liable to duty shall be chargeable to duty at the rate at which articles liable to duty with reference to value are liable under clause (b):

Provided that, -

accessories of, and spare parts or maintenance and repairing implements for, any article which satisfy the conditions specified in the rules made in this behalf shall be chargeable at the same rate of duty as that article;

if the importer produces evidence to the satisfaction of the proper officer regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

Re-importation of goods produced or manufactured in India. (1) If goods are imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



and restrictions, if any, to which goods of the like kind and value are liable or subject, on the importation thereof.

Goods derelict, wreck, etc.-All goods, derelict, jetsam, flotsam and wreck brought or coming into India, shall be dealt with as if they were imported into India, unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.

Abatement of duty on damaged or deteriorated goods. -

Where it is shown to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs -

that any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India; or

that any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination under section 17, on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent; or

that any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent, such goods shall be chargeable to duty in accordance with the provisions of sub-section (2).

The duty to be charged on the goods referred to in sub-section (1) shall bear the same proportion to the duty chargeable on the goods before the damage or deterioration which the value of the damaged or deteriorated goods bears to the value of the goods before the damage or deterioration.

For the purposes of this section, the value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner :-

the value of such goods may be ascertained by the proper officer, or

such goods may be sold by the proper officer by public auction or by tender, or with the consent of the owner in any other manner, and the gross sale proceeds shall be deemed to be the value of such goods.

Remission of duty on lost, destroyed or abandoned goods. -

Without prejudice to the provisions of section 13, where it is shown to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs that any imported goods have been lost (otherwise than as a result of pilferage) or destroyed, at any time before clearance for home consumption, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall remit the duty on such goods.

The owner of any imported goods may, at any time before an order for clearance of goods for home consumption under section 47 or an order for permitting the deposit of goods in a



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



warehouse under section 60 has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.

Power to make rules for denaturing or mutilation of goods. - The Central Government may make rules for permitting at the request of the owner the denaturing or mutilation of imported goods which are ordinarily used for more than one purpose so as to render them unfit for one or more such purposes; and where any goods are so denatured or mutilated they shall be chargeable to duty at such rate as would be applicable if the goods had been imported in the denatured or mutilated form.

Power to grant exemption from duty. -

If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon.

If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods, on which duty is leviable.

(2A) The Central Government may, if it considers it necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification in the Official Gazette at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.,

An exemption under sub-section (1) or sub-section (2) in respect of any goods from any part of the duty of customs leviable thereon (the duty of customs leviable thereon being hereinafter referred to as the statutory duty) may be granted by providing for the levy of a duty on such goods at a rate expressed in a form or method different from the form or method in which the statutory duty is leviable and any exemption granted in relation to any goods in the manner provided in this sub-section shall have effect subject to the condition that the duty of customs chargeable on such goods shall in no case exceed the statutory duty.

Explanation. - "Form or method", in relation to a rate of duty of customs, means the basis, namely, valuation, weight, number, length, area, volume or other measure with reference to which the duty is leviable.

Every notification issued under sub-section (1) or sub-section (2A) shall, -

- unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi.

Notwithstanding anything contained in sub-section (4), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force.

Notwithstanding anything contained in this Act, no duty shall be collected if the amount of duty leviable is equal to, or less than, one hundred Rupees.

TAXABLE EVENT:

Taxable Event: Meaning

The basic condition for levy of customs duty is import/export of goods i.e. goods become liable to duty when there is import into or export from India.

- Import means bringing into India from a place outside India [Section 2(23)].
- Export means taking out of India to a place outside India [Section 2(18)].
- "India" includes the territorial waters of India [Section 2(27)]. The limit of the territorial waters is the line every point of which is at a distance of twelve nautical miles from the nearest point of the appropriate baseline.

Though the taxable event is import/export yet it is difficult to determine the exact time of levy. The provision of assessment and collection of duty will be discussed in other parts.

Customs duty changes can benefit the economy

Customs duties regulate India's merchandise imports, which stand at around \$700 billion — a fifth of our GDP. Naturally, they remain a major industrial and trade policy tool for India. While the government may announce duty changes at any time, the Union Budget is the time for significant changes. What Customs duty changes will prepare India best to brace the challenging global environment?

To the economists' dismay, big bang duty cuts are out of flavour globally. Nations have turned inwards. No country plans to reduce trade barriers, including Customs duties.

CHANGES IN CUSTOMS DUTY:

The Finance Minister has introduced the Finance Bill, 2023 in Lok Sabha today that is February 1, 2023. Changes in Customs, Central Excise, GST law and rates have been proposed through the Finance Bill, 2023.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



To prescribe effective rates of duty, following notifications are being issued:

	Notification /Circular Nos.	Date
Customs (Tariff)	02/2022-Customs to 12/2022- Customs	February 1, 2023
Central Excise (Tariff)	05/2023-Central Excise	February 1, 2023

Unless otherwise stated, all changes in rates of duty will take effect from the midnight of February 1, 2023/February 2, 2023. Amendments have been proposed through clauses 123 and 124 of the Finance Bill to the Customs Act, 1962, through clauses 125, 126 and 127 of the Finance Bill to the Customs Tariff Act, 1975 and through clause 153 of the Finance Bill to section 136 of the Finance Act, 2001.

The changes proposed through clause 126(a) and clause 153 have been given immediate effect through a declaration under the Provisional Collection of Taxes Act, 1931. The other changes proposed in the Finance Bill would come into effect upon its enactment on the date of assent of the Bill or from the date specified in the Finance Bill.

This document summarises the changes made/ proposed under the Customs Act, 1962 and Central Excise Act, 1973 – Section wise in comparative manner for easy digest.

A. Highlights of Important Changes in Customs Act, 1962:

I. Basic Customs Duty (“BCD”) rate structure:

(a) As part of rationalization of customs duty rate structure, the number of basic customs duty rates on goods, other than textiles and agriculture, is being reduced. As a result, there are changes in the rates of BCD as well as in the rates of AIDC and/ or SWS.

(b) The BCD is being increased on styrene, vinyl chloride monomer, toys and parts of toys (other than parts of electronic toys), bicycles, automobiles in SKD and CBU form, Silver bar, Silver dore and naphtha.

(c) The BCD and the AIDC /SWS rates are being re- calibrated while maintaining the existing incidence of customs duties on gold, gold dore, platinum, coal, peat and lignite. Similarly the BCD and AIDC on aircraft (other than those at Nil or 2.5%) & aircraft tyres (other than those at Nil) are being re-calibrated while maintaining the same incidence of duty. These changes will also be effective from February 2, 2023 through the relevant notifications.

II. Duty Rate changes

1. Chemicals and petrochemicals:

(a) The BCD on denatured ethyl alcohol is being reduced from 5% to Nil for use in the manufacture of industrial chemicals through IGCR route.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



(b) The BCD on acid grade fluorspar (containing by weight more than 97% of calcium fluoride) is being reduced from 5% to 2.5%.

(c) The BCD on crude glycerin is being reduced from 7.5% to 2.5% for use in manufacture of epichlorohydrin through IGCR route. (d) The BCD on Naphtha is being increased from 1% to 2.5%.

(e) The BCD on styrene is being increased from 2 % to 2.5%. (f) The BCD on Vinyl Chloride monomer is being increased from 2% to 2.5%.

2. Precious Metals

(a) The import duty on Dore and bar of gold and platinum were enhanced in June and October 2022 respectively. While maintaining the existing incidence of import duty on these items, the BCD rate and AIDC rates are being recalibrated. The import duty on silver bar and silver Dore is however being enhanced. The changes are as follows:

Commodity	BCD		AIDC		SWS		Total duty
	From	To	From	To	From	To	
Gold Bars	12.50%	10 %	2.50%	5.00%	Nil	Nil	15%
Gold Dore	11.85%	10 %	2.50%	4.35%	Nil	Nil	14.35%
Platinum	12.50%	10%	1.50%	5.40%	1.40	Nil	15.40%
Silver Bar	7.50%	10%	2.50%	5.00%	0.75	Nil	15%
Silver Dore	6.10%	10%	2.50%	4.35%	0.61	Nil	14.35%

(b) The import duty on articles made of precious metals falling under CTH 7113 & 7114 is being increased from 22% to 25%. It is however being exempted from SWS.

(c) The import duty on imitation jewellery classified under Heading 7117 is being increased from 22% or Rs. 400/kg, whichever is higher' to '25% or Rs. 600/kg, whichever is higher'. It is however being exempted from SWS.

3. Export Promotion

(a) The BCD on 'seeds' for use in manufacture of rough lab grown diamond is being reduced to Nil **subject** to IGCR condition for a period of two years.

(b) The BCD on certain ingredients/inputs for use in the manufacture of aquatic feed is being reduced subject to IGCR condition as follows:



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Description of goods	From	To
Fish meal	5%	15%
Krill meal	15%	5%
Fish lipid oil	30%	15%
Algal Prime (flour)	30%	15%
Mineral and Vitamin Premixes	15%	5%

4. Electronic goods

(a) The BCD on camera lens for camera module and input/sub parts for lens of camera module of mobile phone is being reduced from 2.5% to Nil subject to IGCR condition.

(b) Exemption from BCD is being provided to specified chemicals/items for manufacture of Pre-calcined Ferrite Powder as is available for Ferrites (S. No 17 of Notification no 25/1999 -Customs).

(c) Exemption from BCD is being provided to Palladium Tetra Amine Sulphate for manufacture of parts of connectors as is available for manufacture of connectors. (S.No 225 of Notification no 25/1999 -Customs).

(d) The BCD on parts for manufacture of open cells of TV panels is being reduced from 5% to 2.5% subject to IGCR condition.

5. Electrical appliances

(a) The BCD on electric kitchen chimney is being increased from 7.5% to 15% .

(b) The BCD on heat coils for use in manufacture of electric kitchen chimney is being reduced from 20% to 15% subject to IGCR condition.

6. Automobiles

(a) Exemption from BCD is being provided to vehicles, specified automobile parts/components, sub-systems and tyres, when imported by notified testing agencies for the purpose of testing and/or certification, subject to specified conditions.

(b) The BCD on vehicle (including electric vehicles) in Semi-Knocked Down (SKD) form is being increased from 30% to 35%. However it is being exempted from SWS

(c) The BCD on vehicles in Completely-Built Unit (CBU) form is being increased from 60% to 70%. However it is being exempted from SWS.

7. Capital Goods

(a) Customs duty exemption is being provided to import of specified capital goods and machinery required for manufacture of lithium-ion cells for batteries used in electric vehicles as is available



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



for manufacture of lithium-ion cells for batteries used in mobile handsets.(S.No 69 of Notification no 25/2002 -Customs)

8. Others

(a) The BCD on bicycles is being increased from 30% to 35%. However it is being exempted from SWS.

(b) The BCD on toys and its parts is being increased from 60% to 70%. However it is being exempted from SWS . There are no changes to the effective rate on parts covered under S. No 591 of Notification No. 50/2017-Customs.

(c) The BCD on aircraft (other than those at Nil or 2.5%) and aircraft tyres (other than those at Nil) is being reduced from 3% to 2.5% but they will attract AIDC of 0.5%.

(d) The BCD on coal, peat and lignite is being increased to 2.5% but these are being exempted from AIDC.

(e) The BCD on compounded rubber is being increased from 10% to '25% or Rs. 30/kg whichever is lower'.

(f) The BCD on pecan nuts is being reduced from 100% to 30%. The SWS exemption is being withdrawn.

(g) The BCD on Warm blood horse imported by sports person of outstanding eminence for training purpose for equestrian sports is being reduced from 30% to Nil subject to conditions.

9. Social welfare surcharge (SWS)

The following goods are being exempted from levy of Social Welfare Surcharge in order to maintain the total effective duty owing to rationalization of basic customs duty rate structure:

1. Silver (HSN 7106), Gold (HSN 7108) & Imitation Jewellery (HSN 7117)

2. Platinum (HSN 7110) other than rhodium and goods covered under S. Nos. 415(a) and 415A of the Table annexed to the notification No. 50/2017-Customs, dated the June 30, 2017, published in the Gazette of India vide number G.S.R. 785(E), dated the June 30, 2017.

3 All goods falling under HSN 7113, other than the goods covered under S. Nos. 356, 357 and 364C of the Table in the notification No. 50/2017-Customs, dated the June 30, 2017, published in the Gazette of India vide number G.S.R. 785(E), dated the June 30, 2017.

4. All goods falling under HSN 7114, other than the goods covered under S. Nos. 356 and 357 of the Table in the notification No. 50/2017-Customs, dated the June 30, 2017, published in the Gazette of India vide number G.S.R. 785(E), dated the June 30, 2017.

5 Bicycles (HSN 8712 00 10)

6 Motor vehicle including electrically operated vehicles falling under HSN 8703 covered under S. No. 526 (1)(b), 526 (2)(b), 526A(1)(b) and 526A(2)(b) of the Table in Notification No. 50/2017-



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Customs, dated the June 30, 2017, published in the Gazette of India vide no G.S.R. 785(E) dated the June 30, 2017.

7 Aeroplane and other aircrafts falling under tariff items 8802 2000, 8802 3000 and 8802 4000 covered under S. No. 543 A of the Table in Notification No. 50/2017-Customs, dated the June 30, 2017, published in the Gazette of India vide no G.S.R. 785(E) dated the June 30, 2017.

8 Toys and parts of toys (HSN 9503) other than goods covered under S. No. 591 of the Table annexed to Notification No. 50/2017-Customs, dated the June 30, 2017.

EXEMPTION FROM CUSTOMS DUTY UNDER SECTION 25(2) OF THE CUSTOMS ACT, 1962 – GUIDELINES FOR CONSIDERATION OF REQUESTS IN THE MATTER

In supersession of this Department's office Memorandum F.No.467/41/99-Cus-V dated June 18 th , 1999 on the subject, the guidelines as mentioned in the following paragraphs are being issued with approval of the Hon'ble Finance Minister. They may be, with immediate effect, taken into account at the time of consideration of any application for request for exemption from Customs duty under Section 25(2) of the Customs Act, 1962.

2. The provisions of Section 25(2) of the Customs Act for exemption from Customs duty are applicable in respect of goods, which are of secret or strategic nature or are meant for being used for charitable purposes.

3. For the purpose of availment of exemption of Customs duty under the above-mentioned provisions of the Customs Act, the following categories of goods would be treated to be of secret or strategic nature:

(a) Imports of secret goods by the Government with a view to meet security requirements of the country;

(b) Imports to meet country's defence needs relating to requirements of armed forces. This would also include goods meant for R&D units under the DRDO. It is made clear that exemption under this category is not meant for imports which are of routine or frequent nature or are to meet the normal operational requirements of the armed forces.

(c) Imports by Government Organisations engaged in security operations like Special Protection Group (SPG) and other Central Police Organisations; and State Policy Organisations, for equipping their forces. It is clarified that security forces are expected to make budgetary provisions for importing their equipment's, and there should be no need to seek ad-hoc exemption from payment of Customs duty in the routine course. They should provide for payment of duty along with payment of price of the goods. No exemption will be given to goods which are required to meet the normal functional requirement of these organisations and which are in the nature of routine imports. Exemption is also not available to items like spare parts, which are required for repair and maintenance of equipment's of these organisations. Only in situations of exceptional nature, particularly, in view of the security considerations, application for availment of ad-hoc exemption under this category should be made. However, the applicant organisation should clarify why, in respect of even these goods, budgetary allocation for duty could not be made.

(d) Applications to be made for availment of Customs duty in the category (c) above, must be



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



forwarded by an officer not below the rank of concerned Joint Secretary to Government of India in the concerned administrative Ministry.

(4) Exemption of duty on goods meant for charitable purposes would be applicable in respect of import of such goods by charitable institutions, which are to be used for charitable purposes without any distinction in any manner on account of caste, creed, religion, race or gender.

(5) The imports by charitable institutions would be required to fulfil the following conditions to be eligible for exemption under the category:

(a) The imports should normally be received as donations or gifts from foreign countries from known institutions and not from individuals.

(b) Either there should be no payment involved for the imported goods or the payment should be made only out of the amount received as donation within India.

(c) The applicant of exemption under this category should also be an institution/organisation registered as a charitable organisation. The applicant should not be an individual. Further, the institutions should have been providing charitable service for not less than three years at the time of making application for exemption, and it should be enjoying good reputation.

(d) The applicant institution should not be such whose activities are purely or mainly religious in nature such as propagation or promotion of a particular religion.

(e) For the availment of exemption, it would be necessary that the institution is engaged in rendering charitable service to the society at large, e.g, running hospitals, educational institutions etc. Either service being so rendered by the institution should be free of any payment by recipient of such service or the institution should be running, on 'no profit no loss' basis, and this fact should be reflected in the annual account of the institution. The activity of institution should not be commercial in nature.

(f) The charitable nature of the institution, the fact of it rendering services on 'free' or 'no loss no profit' basis, it having been in existence for not less than three years and that it enjoys good reputation should be certified by any of the following authorities:

(i) Jurisdictional Commissioner of Central Excise/Customs.

(ii) Jurisdictional Commissioner of the State Government.

(iii) Concerned Secretary of the State Government.

(iv) Concerned Joint Secretary of the Central Government.

(g) Exemption under this category would not be admissible on items, which are of general use and operational equipment's like construction materials, vehicles, air conditioners, refrigeration and chilling equipment's, curtains, furniture, audio video systems, computers and accessories, office stationery, etc., since, they are generally not meant for providing any specific/direct charitable service. The exclusion would also cover items that are likely to serve more of a cultural purpose such as musical instruments etc. Exemption will also not be allowed to items, which are in the nature of spares required for maintenance and repair of existing equipment.

(h) The institution should certify that the goods under import are for its own use and should furnish an undertaking to the effect that they would fulfill the conditions prescribed for availment of exemption.

(i) No preferential treatment in the matter of granting exemption under this category would be



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



given to any government organisation. The element of Customs duty should invariably form part of the cost of projects undertaken by the Government Organisations.

(j) Monitoring of Ad-hoc Exemption Orders (AEO): The concerned Commissioner of Customs and Central Excise under whose jurisdiction the registered office of the charitable organisation is situated shall monitor the utilization of the items imported under the AEO by the importing charitable organisation. For this purpose, the charitable organisation availing the exemption shall also be required to intimate to the jurisdictional Commissioner within one month of their receiving the AEO, details of their address and the proposed site of utilization of the exempted items, along with any other information that the Commissioner may require for verifying compliance of the conditions of the AEO. A report in this regard should then be sent by the jurisdictional Commissioner to the Commissioner of Customs of the port of clearance of the goods within 3 months of the import of the goods. Since, the conditions of the AEO are binding on the importer in perpetuity, any infringement of conditions of the AEO should be brought to the notice of the Commissioner of Customs of the port of import for taking further necessary action such as realization of Customs duty on the subject goods, penal action for such violations, etc. the action as above taken by the Commissioner of Customs of the port of import should be intimated to the Board.

(6) All ad-hoc exemptions from duty to non-governmental organisation will be issued subject to the conditions that the imported goods will not be put to any commercial use and will not be sold, gifted or parted by the importer in any manner without the prior permission of the Board. The imported goods will be kept available for inspection by jurisdictional Customs or Central Excise Officers.

(7) Import of goods which are not covered in any of the categories mentioned in para-2 will not be considered for grant of ad-hoc exemption under Section 25(2) of the Customs Act, 1962.

(8) Ministries/Departments may please bring these guidelines to the notice of all concerned, and direct them to submit their requests for Customs duty exemption in accordance with the aforementioned guidelines.

IMPORT AND EXPORT PROCEDURE CUSTOMS IN INDIA:

Before starting a trading business to import and export from India, it is critical to understand the various stakeholders, entities, regulations, and processes involved. Additionally, one should clearly understand the Import and export procedure regulatory framework and the required documentation.

The Directorate General of Foreign Trade (DGFT) is the governing body that promotes and facilitates imports and exports under the Ministry of Commerce and Industry. DGFT is also responsible for setting India's foreign trade policy. Furthermore, the updated policy is released every five years by March 31 and was due to be updated in 2021. However, the release of the policy for 2021 is extended for an additional six months due to the pandemic. Despite the delay, the current provisions are still in accordance with the Foreign Trade Policy, 2015-20.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



IMPORT PROCEDURE IN INDIA

Whether you are an importer or an exporter, a certain set of activities constitute the import and export procedure in India. These include license and compliance for shipping goods, transport, and warehouse arrangement after unloading the goods, getting customs clearance, and paying taxes before the goods are released.

Step 1: Obtaining the import export code

Before importing into India, one must obtain an Import Export Code (IEC) number from the regional joint DGFT. The IEC is valid for a lifetime and is necessary for customs clearance, receiving and making payment in foreign currency and sending or receiving shipments. The IEC registration takes anywhere between 10 to 15 days.

Step 2: Ensuring legal compliance as per different trade laws

After the allotment of IEC, businesses must ensure that the goods they are importing comply with Section 11 of the Customs Act (1962), Foreign Trade (Development & Regulation) Act (1992), and the Foreign Trade Policy (2015-2020).

Moreover, certain items that fall under the restricted or prohibited category declared by the government require additional permission and license. These need to be sought from the DGFT and the federal government.

Step 3: Procuring import licenses

The importer must classify the imported item according to the Indian Trading Classification based on a Harmonized System of Coding or ITC (HS) classification. Each class of goods will have certain regulations associated with it.

An import license has broad coverage, allowing goods to be imported from anywhere or specific, allowing goods only from specific countries. This license is used to get import clearance & is valid from 18-24 months, depending on the nature of the imported items.

Step 4: Filing Bill of Entry & documents to conclude the customs clearance formalities

Once the import licenses are procured, an import declaration needs to be furnished in the prescribed Bill of Entry along with the PAN (permanent account number) and BIN number (Business Identification Number). A bill of entry states the nature, quantity, and value of goods that have landed in the country.

Clearance of the goods is done using the Electronic Data Interchange (EDI) system. The Bill of Entry is populated digitally, but a cargo declaration still needs to be filed for customs clearance. If there is no EDI, then the bill of entry needs to be filed along with supporting documents – bill of exchange, certificate of origin and inspection and commercial invoice cum packing list, among other documents.

The customs officials compare the information produced in the bill of entry with the actual imported items for any irregularities. If everything matches, a 'pass out order' is then issued.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Step 5: Determining the import duties to clear goods

Basic custom duties along with product-specific duties such as anti-dumping duty, social welfare surcharge, safeguard duty is levied by India on imported goods. These duties are in accordance with the first schedule of the Customs Tariff Act, 1975. Along with duties, the importer faces an additional integrated goods and services tax imposed on the goods.

EXPORT PROCEDURE CUSTOMS IN INDIA

Like the import procedure, an exporter in India must do the IEC registration from the DGFT to participate in export activities. Once the exporter obtains the IEC, he or she must comply with the legal requirements under the different trade laws. Additionally, the exporter must approach the DGFT if any export license is needed. In addition to the above, the exporter needs to register with the Indian Chamber of Commerce (ICC). The ICC will then issue Non-preferential 'Origin in India' certificates for the goods to be exported.

Import and export documents

The Foreign Trade Policy mandates the certain commercial documents to be submitted by both the importer and exporter to carry trade activities:

1. Airway Bill OR Bill of lading
2. Commercial invoice cum packing list
3. Bill of export OR bill of entry
4. Documents such as certificate of origin and certificate of inspection should be kept handy as they are required on a case basis.

The significant regulatory documents required are - GST return forms (GSTR 1 and GSTR 2), GST refund form; Exchange Control Declaration; Bank Realization Certificate; and Registration cum Membership Certificate (RCMC).

Whether you wish to import or export, third-party escrow providers such as Tazapay keep your transactions safe and bring transparency to the entire process.

MEANING OF CLASSIFICATION OF GOODS:

The term 'tariff classification of goods' is defined in Article 57 of the Union Customs Code (UCC).

It means determining the subheadings or further subdivisions of the Combined Nomenclature (CN) under which the goods will be classified.

Classification is not just used to determine the customs duty rate for a specific subheading.

It is also used to apply non-tariff measures.

So, even if all goods were zero-rated for customs purposes, classifications could still be necessary if you need to:



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- apply for an import or export licence
- find out if import or export restrictions apply
- issue a certificate of origin
- claim an export refund or similar
- determine whether or not a product is liable to excise duty
- find out if a reduced value-added tax rate applies (insofar as the CN is used as a basis of reference).

CUSTOMS VALUATION METHODS:

Customs duties can be designated in either specific or ad valorem terms or as a mix of the two; In case of a specific duty, a concrete sum is charged for a quantitative description of the good, for example Ushs.1per item or per unit. The customs value of the good does not need to be determined, as the duty is not based on the value of the good but on other criteria. In this case, no rules on customs valuation are needed and the Valuation Agreement does not apply. In contrast, an advalorem duty depends on the value of a good. Under this system, the customs valuation is multiplied by an advalorem rate of duty (e.g.5 percent) in order to arrive at the amount of duty payable on an imported item. Customs valuation is a customs procedure applied to determine the customs value of imported goods. If the rate of duty is ad valorem, the customs value is essential to determine the duty to be paid on an imported good. The Agreement stipulates that customs valuation shall, except in specified circumstances, be based on the actual price of the goods to be valued, which is generally shown on the invoice. this price, plus adjustments for certain elements listed in article8 of the GATT 1994, equals the transaction value, which constitutes the first and most important method of valuation referred to in the agreement. Six methods of Custom Valuation (Sec 37,122 & 4thSchedule of the EACCMA)

- Method 1 Transaction value
- Method 2 Transaction value of identical good
- Method 3 Transaction value of similar good
- Method 4 Deductive Method
- Method 5 Computed method
- Method 6 Fall-back (Residual Method)

Method 1 Transaction value

The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller of the imported goods, and includes all payments made as a condition of sale of the imported goods by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



Conditions to be fulfilled;

The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller of the imported goods, and includes all payments made as a condition of sale of the imported goods by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller.

- There must be no restriction on the disposition or use of the goods by the buyer, other than restrictions which;
- Are imposed or required by law in the country of importation;
- Are limited to the geographic area in which the goods may be resold;
- Do not substantially affect the value of the goods.
- There must be evidence of a sale for export to the country of importation (i.e. commercial invoices, contracts, purchase orders, etc.).
- No part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless adjustment can be made in accordance with provisions in Article VIII of the GATT.
- The buyer and seller are not related, but even if so, the use of the transaction value is acceptable if the importer demonstrates that:
- The relationship did not influence the price, or the transaction value closely approximates a test value

Method 2 Transaction value of identical goods

The transaction value is calculated in the same manner on identical goods if the goods are

- The same in all respects including physical characteristics, quality, and reputation;
- Produced in the same country as the goods being valued;
- And produced by the producer of the goods being valued. For this method to be used, the goods must be sold for export to the same country of importation as the goods being valued. The goods must also be exported at or about the same time as the goods being valued.

Method 3 Transaction value of similar goods

The transaction value is calculated in the same manner on similar goods if;

- Goods closely resembling the goods being valued in terms of component materials and characteristics.
- Goods which are capable of performing the same functions and are commercially interchangeable with the goods being valued.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- Goods which are produced in the same country as and by the producer of the goods being valued. For this method to be used, the goods must be sold to the same country of importation as the goods being valued. The goods must be exported at or about the same time as the goods being valued.

Method 4 Deductive value

Deduction of value from the price of the greatest aggregate quantity sold; The Agreement provides that when customs value cannot be determined on the basis of the transaction value of the imported goods or identical or similar goods, it will be determined on the basis of the unit price at which the imported goods or identical or similar goods are sold to an unrelated buyer in the greatest aggregate quantity in the country of importation. The buyer and the seller in the importing country must not be related and the sale must take place at or about the time of importation of the goods being valued. If no sale took place at or about the time of importation, it is permitted to use sales up to 90 days after importation of the goods being valued. The price per unit is the price at which the greatest number of units is sold. The greatest aggregate quantity is the price at which the greatest number of units is sold to unrelated persons at the first commercial level after importation at which such sales take place. To determine the greatest aggregate quantity all sales at a given price are taken together and the sum of all the units of goods sold at that price is compared to the sum of all the units of goods sold at any other price. The greatest number of units sold at one price represents the greatest aggregate quantity.

Method 5 Computed value

This method, determines the customs value on the basis of the cost of production of the goods being valued, plus an amount for profit and general expenses usually reflected in sales from the country of exportation to the country of importation of goods of the same class or kind.

Method 6 Fall-back method

When the customs value cannot be determined under any of the previous methods, it may be determined using reasonable means consistent with the principles and general provisions of the Agreement and of Article VII of GATT, and on the basis of data available in the country of importation. To the greatest extent possible, this method should be based on previously determined values and methods with a reasonable degree of flexibility in their application.

SECTION 22 – ABATEMENT OF DUTY ON DAMAGED OR DETERIORATED GOODS – THE CUSTOMS ACT, 1962

SECTION 22. Abatement of duty on damaged or deteriorated goods. –

(1) Where it is shown to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs –

(a) That any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India; or



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



(b) That any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination under section 17, on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent; or

(c) That any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent, such goods shall be chargeable to duty in accordance with the provisions of sub-section (2).

(2) The duty to be charged on the goods referred to in sub-section (1) shall bear the same proportion to the duty chargeable on the goods before the damage or deterioration which the value of the damaged or deteriorated goods bears to the value of the goods before the damage or deterioration.

(3) For the purposes of this section, the value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner:-

(a) the value of such goods may be ascertained by the proper officer, or

(b) such goods may be sold by the proper officer by public auction or by tender, or with the consent of the owner in any other manner, and the gross sale proceeds shall be deemed to be the value of such good.

SECTION 23 – REMISSION OF DUTY ON LOST, DESTROYED OR ABANDONED GOODS – THE CUSTOMS ACT, 1962

SECTION 23. Remission of duty on lost, destroyed or abandoned goods. –

(1) Without prejudice to the provisions of section 13, where it is shown to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs that any imported goods have been lost (otherwise than as a result of pilferage) or destroyed, at any time before clearance for home consumption, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall remit the duty on such goods.

(2) The owner of any imported goods may, at any time before an order for clearance of goods for home consumption under section 47 or an order for permitting the deposit of goods in a warehouse under section 60 has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.

Provided that the owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



DUTY DRAWBACK SCHEME: CUSTOMS ACT 1962

The duty drawback scheme allows exporters to get a refund on customs duties paid on imported products that:

- Are used or incorporated in other products for export
- Remain unused since importation

All the provisions in this scheme are described under Section 74 and Section 75 under the Customs Act, 1962. As stated in these sections, the following conditions must be met to be able to claim duty drawback:

- If the imported goods are re-exported within two years from the date of payment of duty on the importation, then exporters can claim 98% of the duty paid.

To be able to claim duty drawback, the following aspects should be considered:

- Products being exported must be different from inputs
- Inputs refer to imported goods on which customs and taxes have been paid
- Products utilized in making the goods for export must have undergone a physical change
- Number of inputs utilized in processing export products per piece must not be uniform

The government fixes a rate of drawback (for different types of goods) to be paid per unit of the final product at the time of exports. This rate depends on how verified the mode of manufacturing, raw materials used, amount of duty paid on inputs and standards of making the final product are.

Duty drawback might not be allowed under the following conditions:

- Export value of products is less than the value of imported products.
- If the sale of finished products is not received by the exporter within the allowed time, then drawback shall be deemed by the government.

The documents required in the duty drawback process:

To claim duty drawback, below are some of the documents that exporters need to furnish:

- Shipping bill copy
- Bill of entry copy
- Import invoice
- Proof of payment of duty during importing
- Bill of lading copy
- Bank certified invoices copy



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
BUSINESS TAXATION



- Invoice for export
- Shipping insurance (if any)
- Quality test report/inspection report of goods
- Letterhead showing the drawback amount claimed

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