

CHAPTER 3

ASSESSMENT & DATE FOR DETERMINATION OF RATE & TARRIF VALLUE

Illustration 1

Explain briefly the "relevant date" for determination of rate of duty leviable on the imported material. (Exam Question, Nov. 2007)

Solution

In case of export goods (Section 15)		
(a) Goods entered for home consumption u/s 46	15(1)(a)	On the date on which a bill of entry in respect of such goods is presented
(b) Goods entered for warehousing under section 68	15(1)(b)	On the date on which a bill of entry for home consumption in respect of such goods is presented (i.e. Ex - bond bill of entry)
(c) For any other goods		On the date of payment of duty

In case of export goods (section 16)		
(a) Goods entered for export under section 50	16(1)(a)	On the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51
(b) For any other goods	16(1)(a)	On the date of payment of duty

Illustration 2

Mr. Krishna Bhansali, has imported some garments from Paris. He is unable to make self - assessment under section 17(1) of the Customs Act, 1962 because of differential rates for different kinds of material and hence has made a request in writing to the proper officer for provisional assessment pending technical testing. Is he eligible to apply for provisional assessment? Discuss. (Revision Test paper, Nov. 2012) (ICAI Material)

Solution

Yes, Mr. Krishna Bhansali can apply for provisional assessment under section 18 of the customs act, 1962. Section 18(1) provides that provisional assessment can be resorted to, inter alia, where the importer or exporter is unable to make self - assessment under sub section (1) of section 17, and makes a request in writing to the proper officer for assessment.

While 'unable' is not about willingness but deficiency of information to make an accurate determination of the liability, in this case, Mr. Bhansali satisfies the criteria because he lacks the information necessary to classify the goods pending technical testing.

Illustration 3

State briefly the provisions of the Customs act, 1962 relating to payment of interest in case of provisional assessment. (Exam Question, May 2008)

Solution

The provisions of the Customs Act, 1962 relating to payment of interest in case of provisional assessment are as under:

- 1. Interest payable by the importer / exporter** on amount payable to the Central Government, consequent to the final assessment / re - assessment:
 - a. The importer or exporter shall be liable to pay interest, on any amount payable to the Central Government, consequent to the final assessment order / re - assessment order under section 18(2).
 - b. The interest shall be payable at the rate prescribed under section 28AB of the Customs Act, 1962. Presently, the rate of interest has been fixed @ 15% p.a.
 - c. The interest shall be payable from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.
- 2. Interest payable by the Central Government:** to the importer / exporter on amount refundable to the importer / exporter on final assessment of duty / re - assessment of duty:
 - a. Subject to the provisions of unjust enrichment, if any refundable amount is not refunded to the importer / exporter on final assessment of duty or re - assessment of duty, within **3 months** from the date of final assessment of duty or re - assessment of duty.
 - b. The interest shall be payable at the rate @ **6% p.a.**

- c. The interest shall be payable from the first day immediately succeeding the period of 3 months from the date of assessment of duty finally or re - assessment of duty till the date of refund of such amount.

Illustration 4

Explain the provision of additional Custom Duty under section 3(1) of Custom Tariff Act, 1975

Solution

Legal Provision

Section 3(1) - Levy of additional duty equal to excise duty:

Any article which is imported into India shall, in addition,

- Be liable to a duty equal to the excise duty
- For the time being leviable on a 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.

Provided that in case of any alcoholic liquor for human consumption imported into India, the Central Government may, by notification in the Official Gazette, specify the rate of additional duty having regard to the **state excise duty** for the time being leviable on a like alcoholic liquor produced or manufactured in different states, then, having regards to the excise duty which would be leviable for the time being in different states on the class or description of alcoholic liquor to which such imported alcoholic liquid belongs.