

CHAPTER 4 VALUATION

Illustration 1

Explain briefly with reference to the provisions of the Customs Act, 1962 the following: Tariff value (Exam Question, May 2008)

Solution

As per section 2(40) of the Customs Act, 'tariff value' in relation to any goods, means the tariff value fixed in respect thereof under sub section (2) of section 14(2)

As per section 14(2) of the Act, notwithstanding anything contained in section 14(1), 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.

Illustration 2

Examine the validity of the following statements with reference to the Customs Act, 1962 giving brief reasons:

1. Service charges paid to canalizing agent are not includible in the assessable value of imports. Such agent imports the goods from foreign sellers and enters into an agreement to sell such goods with buyers in India in high seas.
2. Charges for "vendor inspection" on the second hand goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods. (ICAI Material)

Solution

1. The statement is not valid. Since the canalizing agent is not the agent of the importer nor does he represent the importer abroad, purchases in bulk by canalizing agency from foreign seller and subsequent sale by it to Indian importer on high seas sale basis are independent of each other.
Hence, the commission or service charges paid to the canalizing agent are includible in the assessable value as these cannot be termed as buying commission (Hyderabad Industries Ltd. v. UOI 2000 (115) ELT 593 (SC)).
2. The statement is valid. As per rule 10(1)(e) of the Customs (Determination of Value of Imported Goods) Rules, 2007, only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value.
Thus, charges of vendor inspection on the goods ready for shipment, are not includible in the assessable value of the imported goods (Bombay Dyeing & Mfg. v. CC 1997 (90) ELT 276 (SC)).

Illustration 3

Explain when are the costs and services as given in rule 10 of the Customs Valuation (Determination of value of Imported Goods) Rules, 2007 be added to the value of the identical goods under rule 4. (ICAI Material)

Solution

As per rule 4(1)(c) of the Customs Valuation (Determination of Value of Imported Goods Rules, 2007) where imported goods are being valued as per rule 4, **the value of the identical goods is adjusted to take into account the difference to the commercial level or to the quantity or both.**

According to rule 4(2) where costs and charges referred to in rule 10 are included in the value of identical goods, adjustment has to be made of the difference in such costs and charges between the imported goods and the identical goods.

Therefore, if the value of the identical goods does not include certain specific costs and charges relating to the imported goods, these are to be included as per rules.

Illustration 4

Compute the duty payable under the Customs Act, 1962 for an imported equipment based on the following information:

- i. Assessable value of the imported equipment US \$ 10,100
- ii. Date of bill of entry is 25.4.20XX. Basic customs duty on this date is 10% and exchange rate notified by the CBIC is US \$ 1 = Rs.65
- iii. Date of entry inwards is 21.4.20XX. Basic customs duty on this date is 20% and exchange rate notified by the CBIC is US \$ 1 = Rs.60.
- iv. Additional duty payable under section 3(7) of the Customs Tariff Act, 1975: 12%

Make suitable assumptions where required and show the relevant workings and round off your answer to the nearest rupee.

Solution**Determination of Duty payable under Customs**

Particulars	Rs.
Assessable Value (\$ 10,100 x 65)	6,56,500
BCD @ 10%	65,650
Social Welfare surcharge @ 10%	6,565
ACD 3(7) @ 12%	87,445.80
Total Custom Duty payable	1,59,661

Notes:

1. As per proviso to Section 14, relevant date for exchange rate is Bill of Entry i.e. 25 / 4 i.e. \$ 1 = Rs.65

2. As per Section 15, relevant date for Duty rate is date of B/E i.e. 25/4 i.e. 10% (B/E presented after entry inwards)

Illustration 5

An importer from Cochin imports goods from an exporter in US. The vessel carrying the goods reaches Mumbai port first and from there goods are transhipped to Cochin port.

Determine the assessable value of the imported goods under the Customs act, 1962 from the following particulars: (ICAI) (CA Final RTP Nov. 2018) (CA Final RTP Nov. 2020 exam)

S. No.	Particulars	Amt.
1	Cost of the machine at the factory of the exporter	US \$ 20,000
2	Transport charges from the factory of exporter to the port for shipment	US \$ 1,000
3	Handling charges paid for loading the machine in the ship	US \$ 100
4	Buying commission paid by the importer	US \$ 100
5	Freight charges from exporting country to India	US \$ 2,000
6	Actual insurance charges paid are not ascertainable	
7	Charges for design and engineering work undertaken for the machine in US	US \$ 5,000
8	Unloading and handling charges paid at the place of importation	Rs.1,500
9	Transport charges from Mumbai to Cochin port	Rs.25,000
10	Exchange rate to be considered 1 \$ = Rs.60	

Solution

Computation of assessable value of imported goods

Particulars	Rs.
Price of the machine at the factory of the exporter	20,000
Transport charges up to the port in the country of the exporter (Note 1)	1,000
FAS	21,000
Handling charges at the port in the country of the exporter (Note 1)	100
FOB	21,100
Add: Adjustments under rule 10(1)	
Charges for design and engineering work undertaken for the machine in US (Note 2)	5,000
Buying commission (Note 3)	Nil
Adjusted FOB value	26,100.00
Add: Adjustments under rule 10(2)	
Freight charges up to India	2,000.00
Insurance charges @ 1.125% of FOB (Note 4)	293.63
Transport charges from Mumbai to Cochin port (Note 5)	Nil

CIF Value	28,393.63
Add: Unloading and handling charges paid at the place of importation (Note 6)	Nil
Assessable value	28,393.63
Assessable value in India rupees @ Rs.60 / per \$	Rs.17,03,617.80
Assessable value (rounded off)	Rs.17,03,618

Notes:

1. The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value (Rule 10(2)(a) of the Customs Valuation (Determination Value of Imported Goods) Rules, 2007 (CVR)).
2. Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value (Rule 10(1)(b)(iv) of the CVR).
3. Buying commission is not included in the assessable value (Rule 10(1)(a)(i) of the CVR).
4. If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods. (Third proviso to rule 10(2) of the CVR).
5. Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value (Sixth proviso to rule 10(2) of the CVR)
6. As per rule 10(2) of the CVR only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value.
The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods.

Illustration 6

Jolly overseas Ltd. of Hyderabad has imported a machine from UK (England) through the sea route by a vessel. The details of the import transaction are follows:

1	Bill of entry	Date 21.01.2018 Exchange rate on that day a) Notified by CBIC 1 UK = Rs.101 b) Prescribed by RBI 1 UK = Rs.100
2	Entry inward	Date 26.01.2018 Exchange rate on that day: a) Notified by CBEC 1 UK £ = Rs.102 b) Prescribed by RBI 1 UK £ = Rs.103

	Particulars	Amt. UK
1	Cost of the machine at the factory of exporter to the port for shipment	20,000

2	Handling charges paid for loading of exporter to the port for shipment	600
3	Handling charges paid for loading the machine on the ship at the port of exportation	500
4	License fee relating to the imported goods payable by the importer as a condition of sale	900
5	Actual freight charges from the port of export to the port of import are not ascertainable	
6	Actual insurance charges paid	200
7	Landing charges paid at the place of importation are not ascertainable	
8	Handling charges associated with the delivery of the exported goods at the place of importation	Rs.15,000

Compute the assessable value of the machine (in rupees) for the purpose of levy of Customs Duty (CA Final Nov. 2018 New)

Solution

Computation of assessable value of machine

Particulars	Amount UK
Cost of the machine at the factory of the exporter	20,000
Add: License fee relating to the imported goods payable by the importer as a condition of sale (Note 1(i))	900
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation (20% of £ 22,000) (Note 1(ii))	4,400
Insurance charges (taken at actuals)	200
CIF value	25,500
Add: Landing charges paid at the place of importation and handling charges associated with the delivery of the imported goods at the place of importation (Note 1(iii))	Nil
Assessable value	25,500
Assessable value in India rupees @ 101/ per £ (Note 2)	25,75,500

Illustration 7

M/s AMTL Ltd., Kolkata imported CNC Grinding machine from Catalyst Incorporation. USA, complete with accessories and spares in October 2015 for use in the manufacture of high precision micro tools.

Basic cost of machine with accessories US \$ FOB 50,000. Catalyst Inc. supplied one extra set of accessories valued at US \$ 2000 free of cost to cover for transit damage. Other details available were as follows:

	Particulars	Amt. UK
1	Warranty cost payable to catalyst inc. (not included in the cost of the machine i.e. US \$ 50000)	US \$ 4,500
2	Design & Development charges paid in USA (not included in the cost of the Machine i.e., US \$ 50000)	US \$ 6,000
3	License Fee, AMTL is required to pay in USA	US \$ 1,000
4	Value of Drawings supplied by AMTL Ltd. Kolkata free of cost and is necessary for customizing machine to the needs of AMTL Ltd. Kolkata	US \$ 1,000
5	Freight by Air	US \$ 15,000
6	Buying commission paid to India Agent in India	Rs.30,000

Bill of Entry presented on 10.11.2015 and the rate of exchange notified by CBIC on this date was Rs.66.25 per US \$ and rate of BCD was 7.5%.

Date of arrival of aircraft was 6.11.2015 and rate of exchange notified by CBIC on this date was Rs.66.50 per US \$ and rate of BCD was 7.5%

Machine was insured but Insurance premium was not shown / available in / from the invoice.

From the above particulars, compute the assessable value for purpose of customs duty payable. Make suitable assumptions where required.

Working notes should form part of your answer.

Note: Custom duty calculations need not be shown. (May 2017)

Solution**Computation of assessable value**

Particulars	Amount UK
FOB value of machine with accessories	50,000
Add: Adjustment under rule 10(1)	
Extra set of accessories supplied free of cost to cover for transit damage (Note 1)	Nil
Buying commission (Note 2)	Nil
Warranty cost (Note 3)	4,500.00
Design and development charges (Note 3)	6,000.00
License fee (Note 3)	1,000.00

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Value of drawings supplied by AMTL Ltd. (Note 3)		1,000.00
Total FOB Value		62,500.00
Add: Adjustment under rule 10(2)		
Air freight restricted to 20% of ₹ 62,500 in terms of second proviso to rule 10(2) of the Customs Valuation Rules		12,500.00
Insurance (Unascertainable insurance charges added @ 1.125% of ₹ 62,500) (clause (iii) of first proviso to rule 10(2) of Customs Valuation Rules)		703.12
CIF Value		75,703.12
Assessable value in US \$		75,703.12
		Rs.
Exchange rate is 66.26 per \$ (Note 5)		
Assessable value in rupees		50,15,332

Notes:

1. Sale price of machine is deemed to include the value of such accessories. Also, value of imported goods in transaction value i.e. price actually paid or payable for imported goods. Hence value of free accessories not to be added in transaction value.
2. Buying commission is not includible in the assessable value. (Rule 10(1)(a)(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007)
3. As per rule 10(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the following are includible in the assessable value:
 - a. Payment made as a condition of sale is includible in the assessable value. So, warranty cost is includible in the assessable value. (Rule 10(1)(e))
 - b. Design and development charges (Rule 10(1)(b)(iv))
 - c. License fees - (Rules 10(1)(c))
 - d. Value of drawings supplied by AMTL Ltd. (Rule 10(1)(b)(iv))
4. Rate of exchange notified by CBIC on the date of filing of bill of entry to be considered. (Third proviso to Section 14 of the Customs Act, 1962.
5. As per Rule 10(2)(a) if cost of transport loading, unloading and handling charges associated with the delivery of imported goods to the place of importation is ascertainable then it should be added in transaction value actual basis. In given we assume that air freight includes loading, unloading & handling charges upto place of importation. Air freight cannot exceed 20% of FOB value. (N/n 91/2017)