

## CHAPTER 6 GOOD IMPORTED BY POST, BAGGAGE, STORES

### **Illustration 1**

Write a brief note on the declaration made by the owner of baggage. (ICAI Material)

### **Solution**

**Section 77 and baggage declaration rule:** Under this section, the owner of the baggage has to make a declaration of its contents to the proper officer of customs, for the purpose of clearing it. This is known as Baggage Declaration Form. Declaring packing list is sufficient declaration. The declaration of the goods brought in is an absolutely necessity. If the goods are not declared under section 77, the passenger cannot subsequently claim the benefit under section 80 and the goods are liable for confiscation.

### **Illustration 2**

Explain in brief the duty exemption to baggage under section 79(1) of the Customs Act, 1962. (Exam Question May 2010, RTP May 2011)

### **Solution**

**Section 79(1)** of the Customs Act, 1961 exempts the bona fide baggage of the passengers. Following Baggage is passed free of duty:

1. Articles in the baggage of a passenger / crew for the minimum period prescribed by the Baggage Rules, 2016. These Rules, as on date, do not prescribe any minimum period for use of articles by the passengers / crew. However, totally unused articles may not be held as bona fide baggage.
2. Articles for use by passenger or his family or bona fide gifts or souvenirs provided that the value of each such article does not exceed the limits prescribed in the aforesaid Baggage rules.

### **Illustration 3**

Mr. Anil and his wife (non - tourist Indian passengers) are returning from Dubai to India after staying there for a period of two years. They wish to bring gold jewellery purchased from Dubai. Please enumerate provisions of customs laws for jewellery allowance in their case. (ICAI Material)

### **Solution**

As per rule 5 of the Baggage Rules, 2016, a passenger who has been residing abroad for more than one year and returns to India shall be allowed duty free clearance of jewellery in bona fide baggage as under:

Jewellery upto a weight of 20 grams with a value cap of Rs. 50,000 for a gentlemen passengers.  
Jewellery upto a weight of 40 grams with a value cap of Rs.1,00,000 for a lady passenger.

Thus, in the given case, Mr. Anil would be allowed duty free jewellery upto a weight of 20 grams with a value cap of Rs. 50,000 and his wife would be allowed duty free jewellery upto a weight of 40 grams with a value of cap of Rs.1,00,000.

Further, in addition to the jewellery allowance, Mr. Anil and his wife would also be allowed duty free clearance of jewellery worth Rs.1,00,000 (Rs. 50,000 per person) as part of free baggage allowance.

#### **Illustration 4**

Mr. Nirvaan, an Indian resident, aged 40 years, returned to India on 10.2.2017 after visiting England. He had been to England on 1.02.2017. On his way back to India he brought following goods with him:

1. Personal effect like clothes etc. valued at Rs.2,00,000
2. 1 litre of wine worth Rs. 10,000
3. Sound system worth Rs. 50,000
4. A mobile worth Rs. 20,000
  - a. What is the customs duty payable?
  - b. Would your answer differ if Mr. Nirvaan the tourist foreign origin
  - c. Would your answer differ if Mr. Nirvaan is arriving by land route.

#### **Solution**

##### **a. Computation of Duty**

	Duty free allowance (Rs.)	Non duty free allowance
Personal effect	Nil	
Others		
1 litter of wine	10,000	
Sound system	50,000	
Mobile	20,000	
Total	80,000	
Less: Duty free limit	(50,000)	
<b>Total</b>	<b>30,000</b>	
Duty @ 38.5%	11,550	

b. If Mr. Nirvaan is the tourist of foreign origin, then duty free limit is 15,000. Therefore,  
Duty payable =  $(80,000 - 15,000) \times 38.5\% = \text{Rs. } 25,025$

c. If Mr. John is arriving by land route, then no duty free limit is available.  
Duty payable =  $80,000 \times 38.5\% = \text{Rs. } 30,800$

#### **Note:**

If passenger is coming from country other than Nepal, Bhutan and Myanmar personal effect - allowed duty free, other duty free limit is Rs. 50,000

**Illustration 5**

Mr. Samuel, a US resident aged 35 years, has come to India on a tourist visa for a month - long vacation. He carries with him, as part of baggage, the following:

Particulars	Value in Rs.
Travel souvenirs	85,000
Other articles carried on in person	1,50,000
80 sticks of cigarettes of Rs.100 each	8,000
30 cartridges of fire arms valuing Rs.500 each	15,000
One litre wine	15,000

With reference to the Baggage Rules, 2016, determination whether Mr. Samuel will be required to pay any customs duty (CA Final RTP May 2020)

**Solution**

**As per rule 3** of Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of

1. Travel souvenirs and
2. Articles upto the value of Rs. 15,000 (excluding, inter alia, cigarettes exceeding 100 sticks, cartridges of fire arms exceeding 50 and alcoholic liquor or wines in excess of two litres), if carried on in person.

Further, any articles the value of which exceeds the duty free allowance admissible to such passenger or member under the Baggage Rules, 2016, is chargeable to customs duty @ 35%. The effective rate of duty becomes 38.5% after including social welfare surcharge @ 10% on customs duty.

**Accordingly, the customs duty payable by Mr. Samuel will be calculated as under:**

Computation of custom duty payable	Rs.
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes (since the number of cigarettes does not exceed 100, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for general free allowance (GFA) or concessional rate of duty applicable to baggage)	8,000
Fire arms cartridge (Since the number of fire arms cartridge does not exceed 50, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for GFA or concession rate of duty applicable to baggage)	15,000
One litre of wine (since the quantity of wine does not exceed 2 litres, the same will be covered within the scope of rule 3 of baggage rules, 2016 and thus, be eligible for GFA or concessional rate of duty applicable to baggage)	15,000
Baggage within the scope of rule 3 of Baggage Rules, 2016	1,88,000
Less: GFA	15,000
Baggage on which duty is payable	1,73,000
Customs duty payable @ 38.5%	66,605

**Illustration 6**

After visiting USA for a month, Mrs. And Mr. Iyer (Indian residents aged 35 and 40 years respectively) brought to India a laptop computer valued at Rs. 70,000, used personal effects valued Rs.1,40,000 and a personal computer for Rs. 58,000. Calculate the custom duty payable by Mrs. & Mr. Iyer, if any (CA Final Nov. 19 Exam Old) (ICAI Material)

**Solution**

1. As per the Baggage Rules, 2016, an Indian resident arriving from an country other than Nepal, Bhutan or Myanmar is allowed duty free clearance of:
  - a. Used personal effects and travel souvenirs without any value limit
  - b. Articles (other than certain specified articles) up to a value of Rs. 50,000 carried as a accompanied baggage (General duty free baggage allowance).
  - c. Further, such general duty free baggage allowance of a passenger cannot be pooled with the general duty free baggage allowance of any other passenger.
2. One laptop computer when imported into India by a passengers of the age of 18 years or above (other than member of crew) is exempt from whole of the customs duty.
3. (a) Accordingly, there will be no customs duty on used personal effects (worth Rs.1,40,000) of Mrs. And Mr. Iyer and laptop computer brought by them will be exempt from duty.  
(b) Duty payable on personal computer after exhausting the duty free baggage allowance will be  
 $\text{Rs. } 58,000 - \text{Rs. } 50,000 = \text{Rs. } 8,000$   
(c) Effective rate of duty for baggage = 38.5% (including SWS)  
Therefore, total customs duty = Rs. 3,080