

Answer 1 (5 Marks)

Remission of Duty on Lost, Destroyed and Abandoned Goods [Section 23]: Section 23 of the Customs Act 1962, specifically permits remission of duty in the following cases,- **(4 marks)**

- (1) Loss or destruction of goods [Section 23(1)] : In case where it is shown to the satisfaction of Assistant 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, then he shall remit the duty on such goods.
- (2) Abandonment or Relinquishment of goods by importer [Section 23(2)]: The owner of the imported goods may at any time before,-
 - an order for clearance of goods for home consumption under section 47; or
 - an order permitting the deposit of the 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.

No relinquishment, if offence committed : 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 the Customs Act, 1962 or any other law for the time being in force. **(1 mark)**

Case Study:

CCEx. v. Bakelite Hylam Ltd. [2016] 335 ELT673 (SC)	No customs duty is payable on unsuitable goods rejected as waste including those damaged in transit and not put to further use.
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Answer 2 (5 marks) (1 mark for each point)

The provisions regard to imposition of "Safeguard duty" are as under –

- (1) **Imposition of Safeguard duty** : Safeguard duty can be imposed if the Central Government on enquiry finds that the imports in increased quantity -
 - (a) have caused serious injury to domestic industry or,
 - (b) is threatening to cause serious injury to domestic industry. It can be imposed irrespective of origin of imported goods.

"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.
- (2) **Safeguard duty cannot be imposed on articles originating from developing countries** : In case of articles originating from a developing country (i.e. a country notified by the Government of India for purpose of levy of such duty), this duty cannot be imposed under following circumstances, -
 - (a) If the imports of such article from developing country does not exceed 3% of the total imports of that article into India.
 - (b) Where the article is originating from more than one developing countries (each with less than three percent import share), then the aggregate of imports from all such countries taken together does not exceed 9% of the total imports of that article into India.
- (3) **Imposition of Provisional Safeguard Duty** : Section 8B(2) enables the Central Government to impose a provisional safeguard duty in appropriate cases, pending the determination of the issues as to whether the import of the concerned article to India would cause or threaten to cause serious injury to the domestic industry. The duty so collected, shall be refunded if, on a final determination, the Central Government is of the opinion that neither any injury has been caused to the domestic industry, nor there is any such threat to cause serious injury.
The Provisional safeguard duty cannot remain in force for more than 200 days from the date when it was first imposed.
- (4) **Period of imposition** : The safeguard duty shall, unless it is revoked earlier, be in force till the expiry of 4 years from the date of its imposition. However, the Central Government can extend the period of imposition but total period of imposition (including extension) cannot be beyond 10 years from the date of its imposition.
- (5) **Non Imposition of safeguard duty** : The safeguard duty shall not apply to articles imported by a 100% export-oriented undertaking or a unit in a special economic zone unless, —
 - (a) specifically made applicable in such notifications or such impositions, as the case may be; or

(b) the article imported is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area and in such cases safeguard duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India.

(6) Applicability of provisions of Customs Act, 1962 : The provisions of Customs Act, 1962 and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties 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.

Answer 3 (5 marks)

Computation of Assessable value & customs duty –

FOB cost	£	8,000
Add: Design and development charges paid in UK	£	500
Total		8,500
Exchange rate to be applied is 1 £ (Pound) = ` 100 as notified by CREC on date of presentation of bill of entry.	`	100
Total sum in Indian `	`	8,50,000
Add: Commission to the Agent @ 2% of FOB cost x ` 100 per pound	`	16,000
FOB Value as per customs (2 marks)		8,66,000
Add: Insurance charges (1.125% of Customs FOB)		9,742.50
Add: Air freight (Restricted to 20% of Customs FOB)		1,73,200.00
Total CIF Value being Assessable Value (1 mark)		10,48,942.50
Add: Basic Customs duty @ 10% (Rate of Custom duty is applicable of the date of presentation of Bill of Entry since it is presented after arrival of aircraft)	[1]	1,04,894.25
Add: EC @ 2% of [1]	[2]	2,097.89
Add: SHEC@1% of [1]	[3]	1,048.94
Total for Integrated tax leviable u/s 3(7) (1 mark)		11,56,983.58
Add: Integrated tax @ 12% of ` 11,56,983.58	[4]	1,38,838.03
Total imported cost (rounded off)		12,95,821.61
Total customs duty payable = [1] + [2] + [3] +[4] (rounded off) (1 mark)		2,46,879

Answer 4 (5 marks) (1 mark for each point)

Delivery of import manifest or import report [Section 30]: The relevant provisions are as under -

- (1) Import manifest/report: According to Section 2(24) of the Customs Act, 1962, "import manifest" or "import report" means the manifest or report as required to be delivered under section 30 of the Customs Act, 1962.
- (2) Persons required to furnish the manifest/report [Section 30(1)]: The persons in charge of conveyance has to present import manifest (in case of vessel or aircraft) or import report (in case of vehicle) in prescribed form. The Central Government can specify other persons who can furnish import manifest in case of vessel or aircraft. For this purpose the following regulations have been made -
 - (i) Import Manifest (Aircraft) Regulations, 1976;
 - (ii) Import Manifest (Vessels) Regulations, 1971;
 - (iii) Import Report (Form) Regulations, 1976.
- (3) Time limit for presentation of import manifest of import report: The import manifest or import report has to be delivered within the following time limits, -
 - (a) In case of Vessel/Aircraft: Electronically prior to the arrival of the vessel or aircraft at customs station.
 - (b) In case of Vehicle: Within twelve hours after its arrival in the customs station.
 Electronic filing not feasible - Filing in other manner : The Principal Commissioner or Commissioner of Customs may, in cases where it is not feasible to deliver import manifest by presenting electronically, allow the same to be delivered in any other manner.
- (4) Penalty for non filing the import manifest/ report within time limit - Not exceeding ` 50,000 : In case the import manifest or import report is not presented within specified time limit, and if the proper officer is satisfied that there was no sufficient cause for delay in filing import report/ manifest, then the person-in-charge or any other person specified above who caused such delay, shall be liable to a penalty not exceeding ` 50,000.

- (5) Import manifest/ report can be amended or supplemented : If the proper officer is satisfied that the import manifest/report is incorrect or incomplete and there was no fraudulent intention, he may permit such manifest/report to be amended or supplemented.
- (6) Declaration as to truth of contents : The person delivering the import manifest or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

Case Study :

<p>Caravel Logistics P. Ltd. v. Jt. Secy (RA) Ministry of Finance, Department of Revenue [2016] 338 ELT 266 (Mad.)</p>	<p>IGM is an important document without which the entry inwards of the vessel cannot be granted by the proper officer and unloading of goods cannot be permitted. The person lodging the IGM with customs authorities has to be treated as an agent of the 'Master of Vessel'. In case of short landing of goods penalty is imposable on such agent.</p> <p>Facts: In the instant case, the appellant being the shipping agent, filed the IGM before the customs authorities representing themselves on behalf of the Master of the vessel. On goods found short landed, penalty was imposed on the shipping agent. The question that arose here is whether shipping agent can be treated as 'person-in-charge' to be liable on goods?</p> <p>Decision: Held that, though the definition of 'person in charge' as given under section 2(31) of the Act does not include a shipping agent within its ambit, however, by representing themselves before Customs Officer on behalf of the person-in-charge i.e. the Master of the Vessel, the appellant becomes an agent in terms of section 148 of the Customs Act, 1962. Moreover, by lodging IGM duly certifying its contents, appellant was also covered under the term 'any other person' u/s 30(1) if not as an agent of the 'Person-in-charge of vessel'. Hence, penalty is imposable on him for short landing of the cargo.</p>
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Answer 5 (5 marks)

Computation of customs duty payable by the importer (amount in `) : **(2 marks)**

Assessable value US \$ 5,00,000 x ` 60	[WN-1]	3,00,00,000
Basic Customs duty @ 30.9%	[WN-2]	92,70,000

Working Notes:

- (1) As per Section 14, the exchange rate for converting foreign currency into Indian currency shall be taken of the date of presentation of Bill of Entry. In this case it will be taken as on 14-02-2017.
- (2) The rate of duty shall be applicable of the date when the warehousing period expires, as on that date goods shall be deemed to have been removed from warehouse. Since warehousing period comes to an end on 21st May 2017, the rate of duty of the said date shall be taken. **(3 marks)**

Answer 6 (5 marks) (1/2 mark for each point)

Drawback on imported materials used in the manufacture of goods which are exported [Section 75]: The provisions regarding drawback in case of imported materials used in the manufacture of goods, which are exported are as follows,-

- (1) **Notified goods** : Drawback's allowed on goods which are notified by Central Government.
- (2) **Manufacturing process or other operations must be performed** : Such goods must either be manufactured or processed, or in respect of which any operation must have been carried out in India.
- (3) **Order for exportation by proper officer** : Such goods must have been entered for exportation and the order permitting loading thereof has been made by proper officer u/s 51, or they must have entered for expor post u/s 82 and in respect of which proper officer has made an order permitting clearance for exportation.
- (4) **Duty Drawback of custom duties to be allowed** : The drawback of duties of customs chargeable on any imported materials of a class or description, which is used in the manufacture or processing or in carrying out any such operation on such goods shall be allowed.
- (5) **No drawback to be allowed in case of negative value addition** : If the export value of such goods or class oi goods is less than the value of the imported materials used in the manufacturing, processing of such goods or carrying out any operation on them, then, no drawback shall be allowed.
- (6) **Minimum value addition** : If the export value of such goods is not more than such percentage of the value erf the imported materials used in their manufacture etc., as specified by the Central Government, no drawback shall be allowed.
- (7) **Sale proceeds to be realised within the period as specified in FEMA** : The sale-proceeds in respect of such goods on which the drawback has been allowed, have to be received by the exporter or by any person on his behalf within the period as specified in the FEMA, 1999. If such sale proceeds are not received within the said time limit, such drawback shall (except under such circumstances or such conditions as the Central

Government may, by rules, specify) be deemed never to have been allowed and procedure for recovery or adjustment of the drawback amount will be initiated.

- (8) **Deemed imported material [Section 75(1A)]:** Where it appears to the Central Government that the quantity of particular imported material into India is more than the total quantity of like material used in the manufacturing or processing or Carrying out any operation on the goods that are exported outside India, then the Central Government may by notification in Official Gazette, declare so much of the material as is contained in the goods exported shall be deemed to be imported material and the same shall be eligible for drawback.
- (9) **Rules framed :** Customs and Central Excise Duties Drawback Rules, *2017 has been framed by Central Government in accordance of which duty drawback will be allowed.
- (10) **Power to give drawback with retrospective effect :** The Central Government has power to give drawback with retrospective effect from a date not earlier than the date of changes in the rates of duty on inputs used in the export goods.

Answer 7 (4 marks)(1/2 mark for each)

A passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bona fide baggage of jewellery upto a weight, of twenty grams with a value cap of ₹ 50,000 if brought by a gentleman passenger, or forty grams with a value cap of ₹ 1,00,000 if brought by a lady passenger. Hence, duty liability will be computed as under :

Name of passenger	Weight of Jewellery (in grams)	Value of Jewellery	Duty free allowance	Assessable value	Duty liability @ 36.05%	Remarks
Mr. A	18	52,000	50,000	2,000	721	Value cap of ₹ 50,000 shall be
Mr.B	22	44,000	40,000	4,000	1,442	Quantity cap of 20 grams shall be imposed. Hence, duty free allowance shall be $(₹ 44,000 \div 22) \times 20 =$
Mr.C	20	50,000	₹50,000	-	'	Jewellery is within duty free allowance of quantity as well as monetary cap.
Mr.D	25	75,000	50,000	25,000	9,013	Quantity cap of 20 grams - value is ₹ 60,000. Hence, value cap of ₹ 50,000
Ms.P	38	1,12,500	1,00,000	12,500	4,506	Value cap of ₹ 1,00,000 shall be imposed
Ms.Q	45	90,000	80,000	10,000	3,605	Quantity cap of 40 grams shall be imposed. Hence, duty free allowance shall be $(₹ 90,000 \div 45) \times 40 =$
Ms.R	45	1,12,500	1,00,000	12,500	4,506	Quantity cap of 40 grams - value is ₹ 1,00,000.
Ms.S	50	1,50,000	1,00,000	50,000	18,025	Quantity cap of 40 grams - value is ₹ 1,20,000. Hence, value cap of

Answer 8 (5 marks)

The amount of penalty imposable on Mr. Salim in the aforesaid cases shall be as follows -

- (1) Penalty = Value of goods i.e. ` 25,00,000 or ` 5,000, whichever is greater = ` 25,00,000. **(1 mark)**
- (2) Penalty = Not exceeding 10% of Duty sought to be evaded i.e. (10% of ` 25,00,000 * 5.15% = ` 12,875) or ` 5,000, whichever is greater = ` 12,875 **(1 mark)**
- (3) Penalty being the greater of the following -
 - (a) Declared Value - Actual Value = ` 40,00,000 - ` 25,00,000 = ` 15,00,000;
 - (b) ` 5,000. i.e. ` 15,00,000. **(1 mark)**
- (4) In this case, the goods are prohibited goods, which have been declared by Salim to be some other goods valuing ` 40,00,000. Since the value declared by Salim is greater than its actual value and the goods are prohibited, therefore, penalty being the highest of the following three -
 - (a) Actual value i.e. ` 25,00,000 ;
 - (b) Declared value - Actual Value = ` 40,00,000 - ` 25,00,000 = ` 15,00,000;
 - (c) ` 5,000. i.e. ` 25,00,000. **(1 ½ mark)**
- (5) In this case, the goods are dutiable goods on which duty has been sought to be evaded and the value declared by Mr. Salim is also greater than its actual value. Therefore, maximum penalty imposable being the highest of the following three -
 - (a) Duty sought to be evaded i.e. (30.9% of ? 25,00,000- 5.15% of ` 40,00,000) = ` 5,66,500 ;
 - (b) Declared Value - Actual Value = ` 40,00,000 - ` 25,00,000 = ` 15,00,000 ;
 - (c) ` 5,000. i.e. ` 15,00,000. **(1 ½ mark)**

Answer 9 (6 marks) (1 mark each)

The MEIS reward is a computed below -

(amount in `)

(1)	Goods X (FOB Value realized or FOB value in shipping bill, whichever is lower is to be taken)	5,00,000
(2)	Goods Y (FOB value realized or FOB value in shipping bill, whichever is lower is to be taken)	1,98,000
(3)	Exports of Product 'X' through e-commerce Platform - FOB Value ` 30,000 (For MEIS computation, value is to be limited to `25,000)	25,000
(4)	Exports of Product 'Y' through e-commerce Platform with FOB Value ` 22,000 (For MEIS computation, value is to be limited to ` 25,000)	22,000
(5)	Supplies of goods made to SEZ units : ` 50,000 (Not eligible for MEIS)	Ineligible
(6)	Export of cereals FOB Value ` 1,75,000 (Not eligible for MEIS)	Ineligible
	Total	7,45,000
	MEIS reward @ 5%	37,250

Answer 10 (5 marks)

The relevant provisions are as under – (4 marks)

- (1) **Deemed Exports** : Deemed Exports refer to those transactions in which goods supplied do not leave country, and payment for such supplies are received either in Indian rupees or in free foreign exchange. Supply of goods as specified below shall be regarded as "Deemed Exports" provided goods are manufactured in India.
- (2) **Objective of Deemed Exports** : The objective of deemed exports is to ensure that the domestic suppliers are not in disadvantageous position vis-a-vis foreign suppliers in terms of the fiscal concessions. The underlying theory is that foreign exchange saved must be treated at par with foreign exchange earned by placing Indian manufacturers on par with foreign suppliers. Besides this the objective is to provide a level-playing field to domestic manufacturers in certain specified cases, as may be decided by the Government from time to time.
- (3) **Areas of Deemed Exports** : Deemed exports broadly cover three areas.
 - (a) Supplies to domestic entities who can import their requirements duty free or at reduced rates of duty.
 - (b) Supplies to projects or purposes that involve international competitive bidding.
 - (c) Supplies to infrastructure projects of national importance.
- (4) **Categories of Supplies [Para 7.02 of policy]** : Supply of goods under following categories (a) to (d) by a manufacturer and under categories (e) to (h) by main/sub-contractors shall be regarded as "Deemed Exports":

Categories of supplies considered as 'Deemed Export' (1 mark)

Supply by manufacturer	Supply by main/sub – contractors(s)
Supply of goods against Advance Authorisation/ Advance Authorisation for Annual Requirement/ DFIA	Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies/ Funds notified by Department of Economic Affairs (DEA), under International Competitive Bidding.
Supply of goods to units located in EOU/ STP/BTP/EHTP	Supply of goods to any project where import is permitted at zero customs duty as per customs Notification No. 12/2012-Cus., dated 17-3-2012 and supply is made against International Competitive Bidding.
Supply of capital goods against EPCG authorisation	Supply of goods to mega power projects against International Competitive Bidding (even if customs duty on imports made by such project is not zero). The ICB procedures should be followed. Supplier is eligible for benefits as specified. International Competitive Bidding (ICB) is not mandatory for mega power projects if requisite quantum of power has been tied up through tariff based competitive bidding or if project has been awarded through tariff based competitive bidding.
Supply of marine freight containers by 100% EOU provided said containers are exported within 6 months	Supply to goods to UN or international organisations for their official use or supplied to projects financed by them.
	Supply of goods to nuclear projects through competitive bidding (need not be international competitive bidding).
