GUEST LECTURE ON CUSTOMS CLEARANCE OF IMPORT AND EXPORT OF FOOD ITEMS
Topics to be Covered

- What is Customs
- The Customs Act, 1962
- Officers of Customs
- Duties of Customs Officers
- What is Customs Port
- Customs Area
- Custodian and role of Custodian
- Customs Broker and his role
- INCO TERMS
- RMS
- EDI
**WHAT IS CUSTOMS?**

- **Trade** involves the transfer of the ownership of goods from one person or entity to another or rendering of services by one person or entity to another in exchange for other goods or services or for money.

- The trade between two people or entities which are located in two different countries is called international trade and act of movement of goods from country to another country is called Import or Export.

- The authority or agency responsible for collecting customs duties and for controlling the flow of goods into and out of a country is Customs Department.

- To be simple, the last authority for giving permission for movement of goods out of India and the first authority to give permission for entry of goods into India is Customs Department.
WHAT IS CUSTOMS?

Government of India
Ministry of Finance
Department of Revenue

Central Board of Excise and Customs
WHAT IS CUSTOMS?

- The Board administering the activities of Customs Department is the Central Board of Indirect Taxes and Customs (CBIC in short).
- The Central Board of Indirect Taxes and Customs (CBIC in short) is a part of the Department of Revenue under the Ministry of Finance, Government of India.
- It deals with the tasks of formulation of policy concerning levy and collection of Customs & Central Excise duties and Service Tax, prevention of smuggling and administration of matters relating to Customs, Central Excise, Service Tax and Narcotics to the extent under CBEC's purview.
The Act passed by the Parliament of India which governs, directs, guides the Customs Department and the trade utilising the Customs Department is the Customs Act, 1962 (52 of 1962)

The act came into force in the year 1962

The 52\textsuperscript{nd} act which was approved by the Parliament in 1962 was the Customs Act, 1962

It consists of 17 chapters and 161 Sections

All the Customs notifications, circulars, Rules, Regulations are constituted by deriving power from various sections of this act.
The three major duties of Customs officers are:

- **Collection of Revenue:** Any imported goods should be permitted for entry into India only after collection of the applicable duties. This adds Rs.1.80 to Rs.2.00 Lakhs Crores of revenue to the exchequer.

- **Enforcement of Law:** The prevention of entry or export of prohibited goods into or from India, prevention of entry or export of restricted goods without fulfilling the condition laid down in any law for the time being in force into or from India.

- **Facilitation to the Trade:** Smooth, easy and timely clearance of the export or import goods
WHAT IS CUSTOMS PORT

- The Port permitted for the unloading of imported goods and the loading of export goods or any class of such goods

- A Port will be appointed as Customs Port by the Board (CBIC) by way of notification under section 7(a) of the Customs Act, 1962

- Krishnapatnam Port is appointed as Customs Port by the Board by way of notification number 62/94-Customs (N.T.) dated 21.11.1994 for unloading of Fertilisers.

- On 29.01.2003, Board had permitted for Unloading of imported goods and loading of export goods or any class of such goods through Krishnapatnam Port vide notification number 11/03-Customs (N.T.)
Once, the Port is appointed as Customs Port by the Board, the Jurisdictional Commissioner of Customs specify the limits of the area in which the un-cleared imported or meant for export goods can be stacked.

The authoritative section for specifying the limits of the Customs area in a Port is section 8(b) of the Customs Act, 1962.

The import cargo for which the customs duty was not paid and out of charge is not obtained can be staked in the Customs Area.

The cargo meant for export for which the Let Export Order is not obtained can be stacked in the Customs Area.
The Commissioner of Customs appoints a Custodian for each and every Port.

The authoritative section for appointing a Custodian is section 141(2) of the Customs Act, 1962.

All imported goods unloaded in a customs area shall remain in the custody of Custodian approved by the Commissioner of Customs until they are cleared for home consumption or are warehoused or are transhipped.

The Custodian having custody of any imported goods in a customs area—

- Shall keep a record of such goods and send a copy thereof to the proper officer;
- Shall not permit such goods to be removed from the customs area except under and in accordance with the permission in writing of the proper officer.
The Custodian is termed as Customs Cargo Service Provider in terms of **Handling of Cargo in Customs Areas Regulations, 2009** shortly called as **HCCR, 2009**.

“Customs Cargo Services provider” means any person responsible for receipt, storage, delivery, dispatch or otherwise handling of imported goods and export goods in a Customs Port.

The responsibilities of the Custodian are-

+ keep a record of imported goods, goods brought for export or transshipment, as the case may be, and produce the same to the Inspector of Customs or Preventive Officer or Examining Officer as and when required;
not make any alteration in the entry or exit points or boundary wall without the permission of the Commissioner of Customs

display or make available in any other manner, standard operating procedures for movement or handling of imported or export goods;

demarcate separate areas for unloading of imported goods for their storage with respect to the category of importers, nature of goods, place of destination, mode of transportation etc.,

demarcate separate areas for loading of export goods for their storage with respect to categories of exporters, nature of goods, examined and sealed containers etc.,
not permit goods to be removed from the customs area, except under written permission of Customs

not permit any export cargo to enter the customs area without a shipping bill or a bill of export having been filed

not permit any import cargo to enter the customs area or be unloaded without the filing of import manifest

be responsible for the safety and security of imported and export goods under its custody

be liable to pay duty on goods pilfered after entry thereof in the customs area

dispose off in the manner specified and within a time limit of ninety days, the imported or export goods lying unclaimed, uncleared or abandoned
The customs clearance of any imported goods or export goods can be done by the importer or export or his authorised representative or his authorised agent/broker.

The Customs Act permit the use of Customs Broker to transact business with the Customs officers and carry out the clearance of imported or export goods.

The Commissioner of Customs grants Customs Brokers License to the qualified people.

The authoritative section for granting Customs Brokers License is section 146 of the Customs Act, 1962 read with Customs Broker Licensing Regulations, 2013 (CBLR, 2013).

The Customs Brokers are formerly called as Custom House Agents (CHAs)
"Customs Broker" means a person licensed under the CBLR, 2013 to act as agent for the transaction of any business relating to the entry or departure of conveyances or the import or export of goods at any Customs Station.

Some of the obligations of Customs Brokers are:

- obtain an authorisation from each of the importer or exporter by whom he is for the time being employed as a Customs Broker and produce to the Customs

- transact business in the Customs Station either personally or through an employee duly approved by the Customs
advise his client to comply with the provisions of the Act and in case of non-compliance, shall bring the matter to the notice of the customs

exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage

not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs, from a client who is entitled to such information;

not procure directly or indirectly, information from the Government records of any kind to which access is not granted by the proper officer
CUSTOMS BROKER

- promptly pay over to the Government, when due, sums received for payment of any duty to the Government and promptly account to his client for funds received for him from the Government

- not attempt to influence the conduct of any official of the Customs Station in any matter pending before such official by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;

- not refuse access to the whole or any part of any book or other record, relating to his transactions as a Customs Broker which is sought by the Customs;
CUSTOMS BROKER

- maintain upto date records and all correspondence and other papers relating to his business as Customs Broker and also accounts including financial transactions
- immediately report the loss of licence granted to him to the Commissioner of Customs;
- discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;
- verify antecedent, correctness of Importer Exporter Code (IEC) number
- inform any change of postal address, telephone number, e-mail etc. to the Customs, as the case may be within one month of such change.
INCOTERMS

- The term, Incoterm, is an abbreviation for International Commercial Terms.
- They are a set of rules which define the responsibilities of sellers and buyers for the delivery of goods under sales contracts for domestic and international trade.
- They are published by the International Chamber of Commerce (ICC) and are widely used in international commercial transactions.
- The first Incoterm were issued in 1936.
- The most recent version of Incoterm, “Incoterm 2010”, were launched in September 2010 and became effective January 1, 2011.
INCOTERMS

EXW
FCA
FAS
FOB
CFR
CIF
DAT
DAP
DDP

Point of Origin
Onboard Vessel
 Buyers Warehouse

Seller

(E = Export Clearance
I = Import Clearance
* Expense & Risk
** Freight

Buyer

EXW
FCA
FAS
FOB
CFR
CIF
DAT
DAP
DDP
EDI (Electronic Data Interchange) is the transfer of data from one computer system to another by standardized message formatting, without the need for human intervention.

To be simple, EDI is a set of data definitions that permit business forms, that would have been exchanged using paper in the past, to be exchanged electronically.

Electronic data interchange aims at single point collection of data for use by various agencies participating in a common activity.

Indian Customs EDI System (ICES) was developed to handle the India's International trade in terms of import and export consignments.
With the introduction of EDI in the Customs department, all the importers/exporters/Customs Brokers have to file the shipping bills or bills of entry for the clearance of export and import goods respectively electronically and obtain the clearance electronically.

The movement of the shipping bills or bills entry can be tracked in the internet in the website www.icegate.gov.in.

The above website also features:
- Import General Manifest (IGM)
- Drawback status of the exporter
- IEC wise summary
- Online payment of Customs Duty etc.,
The exponential growth in trade volumes means that the traditional approach of scrutinizing every document and examining every consignment will simply not work.

Also, there is a need to reduce the dwell-time of cargo at the ports and airports and to reduce the transaction costs, by expediting release of cargo where compliance is high.

This necessitates selective approach to deployment of resources.

The advances in Information Technology offer an opportunity to address these challenges faced by the department by putting in place an effective risk management system.
The primary objective of the Risk Management System, is to strike an optimal balance between facilitation and enforcement and to promote a culture of compliance.


Further, RMS is implemented for the expert consignments in the year 2013 vide circular no.23/2013-Cus dated 24.06.2013

The implementation of the RMS is one of the most significant steps in the ongoing Business Process Re-engineering initiatives of the Customs and Central Excise Department.
ASSESSMENT

Assessment is a process in which the Customs Officer/RMS evaluates the risks involved based on different criteria and decides the duty or taxes to be collected, law enforcements to be done and/or the facilitations to be extended.

Four steps involved in Assessment are-

- Correctly classifying the goods
- Checking the import or export Policy
- Ascertaining the Value of the goods
- Duty Structure and notifications
As Customs deal with international trade, all the products should be categorically classified into the same groups all over the World.

To attain uniformity all over the World, all the products available are listed, sorted categorically and given with an 8 digit numeric code. This is called Harmonised System of Classification.

The Indian Tariff Code-Harmonised System is shortly called as ITC-HS.

In this, the products are broadly classified into 01 to 98 chapters. Each chapter divided into Heading, Sub Heading and Sub-Sub Heading.
The above pictorial representation explains the classification of any item with the eight-digit harmonised classification.
Once we are sure that the classification is correct, we should look for the policy corresponding to the ITC code.

For all the tariff codes, Govt Of India postulates export and import policy.

There are 4 types in Policy:

- Free
- Restricted
- Prohibited
- Canalized
Most of the duties being collected by the Customs are in ad-volrem rates and hence the value of the product is very critical in calculation of Customs duty.

Various methods of finding the value are:

- Transaction value
- Transaction value of Identical and similar goods
- Deductive method
- Computed method
- Residual method
DUTY STRUCTURE

- The duties collected by the Customs under different heads and at different rates.
- Below are the different types of duty collected:
  - Basic Customs Duty
  - Social welfare Surcharge
  - IGST
  - Compensation CESS
  - National Calamity duty
  - Anti-Dumping Duty
  - Safeguard Duty
  - Counter veiling Duty
Physical verification/examination of imported or meant for export goods is called examination.

Based on the quantum of risk assessed in the Assessment, the % of examination or inspection would be ascertained.

This is done manually by the customs officer.

The customs examining officer would verify w.r.t. the marks & numbers, description, quantity of goods which can be ascertained with the naked eye with that of the details declared in the bill presented.
The exporter, before filing of the first shipping bill in a Customs Station, should register their bank account number and the Authorised Dealer Code of his Bank with the Customs. This is called AD Code registration.

AD Code registration is a one time registration with the Customs.

Any cargo entering into port for export should be permitted to enter only after filing of the shipping bill with customs.

The shipping bill consists of exporter name, buyer name, invoice number, date, commodity name, quantity of export, unit price, INCOTERMS, invoice value & FOB value.
The documents required for filing the shipping bill are-
- AD Code Letter
- Exporter Database
- Authorisation letter
- Invoice and Packing List
- Purchase Order / Contract
- Annexure-C1 (for the Central Excise sealed container)
- Copy of the EPCG or Advance Authorisations (if any)
- Quality certificates where ever applicable
Once the above said documents are received, CHA will prepare the checklist in the EDI system either at Service Centre or from their office.

The check list thus prepared should be cross checked with the documents submitted by the exporter.

If all the inputs provided in the check list are as per the documents, the check list should be submitted and obtain the shipping bill.

The shipping bill number thus generated should be written on the top of the check list. No separate print out will be generated.

The cargo will be carted into the Port based on the carting order form submitted by the CHA along with the copy of invoice, packing list and checklist with SB number.
CUSTOMS CLEARANCE-EXPORT

- Customs Broker should now check the status of the SB.
- The two possible stages of the SB are either it might get assessed under RMS and forwarded to the examination team or prescribed for assessment by the assmnt officer.
- If the SB is prescribed for assessment, the file should be submitted to the appraiser/assessment officer.
- The appraising officer assesses the FOB value of the shipping bill, drawback, if any, and forward the same to the AC/DC.
- The shipping bill will be forwarded to the examination wing by the AC/DC upon satisfaction on the documentation submitted and the assessment of the FOB value, drawback, if any.
As and when the entire quantity of cargo of the SB is accumulated in the Port and the shipping bill is electronically moved to the screen of the examination officer, the goods should be registered in the EDI system by the inspector.

At the time of goods registration, the RMS automatically select packages to be examined and reflects the package numbers on the screen if the consignment is selected for examination.

Now, the cargo should be presented for examination to the examining officer. The examining inspector will examine the packages selected by the RMS and gives the examination report in the ICES.
CUSTOMS CLEARANCE-EXPORT

- Up on satisfaction of the report given by the inspector, the Superintendant will grant Let Export Order.
- Now, the for the first time, SB will be printed in the EDI in triplicate i.e., Customs Copy, Exporter Copy and Exchange Control Copy.
- Customs Copy will be retained in the file, Exporter cop will be submitted to the liner/his agent and the exchange control copy will be submitted to the Bank by the exporter for foreign exchange realisation.
- After 7 days from sailing of the vessel, the agent will file Export General Manifest.
If the EGM is successfully submitted, the SB will be moved to history or drawback queue. In both the cases, Export Promotion Copy can be printed now.

If the EGM is not successfully submitted, the SB will be moved to EGM Error queue. Upon clearing the occurred error, the SB automatically move to history or drawback queue and the EP copy can be printed.

The SBs moved to the drawback queues will be in the screen of DBK Superintendent for processing of the claimed DBK.

The DBK Superintendant can disburse DBK if the value is less than Rs.1Lakh. If it is more than that, DBK will be disbursed by the AC.

DBK will be directly debited in the bank a/c of exporter.
CUSTOMS CLEARANCE-IMPORT

- No AD Code registration is required for import.
- Any cargo entering into port through vessel should be permitted to unload only after filing of the Import General Manifest (IGM) by the vessel agent.
- The IGM consists of importer name, container liner, Port of Loading, number of packages, Gross Weight, Container numbers and seal numbers.
- Any importer or his agent can file the bill of entry upon arrival of the vessel or prior to the arrival of the vessel.
- If the bill of entry is filed before the arrival of the vessel, the BE is called prior/advance BE.
The documents required for filing the BE are:
- Invoice and Packing List
- Bill of Lading
- Country of Origin
- Authorisation letter
- Purchase Order / Contract
- Quantity certificate
- Chemical Analysis certificate
- Quality certificates
- Original EPCG or Advance Authorisations (if any)
- Triple Duty bond in case of into Bond bill of entry
CUSTOMS CLEARANCE-IMPORT

- Once the above said documents are received, CHA will prepare the checklist in the EDI system either at Service Centre or from their office.

- The check list thus prepared should be cross checked with the documents submitted by the importer and may be forwarded to importer for corrections if any.

- If all the inputs provided in the checklist are as per the documents, and up on confirmation of the importer, the check list should be submitted and obtain the bill of entry.

- The BE number thus generated should be written on the top of the check list. No separate print out will be generated.
CUSTOMS CLEARANCE-IMPORT

- Customs Broker should now check the status of the BE.
- The two possible stages of the BE are either it might get assessed under RMS and forwarded to the Bank or prescribed for assessment by the assmnt officer.
- If the BE is prescribed for assessment, the file should be submitted to the appraiser/assessment officer.
- The appraising officer assesses the Assessable value, classification, valuation, duty structure, notifications and forward the same to the AC/DC.
- The BE will be forwarded to the Bank for payment of duty by the AC/DC.
- The first print of the BE will be generated along with the TR-6 Challan number for payment of duty.
As and when the duty is paid online, the BE will electronically moved to the screen of the examination officer. Now, the goods will be registered in the EDI system by the inspector.

At the time of goods registration, the RMS automatically select packages to be examined and reflects the package numbers on the screen if the consignment is selected for examination.

Now, the cargo should be presented for examination to the examining officer. The examining inspector will examine the packages selected by the RMS and gives the examination report in the ICES.
Up on satisfaction of the report given by the inspector, and the confirmation of payment of duty by the importer, the Superintendant will grant “Out of Charge”.

Now, the final print of the BE will be generated in quadruplicate i.e., Importer Copy, Exchange Control Copy, Custodian Copy and Gate copy.

Gate Copy will be retained in the file, importer copy and the exchange control copy will be submitted to the importer.

The importer should submit the exchange control copy of BE to the Bank for foreign exchange payment to supplier.
The custodian or the Customs Cargo Service Provider will release the cargo from the Port upon submission of original Custodian copy of the BE and the copy of importer copy of BE.

The custodian should have the record of despatched cargo and submit the same to the Customs regularly.

After arrival of the cargo into Port, the Importer should clear the cargo within 30 days. Otherwise, the Customs has every right to sell the cargo in an open auction.

In such cases, the importer should submit a special request to the AC to condone the delay and permit filing of the BE.