

CONTENTS AT A GLANCE

<i>Preface To Second Edition</i>	<i>v</i>
<i>Preface To First Edition</i>	<i>vii</i>
<i>Features</i>	<i>ix</i>
<i>Note To The Reader</i>	<i>xi</i>
<i>Table of Cases</i>	<i>xxxiii</i>

VOLUME I

Introduction	3-96
Chapter I—Preliminary	97-121
Chapter II—Officers of customs	122-124
Chapter III—Appointment of customs ports, airports, etc.	125-126
Chapter IV—Prohibition on importation and exportation of goods	127-211
Chapter IV-A—Detection of illegally imported goods and prevention of the disposal thereof	212-225
Chapter IV-B—Prevention or detection of illegal export of goods	226-232
Chapter IV-C—Power to exempt from the provisions of chapters IV-A and IV-B	233-233
Chapter V—Levy of, and exemption from, customs duties	234-902

VOLUME II

Chapter V—Levy of, and exemption from, customs duties	905-1354
Chapter V-A—Indicating amount of duty in the price of goods, etc., for the purpose of refund	1355-1362
Chapter V-AA—Administration of rules of origin under trade agreement	1363-1378
Chapter V-B—Advance rulings	1379-1401
Chapter VI—Provisions relating to conveyances carrying imported or exported goods	1402-1415
Chapter VII—Clearance of imported goods and export goods	1416-1473
Chapter VIIA—Payments through electronic cash ledger and electronic duty credit ledger	1474-1475
Chapter VIII—Goods in transit	1476-1481
Chapter IX—Warehousing	1482-1572
Chapter X—Drawback	1573-1693

Chapter XI—Special provisions regarding baggage, goods imported or exported by post, courier and stores baggage	1694-1722
Chapter XII—Provisions relating to coastal goods and vessels carrying coastal goods.....	1723-1726
Chapter XIIA—Audit.....	1727-1733
Chapter XIIB—Verification of identity and compliance.....	1734-1735
Chapter XIII—Searches, seizure and arrest.....	1736-1934

VOLUME III

Chapter XIV—Confiscation of Goods and Conveyances and Imposition of Penalties	1937-2526
Chapter XIV-A—Settlement of cases.....	2527-2633
Chapter XV—Appeals & revision.....	2634-2819
Chapter XVI—Offences and prosecutions	2820-2958
Chapter XVII—Miscellaneous.....	2959-3150

DETAILED CONTENTS

<i>Preface To Second Edition</i>	<i>v</i>
<i>Preface To First Edition</i>	<i>vii</i>
<i>Features</i>	<i>ix</i>
<i>Note To The Reader</i>	<i>xi</i>
<i>Table of Cases</i>	<i>xxxiii</i>

VOLUME-I

Introduction

Power to tax	3
Power to tax is subject to constitutional limitations	5
Entry 83	13
Charging provision	14
Machinery provision	18
Rate	21
Measure of tax	25
Interpretation of taxing statutes	30
• Constitutional interpretation v. statutory interpretation	30
• Construction of taxing statutes	33
• Procedural law	35
• Heydon's Rule	35
• Noscitur a Sociis	37
• Ejusdem Generis	40
• Aids to construction	42
• Long title	43
– Preamble	43
– Marginal Notes & Section Headings	44
– Punctuation	45
– Dictionary/Thesaurus	45
– Explanatory Memorandum	46
– General & Specific words	46
• Absurdity	46
• Same words same meaning	49
• Different words different meaning	49

• Includes.....	49
• Means.....	51
Equity in taxation.....	52
Legislation by reference & incorporation.....	53
Fiction.....	58
Delegated legislation.....	61
• Need for delegated legislation.....	64
• Empowering provision.....	66
• Legislative control.....	67
• Challenge to delegated legislation.....	69
• Excessive delegation.....	72
• Ultra-vires.....	79
• Arbitrariness.....	81
• Retrospective operation.....	83
• Interpretation of delegated legislation.....	83
Precedents.....	84
Per-incuriam.....	92
Doctrine of merger.....	93

Chapter I Preliminary

SECTION 1. Short Title, Extent And Commencement.....	97
SECTION 2. Definitions.....	97
• Analysis.....	102
– Unless the context otherwise requires.....	102
– Adjudicating authority.....	104
– Aircraft.....	104
– Assessment.....	104
– Dutiable goods.....	107
– Foreign-going vessel or aircraft.....	108
– Goods.....	112
– Import.....	114
– Imported goods.....	115
– Importer.....	116
– India.....	116
– Indian customs waters.....	116
– Prohibited goods.....	118

– Proper officer	120
– Smuggling	120
– Value	121
– Vehicle.....	121

Chapter II

Officers of Customs

SECTION 3. Classes Of Officers Of Customs	122
SECTION 4. Appointment Of Officers Of Customs.....	123
SECTION 5. Powers Of Officers Of Customs	123
SECTION 6. Entrustment Of Functions Of Board And Customs Officers On Certain Other Officers	124
• Analysis	124

Chapter III

Appointment of Customs Ports, Airports, etc.

SECTION 7. Appointment Of Customs Ports, Airports, Etc.	125
SECTION 8. Power To Approve Landing Places And Specify Limits Of Customs Area	126
SECTION 9. [Omitted].....	126
SECTION 10. Appointment Of Boarding Stations	126

Chapter IV

Prohibition on Importation and Exportation of Goods

SECTION 11. Power To Prohibit Importation Or Exportation Of Goods	127
• Analysis	128
– Section 11(1).....	129
➤ Prohibition	129
– Deemed Prohibition.....	135
– Purpose	142
➤ The maintenance of security of India.....	146
➤ The maintenance of public order and standards of decency or morality	152
➤ The prevention of smuggling.....	154
➤ The maintenance of standards for the classification, grading or marketing of goods in international trade.....	156
➤ The prevention of serious injury to domestic production of goods of any description.....	159
➤ The protection of human, animal or plant life or health.....	160

➤ The protection of national treasures of artistic, historic or archaeological value	162
➤ The protection of patents, trademarks, copyrights, designs and geographical indications	163
➤ The prevention of deceptive practices	165
➤ The compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India.....	165
➤ The prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign State or is derogatory to national prestige	165
➤ The prevention of the contravention of any law for the time being in force	170
➤ Any other purpose conducive to the interests of the general public.....	170
• Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007	175
– Rule 1. Short title, commencement and application	175
– Rule 2. Definitions.....	176
– Rule 3. Notice by the Right Holder	176
– Rule 4. Registration of notice by the Principal Commissioner or Commissioner, as the case may be	177
– Rule 5. Conditions for registration	177
– Rule 6. Prohibition for import of goods infringing intellectual property rights.....	178
– Rule 7. Suspension of clearance of imported goods	178
– Rule 8. Examination of goods by right holder	180
– Rule 9. Supply of information to the right holder.....	181
– Rule 10. Supply of information to the importer	181
– Rule 11. Disposal of infringing goods.....	181
– Rule 12. Exclusion of baggage and De-minimis Imports	182
– Rule 13. Protection of action taken under the Rules	182
– Introduction	182
– Agreement on Trade-Related Aspects of Intellectual Property Rights	184
– Analysis	188
➤ Circulars	206

Chapter IV-A

Detection of Illegally Imported Goods and Prevention of the Disposal Thereof

SECTION 11A. Definitions	212
• Analysis	212
SECTION 11B. Power Of Central Government To Notify Goods	213
• Analysis	213
SECTION 11C. Persons Possessing Notified Goods To Intimate The Place Of Storage, Etc.....	214
• Analysis	215
• Notified Goods (Prevention of Illegal Import) Rules, 1969.....	217
– Rule 1. Short title	217
– Rule 2. Definition	217
– Rule 3. Particulars, etc. of statements under Section 11C.....	217
– Rule 4. Particulars, etc., of transport voucher under section 11C	217
– Rule 5. Reasonable steps to be taken under section 11D.....	218
– Rule 6. Form, etc., of accounts to be maintained under section 11E.....	219
– Rule 7. Particulars of voucher under section 11F	219
– Rule 8. Particulars of the memorandum under Section 11G	220
– Rule 9. Particulars of notified goods	220
SECTION 11D. Precautions To Be Taken By Persons Acquiring Notified Goods.....	222
• Analysis	222
SECTION 11E. Persons Possessing Notified Goods to Maintain Accounts	223
• Analysis	223
SECTION 11F. Sale, Etc., of Notified Goods To Be Evidenced By Vouchers	224
SECTION 11G. Sections 11C, 11E And 11F Not To Apply To Goods In Personal Use.....	224
• Analysis	224

Chapter IV-B

Prevention or Detection of Illegal Export of Goods

SECTION 11H. Definitions	226
SECTION 11-I. Power of Central Government To Specify Goods.....	226
SECTION 11J. Persons Possessing Specified Goods To Intimate The Place of Storage, Etc.	227
SECTION 11K. Transport of Specified Goods To Be Covered By Vouchers.....	227

SECTION 11L. Persons Possessing Specified Goods To Maintain Accounts	228
SECTION 11M. Steps to be taken by Persons Selling or Transferring Any Specified Goods.....	229
• Specified Goods (Prevention of Illegal Export) Rules, 1969.....	229
– Rule 1. Short title	229
– Rule 2. Definition	230
– Rule 3. Particulars, etc. of transport voucher under section 11K.....	230
– Rule 4. Form, etc., of accounts to be maintained under section 11L.....	231
– Rule 5. Reasonable steps to be taken under section 11M	231

Chapter IV-C

Power to Exempt From the Provisions of Chapters IV-A and IV-B

SECTION 11N. Power To Exempt.....	233
-----------------------------------	-----

Chapter V

Levy of, and Exemption From, Customs Duties

SECTION 12. Dutiable Goods	234
• Analysis	234
– Charge.....	234
– Except as otherwise.....	237
– Duties of customs.....	239
– Levied	242
– On goods imported into or exported from India	245
➤ Imported into or exported from	245
➤ India	247
➤ SEZ	253
– Goods.....	257
– Electronic transmissions.....	258
– Goods belonging to Government	258
SECTION 13. Duty On Pilfered Goods.....	267
• Analysis	267
– Pilferage.....	267
– Duty on pilfered goods	268
– Quasi-judicial function.....	269
– Declaration of pilferage.....	270
– Liability of custodian.....	273

SECTION 14. Valuation of Goods.....	274
• Analysis	276
– Introduction	276
➤ General Agreement on Tariffs and Trade (1994)	278
➤ Customs Valuation Agreement.....	281
– Shall.....	281
– Transaction value	282
➤ Price actually paid or payable.....	282
➤ Transaction Value	284
– Sold.....	296
– Goods.....	299
– Delivery at the time and place	300
– Buyer and seller of the goods are not related	308
– Erstwhile requirement of mutuality of interest.....	309
– Rules.....	312
– Price as sole consideration.....	313
– Rate of exchange.....	315
– Board to fix tariff	317
– Discounts.....	327
– Undervaluation	332
– Guidelines on valuation	339
– Natural justice.....	343
– Section 14 (Prior to its substitution by the Finance Act, 2007).....	346
– Section 14(1A) (Prior to its substitution by the Finance Act 2007) ...	355
– Burden of proof	359
– Evidence	366
➤ Internet prices.....	373
➤ Quotations.....	374
➤ Reports & foreign journals	376
➤ Documents obtained through diplomatic channel	381
➤ Databases	383
➤ Chartered engineer's certificate/report.....	385
➤ Insurance memos	389
➤ Alerts.....	390
➤ Market enquiry	390

• Customs Valuation (Determination of Value of Export Goods)	
Rules, 2007	390
– Rule 1. Short title, commencement and application	390
– Rule 2. Definitions.....	390
– Rule 3. Determination of the method of valuation.....	391
– Analysis	391
– Rule 4. Determination of export value by comparison.....	394
– Rule 5. Computed value method	394
– Analysis	395
– Rule 6. Residual method	395
– Analysis	395
– Rule 7. Declaration by the exporter	396
– Rule 8. Rejection of declared value.....	396
Customs Valuation (Determination of Price of Imported Goods) Rules, 2007	397
– Rule 1. Short Title, Commencement and Application	397
– Analysis	398
➤ Generally Accepted Accounting Principles	399
• Rule 2. Definitions	400
• Interpretative Note to Rule 2	401
• Analysis	402
– Identical goods	402
– Similar goods	402
– Related	403
➤ Rule 2(2)(iv)	404
➤ Rule 2(2)(v).....	404
➤ Rule 2(2)(vi)	405
➤ Rule 2(2)(viii)	405
➤ Explanation II	407
• Rule 3. Determination of the Method of Valuation	407
– Interpretative note to Rule 3.....	408
➤ Price actually paid or payable.....	408
➤ Rule 3(2)(a)(iii).....	409
➤ Rule 3(2)(b).....	409
➤ Rule 3(3).....	410
➤ Rule 3(3)(b).....	411
– Analysis	412

– Customs Valuation Agreement	413
➤ Customs Value.....	417
➤ Price	417
➤ Warranty.....	419
➤ Discount	421
➤ Sold	422
➤ Interest charges	426
➤ Software.....	426
➤ Non-acceptance of transaction value	427
➤ Relationship between the parties.....	429
➤ Customs Valuation and Transfer Pricing	438
– Rule 3(1) – Transaction Value.....	443
➤ Transaction value of a particular transaction	446
➤ Acceptance of transaction value is the rule.....	447
➤ Discounts.....	451
➤ High-sea sales.....	453
➤ Baggage	454
➤ Rejection of declared value.....	454
➤ Interest.....	457
➤ Software.....	457
– Rule 3(2) – Conditions for acceptance of transaction value	462
➤ Clause (a).....	463
➤ Clause (b)	467
➤ Clause (c).....	469
➤ Clause (d).....	469
– Rule 3(3) – Acceptance of transaction value where parties are related	470
➤ Clause (a).....	470
➤ Clause (b)	473
➤ Clause (c).....	475
– Rule 3(4) – Sequential application	475
– United States of America.....	478
➤ Transaction Value	478
➤ Price actually paid or payable.....	481
➤ Interest.....	488
➤ Discount	490

➤ Price adjustments	493
➤ Advances	498
➤ Bonus payments	499
➤ Research & development payments	500
➤ Sold	503
➤ Transaction between related parties	506
➤ Acceptability of transaction value	507
➤ All costs plus a profit	511
➤ Test Values	513
➤ Transfer pricing	513
➤ Non-acceptance of transaction value	518
– European Union	519
➤ Transaction Value	519
➤ Sold	524
➤ Elements not to be included in the customs value	525
– Transactions between related parties	527
– Customs valuation and transfer pricing	530
– Discounts	531
– Software	533
– Defective goods	534
– Sequential application	536
• Rule 4. Transaction Value of Identical Goods	537
• Interpretative Note to Rule 4	538
– Analysis	539
– Customs Valuation Agreement	540
– Identical goods	543
– At or about the same time	551
– Level and quantity	555
– Adjustments	561
– Lowest value	563
– United States of America	564
– European Union	566
• Rule 5. Transaction Value of Similar Goods	568
• Interpretative Note to Rule 5	568
– Analysis	569

– Customs Valuation Agreement	569
• Rule 6. Determination of Value where Value cannot be Determined under Rules 3, 4 and 5	570
• Analysis	571
– Customs Valuation Agreement	571
• Rule 7. Deductive Value	573
• Interpretative note to Rule 7	574
• Analysis	576
– Customs Valuation Agreement	579
– Rule 7	583
➤ Greatest aggregate quantity	584
➤ Market enquiry	584
➤ Rule 7(3).....	585
– United States of America.....	587
– European Union	592
• Rule 8. Computed Value	593
• Interpretative Note to Rule 8	593
– Analysis	595
– Customs Valuation Agreement	598
– Rule 8	598
– United States of America.....	600
– European Union	607
• Rule 9. Residual Method	608
• Interpretative Note to Rule 9	608
• Analysis	609
– Customs Valuation Agreement	611
– Rule 9(1).....	615
– Rule 9(2).....	623
– United States of America.....	624
➤ Fallback method	624
➤ Prohibitions.....	629
– European Union	631
• Rule 10. Costs and Services.....	632
• Interpretative note to Rule 10	635
– Rule 10(l)(b)(ii).....	635

– Rule 10(1)(b)(iv).....	636
– Rule 10(1)(c).....	637
– Rule 10(3).....	637
• Analysis	637
– Customs Valuation Agreement	640
➤ Commissions and brokerage.....	642
➤ Assists	645
➤ Royalties and license fees.....	646
➤ Transport and insurance.....	654
• Rule 10(1)(a): Commissions, Brokerage, Container Costs, and Packing Costs	655
– Rule 10(1)(a)	655
➤ Commissions and brokerage.....	655
➤ Buying Commission	658
➤ Container costs	662
➤ Packing costs.....	662
– United States of America	663
➤ Buying Commission	663
➤ Bona-fide buying agency	669
➤ Absence of bona-fide buying agency	674
➤ Services rendered by the agent to the seller.....	680
➤ Exceptional cases.....	682
➤ Cost of containers.....	684
➤ Packing costs.....	685
– European Union	687
➤ Commissions, brokerage, container costs and packing costs.....	687
➤ Buying Commission	687
• Rule 10(1)(B): Assists.....	688
– Rule 10(1)(b).....	688
➤ Free of charge or at a reduced cost.....	690
➤ To the extent that such value has not been included in the price actually paid or payable	691
➤ Use in connection with the production	691
➤ Materials, components, parts and similar items incorporated in the imported goods	692

➤ Tools, dies, moulds and similar items used in the production of the imported goods	693
➤ Materials consumed in the production of the imported goods.....	694
➤ Engineering, development, art work, design work, and plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods	695
• United States of America - Assists	703
– 19 U.S.C.S. § 1401a(b)(1)(C)	703
– Goods and services	704
– Free of cost or at reduced cost.....	706
– Use in connection with the production or the sale for export.....	706
– Materials, components, parts and similar items.....	707
– Tools, dies, moulds, and similar items.....	708
– Merchandise consumed in the production.....	710
– Engineering, development, artwork, design work, and plans and sketches.....	712
➤ Engineering.....	712
➤ Development	713
➤ Design Work.....	715
➤ Services performed by personnel or consultant of the importer.....	717
➤ Undertaken elsewhere than in the United States.....	720
– Valuation of assists.....	721
➤ Averaging.....	726
➤ Apportioned as appropriate.....	727
– European Union	732
• Rule 10(1)(C) – Royalties and License Fees	736
– Rule 10(1)(c)	736
– Royalty and license fee	737
– Related to the imported goods.....	739
– Directly or indirectly	744
– Condition of the sale	745
– Not included in price actually paid or payable	759
– Reproduction & Distribution	760
– United States of America – Royalties and license fees.....	760
➤ Royalties and license fees.....	760

➤ Hasbro II Ruling.....	762
➤ Condition of the sale.....	764
➤ Instances where royalties and license fees were held to be dutiable.....	766
➤ Patent Royalty.....	769
➤ License fees	776
➤ Instances where royalty and license fees were held to be non-dutiable	777
➤ Patent Royalty.....	778
➤ Trademark Royalty	779
➤ Copyright royalty.....	783
➤ Software Royalty	784
➤ License fee	784
– European Union	787
• Rule 10(1)(D) – Proceeds	791
– Proceeds of a subsequent resale, disposal or use	791
– United States of America – Proceeds of a subsequent resale, disposal or use	794
– European Union	795
• Rule 10(1)(e) – All Other Payments	795
– Rule 10(1)(e)	795
– All other payments	796
– Condition of sale	801
• Explanation to Rule 10(1)	812
• Rule 10(2).....	813
– Rule 10(2).....	813
– Rule 10(2)(a).....	814
➤ Landing charges under the erstwhile Rule 9 of CVR 1988 and Rule 10 of CVR 2007 prior to its amendment in 2017	818
➤ Delivered duty paid agreements	823
– Rule 10(2)(b).....	824
– First proviso	824
– Capping of air freight	825
– Demurrage, lighterage or barge charges	826
– European Union	828
• Objective and Quantifiable Data	830

– European Union	831
• Prohibition of Other Additions	831
– European Union	831
Rule 11. Declaration By The Importer.....	831
• Analysis	832
– Rule 11(1).....	832
– Rule 11(2).....	833
– Rule 11(3).....	835
Rule 12 – Rejection of Declared Value.....	836
• Analysis	837
– Rule 12	837
– Customs Valuation Agreement	842
– Rejection of the declared value	845
– Personal hearing and reasoned order	858
– European Union	861
Rule 13. Interpretative Notes.....	862
Customs (Assistance In Value Declaration Of Identified Imported Goods)	
Rules, 2023.....	862
• Rule 1. Short title and commencement.	862
• Rule 2. Definitions.....	862
• Rule 3. Constitution of the Screening Committee	863
• Rule 4. Constitution of the Evaluation Committee.....	863
• Rule 5. Procedure for Specification of identified goods	864
• Rule 6. Sources for examining cases for identified goods	864
• Rule 7. Preliminary examination by Screening Committee	865
• Rule 8. Detailed examination by Evaluation Committee	865
• Rule 9. Screening Committee to confirm report and recommend to the Board.....	867
• Rule 10. Board to consider the recommendation of Screening Committee	868
• Rule 11. Procedure in respect of identified goods	868
• Rule 12. Review	869
• Rule 13. Exceptions	870
• Rule 14. Power to relax	870
• Rule 15. Digital Record Keeping	870
• Analysis	871

SECTION 15. Date for Determination of Rate of Duty and Tariff Valuation of Imported Goods	875
• Analysis	875
– Section 15(1)(a)	879
– Section 15(1)(b)	887
– Proviso	894
SECTION 16. Date for Determination of Rate of Duty and Tariff Valuation of Export Goods	898
• Analysis	899