

## 1. THE CUSTOMS TARIFF ACT, 1975 (51 Of 1975)<sup>1</sup>

(18th August, 1975)

An act to consolidate and amend the law relating to customs duties.

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:-

- (1) This Act may be called the Customs Tariff Act, 1975. Short title, extent and commencement.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. <sup>2,3</sup>

52 of 1962

2. The rates at which duties of customs shall be levied under the Customs Act, 1962, are specified in the First and Second Schedules,<sup>4</sup> Duties specified in the Schedules to be levied.

<sup>5</sup>3. (1) Any article which is imported into India shall, in addition, be liable to a duty (hereafter in this section referred to as the additional duty) equal to the excise duty for the time being leviable on a like article if produced or manufactured in India and if such excise duty on a like article is leviable at any percentage of its value, the additional duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article: Levy of additional duty equal to excise duty, sales tax, local taxes and other charges

Provided that in case of any alcoholic liquor for human consumption imported into India, the Central Government may, by notification in the Official Gazette, specify the rate of additional duty having regard to the excise duty for the time being leviable on a like alcoholic liquor produced or manufactured in different States or, if a like alcoholic liquor is not produced or manufactured in any State, then, having regard to the excise duty which would be

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- Note:** 1. As amended by the Customs Tariff (Amendment) Act, 1978 (26 of 1978), the Customs Tariff (Amendment) Act, 1982 and the Customs Tariff (Amendment) Act, 1985 (8 of 1986)
2. This Act of Parliament came into force on 2nd August, 1976 Vide Notfn. No. 398/76-Cus., dt. 31.7.1976.
3. The Customs Tariff (Amendment) Act came into force from 1st September, 1978 Vide Notfn. No. 169/78-Cus., dt. 28.8.1978.
4. First Schedule to the Act was substituted by the Customs Tariff (Amendment) Act, 1985 (8 of 1986) and further amended from time to time by subsequent amendment Acts; the substituted schedule came in force on 8.2.1986.
5. Substituted by Sec.72 of the Finance Bill, 2005(No.35 of 2005)

leviable for the time being in different States on the class or description of alcoholic liquor to which such imported alcoholic liquor belongs.

Explanation.— In this sub-section, the expression “the excise duty for the time being leviable on a like article if produced or manufactured in India” means the excise duty for the time being in force which would be leviable on a like article if produced or manufactured in India or, if a like article is not so produced or manufactured, which would be leviable on the class or description of articles to which the imported article belongs, and where such duty is leviable at different rates, the highest duty.

(2) For the purpose of calculating under sub-sections (1) and (3), the additional duty on any imported article, where such duty is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of—

52 of 1962

(i) the value of the imported article determined under sub-section (1) of section 14 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

52 of 1962

(ii) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include—

- (a) the duty referred to in sub-sections (1), (3) and (5);
- (b) the safeguard duty referred to in sections 8B and 8C;
- (c) the countervailing duty referred to in section 9; and
- (d) the anti-dumping duty referred to in section 9A:

Provided that in case of an article imported into India,—

60 of 1976

(a) in relation to which it is required, under the provisions of the "Legal Metrology Act, 2009"\* or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such article; and

(b) where the like article produced or manufactured in India, or in case where such like article is not so produced

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\* Substituted by Sec-55 of the Finance Bill, 2011 w.e.f. 01.03.2011

or manufactured, then, the class or description of articles to which the imported article belongs, is

1 of 1944

(i) the goods specified by notification in the Official Gazette under sub-section ( 1) of section 4A of the Central Excise Act, 1944, the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under sub-section ( 2) of section 4A of that Act, or

(ii) the goods specified by notification in the Official Gazette under section 3 read with clause (1) of Explanation III of the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the value of the imported article shall be deemed to be the retail sale price declared on the imported articles less such amount of abatement, if any, from such retail sale price as the on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under (2) of the said Explanation.

Explanation.—Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.

Provided further that in the case of an article imported into India, where the Central Government has fixed a tariff value for the like article produced or manufactured in India under sub-section (2) of section 3 of the Central Excise Act, 1944, the value of the imported article shall be deemed to be such tariff value.

1 of 1944

Explanation.—Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.

( 3) If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article [whether on such article duty is leviable under sub-section ( 1) or not] such additional duty as would counter-balance the excise duty leviable on any raw materials, components and ingredients of the same nature as, or similar to those, used in the production or manufacture of such article, it may, by notification in the Official Gazette, direct

that such imported article shall, in addition, be liable to an additional duty representing such portion of the excise duty leviable on such raw materials, components and ingredients as, in either case, may be determined by rules made by the Central Government in this behalf.

(4) In making any rules for the purposes of sub-section (3), the Central Government shall have regard to the average quantum of the excise duty payable on the raw materials, components or ingredients used in the production or manufacture of such like article.

(5) If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article [whether on such article duty is leviable under sub-section (1) or, as the case may be, sub-section (3) or not] such additional duty as would counter-balance the sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India, it may, by notification in the Official Gazette, direct that such imported article shall, in addition, be liable to an additional duty at a rate not exceeding four per cent. of the value of the imported article as specified in that notification.

Explanation.—In this sub-section, the expression “sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India” means the sales tax, value added tax, local tax or other charges for the time being in force, which would be leviable on a like article if sold, purchased or transported in India or, if a like article is not so sold, purchased or transported, which would be leviable on the class or description of articles to which the imported article belongs, and where such taxes, or, as the case may be, such charges are leviable at different rates, the highest such tax or, as the case may be, such charge.

52 of 1962

52 of 1962

52 of 1962

(6) For the purpose of calculating under sub-section (5), the additional duty on any imported article, the value of the imported article shall, notwithstanding anything contained in sub-section (2), or section 14 of the Customs Act, 1962, be the aggregate of—

(i) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

(ii) any duty of customs chargeable on that article

under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include—

- (a) the duty referred to in sub-section (5);
- (b) the safeguard duty referred to in sections 8B and 8C;
- (c) the countervailing duty referred to in section 9; and
- (d) the anti-dumping duty referred to in section 9A.

(7) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(8) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act.

**3A. Special additional duty** (1) Any article which is imported into India shall in addition be liable to a duty (hereinafter referred to in this section as the special additional duty), which shall be levied at a rate to be specified by the Central Government, by notification in the Official Gazette, having regard to the maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India:

Provided that until such rate is specified by the Central Government, the special additional duty shall be levied and collected at the rate of eight per cent of the value of the article imported into India.

*Explanation.* — In this sub-section, the expression "maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India" means the maximum sales-tax, local tax, other charges for the time being in force, which shall be leviable on a like article, if sold or purchased in India, or if a like article is not so sold or purchased which shall be leviable on the class or description of articles to which the imported article belongs.

(2) For the purpose of calculating under this section the special additional duty on any imported article, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962 or section

3 of this Act, be the aggregate of—

(i) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962) or the tariff value of such article fixed under sub-section (2) of that section, as the case may be;

(ii) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962 (52 of 1962), and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but not includes -

(a) the safeguard duty referred to in sections 8B and 8C;

(b) the countervailing duty referred to in section 9;

(c) the anti-dumping duty referred to in section 9A;

(d) the special additional duty referred to in sub-section (1); and

(iii) the additional duty of customs chargeable on that article under section 3 of this Act.

(3) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

Levy of duty where standard rate and preferential rate are specified.

52 of 1962

(4) The provisions of the Customs Act, 1962 (52 of 1962), and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act.

(5) Nothing contained in this section shall apply to any article, which is chargeable to additional duties levied under sub-section (1) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957).

Power to declare preferential area.

**4.** (1) Where in respect of any article a preferential rate of revenue duty is specified in the First Schedule, or is admissible by virtue of a notification under section 25 of the Customs Act, 1962, the duty to be levied and collected shall be at the standard rate, unless the owner of the article claims at the time of importation that it is chargeable with a preferential rate of duty, being the produce or manufacture of such preferential area as is notified under sub-section (3) and the article is determined, in accordance with the rules made under sub-section (2), to be such produce or manufacture.

Power to discontinue or decrease or increase preferential rate of duty.

(2) The Central Government may, by notification in the Official Gazette, make rules for determining if any article is the produce or manufacture of any preferential areas.

(3) For the purposes of this section and the First Schedule, “*preferential area*” means any country or territory which the Central Government may, by notification in the Official Gazette, declare to be such area.

Notifications to be laid before Parliament.

(4) Notwithstanding anything contained in sub-section (1), where the Central Government is satisfied that, in the interests of trade including promotion of exports, it is necessary to take immediate action for discontinuing the preferential rate, or increasing the preferential rate to a rate not exceeding the standard rate, or decreasing the preferential rate, in respect of an article specified in the First Schedule, the Central Government may, by notification in the Official Gazette, direct an amendment of the said Schedule to be made so as to provide for such discontinuance of, or increase or decrease, as the case may be, in the preferential rate.

Power to make rules for levy of a lower rate of duty under a trade agreement.

(5) Every notification issued under sub-section (3) or sub-section (4) shall, as soon as may be after it is issued, be laid before each House of Parliament.

5. (1) Whereunder a trade agreement between the Government of India and the Government of a foreign country or territory, duty at a rate lower than that specified in the First Schedule is to be charged on articles which are the produce or manufacture of such foreign country or territory, the Central Government may, by notification in the Official Gazette, make rules for determining if any article is the produce or manufacture of such foreign country or territory and for requiring the owner to make a claim at the time of importation, supported by such evidence as may be prescribed in the said rules, for assessment at the appropriate lower rate under such agreement.

Power of Central Government to levy protective duties in certain cases.

50 of 1951

(2) If any question arises whether any trade agreement applies to any country or territory, or whether it has ceased to apply to India or any foreign country or territory, it shall be referred to the Central Government for decision and the decision of the Central Government shall be final and shall not be liable to be questioned in any court of law.

6. (1) Where the Central Government, upon a recommendation made to it in this behalf by the Tariff Commission established under the Tariff Commission Act, 1951, is satisfied that circumstances exist which render it necessary to take immediate action to provide for the protection of the interests of any industry established in India, the Central Government may, by notification in the Official Gazette, impose on any goods imported into India in respect of which the said recommendation is made, a duty of customs of such amount, not exceeding the amount proposed

in the said recommendation, as it thinks fit.

(2) Every duty imposed on any goods under sub-section (1) shall, for the purposes of this Act, be deemed to have been specified in the First Schedule as the duty leviable in respect of such goods.

(3) Where a notification has been issued under sub-section (1), the Central Government shall, unless the notification is in the meantime rescinded, have a Bill introduced in Parliament, as soon as may be, but in any case during the next session of Parliament following the date of the issue of the notification, to give effect to the proposals in regard to the continuance of a protective duty of customs on the goods to which the notification relates, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder.

Provided that if the notification under sub-section (1) is issued when Parliament is in session, such a Bill shall be introduced in Parliament during that session.

Provided further that where, for any reason, a Bill as aforesaid does not become law within six months from the date of its introduction in Parliament, the notification shall cease to have effect on the expiration of the said period of six months, but without prejudice to the validity of anything previously done thereunder.

7. (1) When the duty specified in respect of any article in the First Schedule is characterised as protective in column (5) of that Schedule, that duty shall have effect only up to and inclusive of the date, if any, specified in that Schedule.

(2) Where in respect of any such article, the Central Government is satisfied after such inquiry as it thinks necessary that such duty has become ineffective or excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in India and that circumstances exist which render it necessary to take immediate action, it may, by notification in the Official Gazette, increase or reduce such duty to such extent as it thinks necessary.

(3) Every notification under sub-section (2), in so far as it relates to increase of such duty, shall be laid before each House of Parliament if it is sitting as soon as may be after the issue of the notification, and if it is not sitting within seven days of its re-assembly, and the Central Government shall seek the approval of Parliament to the notification by a

Duration of protective duties and power of Central Government to alter them.



resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

(4) For the removal of doubts, it is hereby declared that any notification issued under sub-section (2), including any such notification approved or modified under sub-section (3), may be rescinded by the Central Government at any time by notification in the Official Gazette.

Emergency power of Central Govt. to increase or levy export duties.

**8.** (1) Where, in respect of any article, whether included in the Second Schedule or not, the Central Government is satisfied that the export duty leviable thereon should be levied, and that circumstances exist which render it necessary to take immediate action, the Central Government may, by notification in the Official Gazette, direct an amendment of the Second Schedule to be made so as to provide for an increase in the export duty leviable or, as the case may be, for the levy of an export duty, on that article.

Emergency power of Central Govt. to increase import duties

(2) The provisions of sub-section (3) and (4) of section 7 shall apply to any notification issued under sub-section (1) as they apply in relation to any notification increasing duty issued under sub-section (2) of section 7.

52 of 1962

**8A** (1) Where in respect of any article included in the First Schedule, the Central Government is satisfied that the import duty leviable thereon under section 12 of the Customs Act, 1962 should be increased and that circumstances exist which render it necessary to take immediate action, it may, by notification in the Official Gazette, direct an amendment of that Schedule to be made so as to provide for an increase in the import duty leviable on such article to such extent as it thinks necessary:

Provided that the Central Government shall not issue any notification under this sub-section for substituting the rate of import duty in respect of any article as specified by an earlier notification issued under this sub-section by that Government before such earlier notification has been approved with or without modifications under sub-section (2).

Power of Central Govt. to impose safeguard duty.

(2) The provisions of sub-sections (3) and (4) of section 7 shall apply to any notification issued under sub-section (1) as they apply in relation to any notification increasing duty issued under sub-section (2) of section 7.

**8B.**(1) If the Central Government, after conducting

such enquiry as it deems fit, is satisfied that any article is imported into India in such increased quantities and under such conditions so as to cause or threatening to cause serious injury to domestic industry, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article:

Provided that no such duty shall be imposed on an article originating from a developing country so long as the share of imports of that article from that country does not exceed three per cent or where the article is originating from more than one developing countries, then, so long as the aggregate of the imports from all such countries taken together does not exceed nine per cent of the total imports of that article into India.

Provided further that the Central Government may, by notification in the Official Gazette, except such quantity of any article as it may be specified in the notification, when imported from any country or territory into India, from payment of the whole or part of the safeguard duty leviable thereon.

(2) The Central Government may, pending the determination under sub-section(1), impose a provisional safeguard duty under this sub-section on the basis of a preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry:

Provided that where, on final determination, the Central Government is of the opinion that increased imports have not caused or threatened to cause serious injury to a domestic industry, it shall refund the duty so collected:

Provided further that the provisional safeguard duty shall not remain in force for more than two hundred days from the date on which it was imposed.

(2A) Notwithstanding anything contained in sub-section (f) and sub-section (2), a notification issued under sub-section (f) or any safeguard duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a free trade zone or in a special economic zone.

Explanation. - For the purposes of this section, the expressions "hundred per cent. export-oriented undertaking", "free trade zone" and "special economic zone" shall have the meanings assigned to them in Explanation 2 to sub-section (f) of section 3 of Central Excise Act, 1944.

(3) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under

any other law for the time being in force.

(4) The duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition:

Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the safeguard duty should continue to be imposed, it may extend the period of such imposition:

Provided further that in no case the safeguard duty shall continue to be imposed beyond a period of ten years from the date on which such duty was first imposed.

(4A) The provisions of the 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, shortlevy, 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.

(5) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for safeguard duty may be identified and for the manner in which the causes of serious injury or causes of threat of serious injury in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

(6) For the purposes of this section, —

(a) "developing country" means a country notified by the Central Government in the Official Gazette for the purposes of this section;

(b) "domestic industry" means the producers—

(i) as a whole of the like article or a directly competitive article in India; or

(ii) whose collective output of the like article or a directly competitive article in India constitutes a major share of the total production of the said article in India;

(c) "serious injury" means an injury causing significant overall impairment in the position of a domestic industry;

(d) "threat of serious injury" means a clear and imminent danger of serious injury.

Validation of certain actions taken under section 8B of Act 51 of 1975.

(7) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

**95.** Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 14th day of May, 1997 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 8B of the Customs Tariff Act by section 94 of Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(c) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

*Explanation.*— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

**\*8C.**(1) Notwithstanding anything contained in section 8B, if the Central Government, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India, from the People's Republic of China, in such increased quantities and under such conditions so as to

Power of Central Government to impose transitional product specific safeguard duty on imports from the People's Republic of China.

cause or threatening to cause market disruption to domestic industry, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article:

Provided that the Central Government may, by notification in the Official Gazette, exempt such quantity of any article as it may specify in the notification, when imported from People's Republic of China into India, from payment of the whole or part of the safeguard duty leviable thereon.

(2) The Central Government may, pending the determination under sub-section (1), impose a provisional safeguard duty under this sub-section on the basis of a preliminary determination that increased imports have caused or threatened to cause market disruption to a domestic industry:

Provided that where, on final determination, the Central Government is of the opinion that increased imports have not caused or threatened to cause market disruption to a domestic industry, it shall refund the duty so collected:

Provided further that the provisional safeguard duty shall not remain in force for more than two hundred days from the date on which it was imposed.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a notification issued under sub-section (1) or any safeguard duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a free trade zone or in a special economic zone.

*Explanation.*- For the purposes of this section, the expressions "hundred per cent. export-oriented undertaking", "Free trade zone" and "special economic zone" shall have the meanings respectively assigned to them in Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944.

(4) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(5) The duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such impositions:

Provided that if the Central Government is of the opinion that such article continues to be imported into India, from People's Republic of China, in such increased quantities so as to cause or threatening to cause market disruption to domestic industry and the safeguard duty should continue

to be imposed, it may extend the period of such imposition for a period not beyond the period of ten years from the date on which the safeguard duty was first impose.

(5A) The provisions of the 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.

(6) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for safeguard duty may be identified and for the manner in which the causes of market disruption or causes of threat of market disruption in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

(7) For the purposes of this section,-

(a) "domestic industry" means the producers-

(i) as a whole of a like article or a directly competitive article in India; or

(ii) whose collective output of a like article or a directly competitive article in India constitutes a major share of the total produced of the total production of the said article in India;

(b) "market disruption" shall be caused whenever imports of a like article or a directly competitive article produced by the domestic industry, increase rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry;

(c) "threat of market disruption" means a clear and imminent danger of market disruption.

(8) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

**97.** Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 11th day of

Validation  
of certain  
actions  
taken  
under  
section 8C  
of Act 51  
of 1975.

May, 2002 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 8C of the Customs Tariff Act by section 96 of the Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(c) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

*Explanation.*— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

9.(1) Where any country or territory pays, or bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any article including any subsidy on transportation of such article, then, upon the importation of any such article into India, whether the same is imported directly from the country of manufacture, production or otherwise, and whether it is imported in the same condition as when exported from the country of manufacture or production or has been changed in condition by manufacture, production or otherwise, the Central Government may, by notification in the Official Gazette, impose a countervailing duty not exceeding the amount of such subsidy.

Countervailing duty  
on subsidized  
articles

*Explanation.* - For the purposes of this section, a “subsidy” shall be deemed to exist if -

(a) there is financial contribution by a

government, or any public body in the exporting or producing country or territory\*, that is, where -

(i) a government practice involves a direct transfer of funds (including grants, loans and equity infusion), or potential direct transfer of funds or liabilities, or both;

(ii) government revenue that is otherwise due is foregone or not collected (including fiscal incentives)

(iii) a government provides goods or services other than general infrastructure or purchases goods;

(iv) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in clauses (i) to (iii) above which would normally be vested in the government and the practice in, no real sense, differs from practices normally followed by governments; or

(b) a government grants or maintains any form of income or price support, which operates directly or indirectly to increase export of any article from, or to reduce import of any article into, its territory, and a benefit is thereby conferred.

(2) The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the amount of subsidy, impose a countervailing duty under this sub-section not exceeding the amount of such subsidy as provisionally estimated by it and if such countervailing duty exceeds the subsidy as so determined, -

(a) the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such countervailing duty; and

(b) refund shall be made of so much of such countervailing duty which has been collected as is in excess of the countervailing duty as so reduced.

(3) Subject to any rules made by the Central Government, by notification in the Official Gazette, the countervailing duty under sub-section (1) or sub-section (2) shall not be levied unless it is determined that -

(a) the subsidy relates to export performance;



(b) the subsidy relates to the use of domestic goods over imported goods in the export article; or

(c) the subsidy has been conferred on a limited number of persons engaged in manufacturing, producing or exporting the article unless such a subsidy is for -

(i) research activities conducted by or on behalf of persons engaged in the manufacture, production or export;

(ii) assistance to disadvantaged regions within the territory of the exporting country; or

(iii) assistance to promote adaptation of existing facilities to new environmental requirements.

(4) If the Central Government is of the opinion that the injury to the domestic industry which is difficult to repair, is caused by massive imports in a relatively short period, of the article benefiting from subsidies paid or bestowed and where in order to preclude the recurrence of such injury, it is necessary to levy countervailing duty retrospectively, the Central Government may, by notification in the Official Gazette, levy countervailing duty from a date prior to the date of imposition of countervailing duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section and notwithstanding any thing contained in any law for the time being in force, such duty shall be payable from the date as specified in the notification issued under this sub-section.

(5) The countervailing duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

(6) The countervailing duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension:

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come

to a conclusion before such expiry, the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

(7) The amount of any such subsidy as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may, by notification in the Official Gazette, make rules for the identification of such articles and for the assessment and collection of any countervailing duty imposed upon the importation thereof under this section.

(7A) The provisions of the 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.

(8) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

Validation of  
certain actions  
taken under  
section 8C  
of Act 51 of  
1975

**99.** Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 11th day of January, 1995 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 9 of the Customs Tariff Act by section 98 of the Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation,

notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(c) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

*Explanation.*— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

A n t i -  
d u m p i n g  
d u t y   o n  
d u m p e d  
a r t i c l e s

**9A.(1)** Where any article is exported by an exporter or producer from any country or territory (hereafter in this section referred to as the exporting country or territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an anti-dumping duty not exceeding the margin of dumping in relation to such article.

*Explanation.*-For the purposes of this section,-

(a) “margin of dumping” in relation to an article, means the difference between its export price and its normal value;

(b) “export price”, in relation to an article, means the price of the article exported from the exporting country or territory and in cases where there is no export price or where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6);

(c) “normal value”, in relation to an article, means-

(i) the comparable price, in the ordinary course of trade, for the like article when destined\* for consumption in the exporting country or territory as determined in accordance

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\* Amended by Sec 61(b) of Finance bill, 2006.

with the rules made under sub-section (6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-

(a) comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section(6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

(2) The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the normal value and the margin of dumping in relation to any article, impose on the importation of such article into India an anti-dumping duty on the basis of a provisional estimate of such value and margin and if such anti-dumping duty exceeds the margin as so determined,-

(a) the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such anti-dumping duty; and

(b) refund shall be made of so much of the anti-dumping duty which has been collected as is in excess of the anti-dumping duty as so reduced.

(2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under sub-section (1) or any anti-dumping duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent. export-

oriented undertaking or a unit in a free trade zone or in a special economic zone.

Explanation. - For the purposes of this section, the expressions "hundred per cent. export-oriented undertaking", "free trade zone" and "special economic zone" shall have the meanings assigned to them in Explanations 2 to sub-section (f) of section 3 of Central Excise Act, 1944.

(3) If the Central Government, in respect of the dumped article under inquiry, is of the opinion that -

(i) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury; and

(ii) the injury is caused by massive dumping of an article imported in a relatively short time which in the light of the timing and the volume of imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied,

the Central Government may, by notification in the Official Gazette, levy anti-dumping duty retrospectively from a date prior to the date of imposition of anti-dumping duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section, and notwithstanding any thing contained in any other law for the time being in force, such duty shall be payable at such rate and from such date as may be specified in the notification.

(4) The anti-dumping duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(5) The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

Refund of Anti-dumping duty in certain cases

(6) The margin of dumping as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing such rules may provide for the manner in which articles liable for any anti-dumping duty under this section may be identified and for the manner in which the export price and the normal value of and the margin of dumping in relation to, such articles may be determined and for the assessment and collection of such anti-dumping duty.

(6A) The margin of dumping in relation to an article, exported by an exporter or producer, under inquiry under sub-section (6) shall be determined on the basis of records concerning normal value and export price maintained, and information provided, by such exporter or producer:

Provided that where an exporter or producer fails to provide such records or information, the margin of dumping for such exporter or producer shall be determined on the basis of facts available.;

(7) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

\*(8) The provisions of the 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.

**101.** Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 1st day of January, 1995 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 9A of the Customs Tariff Act by clause (iii) of section 100 of the Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court,

Validation of  
certain actions  
taken under  
section 9A of Act  
51 of 1975

tribunal or other authority,—

(a) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done a if the amendment made by the said section had been in force at all material times;

(c) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

*Explanation.*— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

No levy under section 9 or section 9A in certain cases

**9AA.**(1) Where upon determination 'by an officer authorised in this behalf by the Central Government under clause (ii) of sub-section (2), an importer proves to the satisfaction of the Central Government that he has paid anti-dumping duty imposed under sub-section (1) of section 9A on any article, in excess of the actual margin of dumping in relation to such article, the Central Government shall, as soon as may be, reduce such anti-dumping duty as is in excess of actual margin of dumping so determined, in relation to such article or such importer, and such importer shall be entitled to refund of such excess duty.\*

Provided that such importer shall not be entitled to refund of so much of such excess duty under this sub-section which is refundable under sub-section (2) of section 9A.

*Explanation.* - For the purposes of this sub-section, the expressions, "margin of dumping", "export price" and "normal value" shall have the same meaning respectively assigned to them in the Explanation to sub-section (1) of section 9A.

(2) the Central Government may, by notification in the Official Gazette, make rules to -

(i) provide for the manner in which and the time within

which the importer may make application for the purposes of sub-section (1);

(ii) authorise the officer of the Central Government who shall dispose of such application on behalf of the Central Government within the time specified in such rules; and

(iii) provide the manner in which the excess duty referred to in sub-section (1) shall be -

(A) determined by the officer referred to in clause (ii); and

(B) refunded by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, after such determination;

**9B.** (1) Notwithstanding anything contained in section 9 or section 9A, -

(a) no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization;

(b) the Central Government shall not levy any countervailing duty or anti-dumping duty -

(i) under section 9 or section 9A by reasons of exemption of such articles from duties or taxes borne by the like article when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes;

Appeal

(ii) under sub-section (1) of either of section 9 and section 9A, on the import into India of any article from a member country of the World Trade Organisation or from a country with whom Government of India has a most favoured nation agreement (hereafter referred to as a specified country), unless in accordance with the rules made under sub-section (2) of this section, a determination has been made that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India; and

(iii) under sub-section (2) of either of section 9 and section 9A, on import into India of any article from the specified countries unless in accordance with the rules made under sub-section (2) of this section, a preliminary findings has been made of subsidy or dumping and consequent injury to domestic industry; and a further determination has also been made that a duty is necessary to prevent injury being caused during the investigation:



Provided that nothing contained in sub-clauses (ii) and (iii) of this clause shall apply if a countervailing duty or an anti-dumping duty has been imposed on any article to prevent injury or threat of an injury to the domestic industry of a third country exporting the like articles to India;

(c) the Central Government may not levy -

(i) any countervailing duty under section 9, at any time, upon receipt of satisfactory voluntary undertakings from the Government of the exporting country or territory agreeing to eliminate or limit the subsidy or take other measures concerning its effect, or the exporter agreeing to revise the price of the article and if the Central Government is satisfied that the injurious effect of the subsidy is eliminated thereby;

(ii) any anti-dumping duty under section 9A, at any time, upon receipt of satisfactory voluntary undertaking from any exporter to revise its prices or to cease exports to the area in question at dumped price and if the Central Government is satisfied that the injurious effect of dumping is eliminated by such action.

(2) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which any investigation may be made for the purposes of this section, the factors to which regard shall be had in any such investigation and for all matters connected with such investigation.

**9C.** (1) An appeal against the order of determination or review thereof regarding the existence, degree and effect of any subsidy or dumping in relation to import of any article shall lie to the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (hereafter referred to as the Appellate Tribunal).

<sup>1</sup>[(1A) An appeal under sub-section (1) shall be accompanied by a fee of fifteen thousand rupees.

(1B) Every application made before the Appellate Tribunal,-

(a) in an appeal under sub-section (1), for grant of stay or for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by a fee of five hundred rupees.]

Rules to be laid  
before Parliament

(2) Every appeal under this section shall be filed within ninety days of the date of order under appeal:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time

(3) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order thereon as it thinks fit, confirming, modifying or annulling the order appealed against.

(4) The provisions of sub-section (1), (2), (5) and (6) or section 129C of the Customs Act, 1962 shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Customs Act, 1962.

Power of Central  
Government to  
alter duties under  
certain circum-  
stances

(5) Every appeal under sub-section (1) shall be heard by a Special Bench constituted by the President of the Appellate Tribunal for hearing such appeals and such Bench shall consist of the President and not less than two members and shall include one judicial member and one technical member.

**10.** Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of Central  
Government to  
amend First  
Schedule

**11.** (1) Where the Central Government is satisfied that it is necessary so to do for the purpose of giving effect to any agreement entered into before the commencement of this Act with a foreign Government, it may, by notification in the Official Gazette, increase or reduce the duties referred to in section 2 to such extent as each case may require:

Repeal and saving

Provided that no notification under this sub-section increasing or reducing the duties as aforesaid shall be issued by the Central Government after the expiration of a period of one year from the commencement of this Act.

(2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

Consequential  
amendment of  
Act 52 of 1962

**11A.** (1) Where the Central Government is satisfied that it is necessary so to do in the public interest, it may, by notification in the Official Gazette, amend the First Schedule:

Provided that such amendment shall not alter or affect in any manner the rates specified in that Schedule in respect of goods at which duties of customs shall be leviable on the goods under the Customs Act, 1962. (52 of 1962).

(2) Every Notification issued under sub-section (1) shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

**12.** (1) The Indian Tariff Act, 1934 and the Indian Tariff (Amendment) Act, 1949, are hereby repealed.

(2) Notwithstanding the repeal of any of the Acts mentioned in sub-section (1), anything done or any action taken (including any notification published and any rules and orders made or deemed to have been made under the provisions of those Acts and in force immediately before the commencement of this Act) shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

**13.** In the Customs Act, 1962, in sub-section (1) of section 12 and in sub-section (1) of section 14, for the words and figures "Indian Tariff Act, 1934", the words and figures "Customs Tariff Act, 1975" shall be substituted.

Surcharge of Customs under the First Schedule to the Customs Tariff Act or in that Schedule vide Finance Bill No.22 of 1999 dated 27.2.99

118(1) In the case of goods mentioned in the First Schedule to the Customs Tariff Act, or in that Schedule, as amended from time to time, there shall be levied and collected as surcharge of customs, an amount, equal to ten per cent. of

the duty chargeable on such goods calculated at the rate specified in the said First Schedule, read with any notification for the time being in force, issued by the Central Government in relation to the duty so chargeable.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 2001, and upon such cesser, section 6 of the General Clauses Act, 1897 shall apply as if the said sub-section had been repealed by a Central Act.

(3) The surcharge of customs referred to in sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force.

(4) The provisions of the Customs Act and the rules and regulations made thereunder including those relating to refunds, drawbacks and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of surcharge of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

## **2. THE GENERAL RULES FOR THE INTERPRETATION OF IMPORT TARIFF**

Classification of goods in this Schedule shall be governed by the following principles:

1. The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred

to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

5. In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:

(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character;

(b) Subject to the provisions of (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provisions does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

6. For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub headings and any related sub headings Notes and, *mutatis mutandis*, to the above rules, on the understanding that only sub headings at the same level are comparable. For the purposes of this rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

## **THE GENERAL EXPLANATORY NOTES TO IMPORT TARIFF**

1. Where in column (2) of this Schedule, the description of an article or group of articles under a heading is preceded by “-”, the said article or group of articles shall be taken to be a sub-classification of the article or group of articles covered by the said heading. Where, however, the description of an article or group of articles is preceded by “- -”, the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has “-”. where the description of an article or group of articles is preceded by “- - -” or “- - - -”, the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has “-” or “- -”.

2. The abbreviation “%” in any column of this Schedule in relation to the rate of duty indicates that duty on the goods to which the entry relates shall be charged on the basis of the value of the goods as defined in section 14 of the Customs Act, 1962 (52 of 1962), the duty being equal to such percentage of the value as is indicated in that column.

3. In any entry, if no rate of duty is shown in column (5), the rate shown under column (4) shall be applicable.

### ADDITIONAL NOTES

In this Schedule,—

(1) (a) “heading”, in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number;

(b) “sub-heading”, in respect of goods, means a description in the list of tariff provisions accompanied by a six-digit number and includes all tariff items the first six-digits of which correspond to that number;

(c) “tariff item” means a description of goods in the list of tariff provisions accompanying eight-digit number and the rate of customs duty;

(2) the list of tariff provisions is divided into Sections, Chapters and Sub-Chapters;

(3) in column (3), the standard unit of quantity is specified for each tariff item to facilitate the collection, comparison and analysis of trade statistics.

#### LIST OF ABBREVIATIONS USED

Abbreviations	For
Amps	Ampere(s)
Bq/g	Beequeral per gram
cc	Cubic centimetre
cg	Centigram(s)
Ci/g	Curie per gram
C.I.F.	Cost, Insurance and Freight
c/k	Carats (1 metric carat = $2 \times 10^{-4}$ kg)
cm	Centimetre(s)
cm <sup>3</sup>	Cubic centimetre(s)
dyne/Cm	Dyne per centimetre
g	Gram(s)
g/cm <sup>3</sup>	Gram per cubic centimetre
gi F/S	Gram of fissile isotopes
g/m <sup>2</sup>	Gram per square metre
g.v.w.	Gross vehicle weight
HP	Horse Power
K cal/Kg	Kilocalorie per Kilogram
kg.	Kilogram(s)
kPa	Kilo Pascal
kPa. m <sup>2</sup> /g	Kilo Pascal square metre per gram
kN/m	Kilo Newton/Metre
kVA	Kilovolt Ampere(s)

kvar	Kilovolt ampere reactive (s)
kW	Kilo Watt
l	Litre(s)
m	Metre(s)
m <sup>2</sup>	Square metre(s)
m <sup>3</sup>	Cubic metre(s)
mm	Millimetre(s)
mN	Milli Newton
MPa	Milli pascal
mt	Metric tonne
MW	Mega Watt
N/m	Newton per metre
pa	Number of pairs
Rs.	Rupees
sq.	Square
SWG	Standard Wire Gauge
t	Tonne(s)
Tu	Thousand in number
u	Number
US\$	US Dollar
V	Volt(s)
Vol.	Volume
W	Watt
1000 kWh	1000 kilowatt hours

**COMMENCEMENT OF CUSTOMS TARIFF (AMENDMENT) ORDINANCE, 2003 (1 OF 2003)  
[Notfn. No. 16/03-Cus. dt. 24.1.2003].**

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in all the notifications issued under the said sub-section and for the time being in force on the date of the commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), namely:-

In each of the said notifications, for any reference to the Chapter, heading or sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as the case may be, relating to any goods or class of goods, wherever occurring in the said notification, the corresponding reference to the Chapter, heading or sub-heading, of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as amended by the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003) shall be deemed to have been substituted.

(2) This notification shall come into force on the date of the commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003).

**Exemption from Additional Duty in excess of excise duty leviable on like goods  
[Notfn. No. 89/82-Cus. dt. 25.3.1982 as amended by Notfn. No. 130/90].**

The Central Government exempts all the goods covered by the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when imported into India from so much of the additional duty leviable thereon under section 3 of the said Act, as is in excess of the duty of excise for the

time being leviable on like goods produced or manufactured in any place outside a free trade zone in India or hundred per cent export-oriented undertaking.

**Explanation:-** For the purpose of this notification, “free trade zone” and “hundred per cent export-oriented undertaking” have the same meaning as in Explanation 2 to sub-section (1) of section 3 of the Central Excises and Salt Act, 1944 (1 of 1944).

**COMMENCEMENT OF CUSTOMS TARIFF (AMENDMENT) ORDINANCE, 2003 (1 OF 2003)  
[Notfn. No. 17/03-Cus. dt. 24.1.2003].**

In exercise of the powers conferred by section 3A of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, hereby makes the following amendments in all the notifications issued under the said section and for the time being in force on the date of commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), except as respects things done or omitted to be done before such amendments, namely:-

In each of the said notifications, for any reference to the Chapter, heading or sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as the case may be, relating to any goods or class of goods, wherever occurring in the said notification, the corresponding reference to the Chapter, heading and sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as amended by the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003) shall be deemed to have been substituted.

(2) This notification shall come into force on the date of the commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003).

**COMMENCEMENT OF CUSTOMS TARIFF (AMENDMENT) ORDINANCE, 2003 (1 OF 2003)  
[Notfn. No. 18/03-Cus., dt. 24.1.2003]**

In exercise of the powers conferred by section 8B of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, hereby makes the following amendments in all the notifications issued under the said section and for the time being in force on the date of commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), except as respects things done or omitted to be done before such amendments, namely:

In each of the said notifications, for any reference to the Chapter, heading or sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as the case may be, relating to any goods or class of goods, wherever occurring in the said notification, the corresponding reference to the Chapter, heading and sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as amended by the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003) shall be deemed to have been substituted.

(2) This notification shall come into force on the date of the commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003).

**COMMENCEMENT OF CUSTOMS TARIFF (AMENDMENT) ORDINANCE, 2003 (1 OF 2003)  
[Notfn. No. 19/03-Cus. dt. 24.1.2003].**

In exercise of the powers conferred by section 9A of the Customs Tariff Act, 1975 (51 of



1975), the Central Government, hereby makes the following amendments in all the notifications issued under the said section and for the time being in force on the date of the commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), except as respects things done or omitted to be done before such amendments, namely:-

In each of the said notifications, for any reference to the Chapter, heading or sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as the case may be, relating to any goods or class of goods, wherever occurring in the said notification, the corresponding reference to the Chapter, heading and sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as amended by the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003) shall be deemed to have been substituted.

(2) This notification shall come into force on the date of the commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003).

### **THE ACCESSORIES (CONDITION) RULES, 1963.**

**[M.F. (D.R.) Notification No. 18-Cus., dated 23rd January, 1963].**

In exercise of the powers conferred by section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely:-

1. These rules may be called the Accessories (Condition) Rules, 1963.
2. Accessories of and spare parts and maintenance or repairing implements for, any article, when imported along with that article shall be chargeable at the same rate of duty as that article, if the proper officer is satisfied that in the ordinary course of trade :-
  - (i) such accessories parts and implements are compulsorily supplied along with that article; and
  - (ii) no separate charge is made for such supply, their price being included in the price of the article.

### **3. NATIONAL CALAMITY CONTINGENT DUTY (NCCD)**

**134.** (1) In case of goods specified in the Seventh Schedule to the Finance Act, 2001 (14 of 2001) as amended by the Thirteenth Schedule, being goods imported into India, there shall be levied and collected for the purposes of the Union, by surcharge, a duty of customs, to be called the National calamity Contingent Duty of Customs hereinafter referred to as the National Calamity Duty of Customs), at the rate specified in the said Seventh Schedule, as amended by the Thirteenth Schedule.

(2) The National Calamity Duty of Customs chargeable on the goods specified in the Seventh Schedule to the Finance Act, 2001 (14 of 2001) as amended by the Thirteenth Schedule shall be in addition to any other duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force.

(3) For the purposes of calculating the National Calamity Duty of Customs under this section on any goods specified in the Seventh Schedule to the Finance Act, 2001 (14 of 2001) as amended by the Thirteenth Schedule, where such duty is leviable at any percentage of its value, the value of such goods shall be calculated in the same manner as the value of article for the purposes of

additional duty is calculated under the provisions of sub-section (2) of section 3 of the Customs Tariff Act.

(4) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the National Calamity Duty of Customs leviable under this section in respect of the goods specified in the Seventh Schedule to the Finance Act, 2001 (14 of 2001) as amended by the Thirteenth Schedule, as they apply in relation to the levy and collection of the duties of customs on such goods under that Act, or those rules and regulations, as the case may be.

*Explanation* - For the removal of doubts, it is hereby declared that for the purposes of this section, on the expiry of the period of operation of the amendments made in the Seventh Schedule to the Finance Act, 2001 (14 of 2001) in terms of section 169, the said Seventh Schedule but for such amendment shall continue to operate as if the said amendment had not taken place.

### THE SEVENTH SCHEDULE NOTES

1. In this Schedule, "heading", "sub-heading" and "Chapter" means respectively a heading, sub-heading and Chapter in the First Schedule to the Central Excise Tariff Act.
2. The rules for the interpretation of the First Schedule to the Central Excise Tariff act, the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall apply to the interpretation of this Schedule.

Heading No.	Sub-heading No.	Description of Goods	Rate of duty
(1)	(2)	(3)	(4)
21.06	2106.00	Pan Masala	23%
24.03	2403.11	-- Other than filter cigarettes, of length not exceeding 60 millimetres	Rs.20 per thousand
	2403.12	-- Other than filter cigarettes, of length exceeding 60 millimetres but not exceeding 70 millimetres	Rs.60 per thousand
	2403.13	-- Filter cigarettes of length (including the length of the Filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 70 millimetres	Rs. 90 per thousand
	2403.14	-- Filter cigarettes of length (including the length of the Filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	Rs. 145 per thousand
	2403.15	-- Filter cigarettes of length (including the length of the Filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Rs.190 per thousand
	2403.19	-- Others	Rs.235 per thousand
	2403.20	-- Cigarettes of tobacco substitutes	Rs. 150 per thousand
2404	2404.10	-- Smoking mixtures for pipes and cigarettes	45%
	2404.31	-- Other than paper rolled biris, manufactured without the aid of machines	Rs.1.00 per thousand
	2404.39	-- Other	Rs.2.00 per thousand
	2404.41	-- Chewing Tobacco and preparations containing chewing tobacco	10%
	2404.49	-- Pand masala containing tobacco	10%

	2404.50	--	Snuff of Tobacco and preparations containing snuff of tobacco in any proportion	10%
	2404.99	--	Other	10%
27.09	2709.00		Petroleum oils and oils obtained from bituminous minerals, crude	Rs.50 per tonne
54.02	5402.20	--	High tenacity yarn of polyesters	1%
	5402.32	--	Of polyesters	1%
	5402.42	--	Of polyesters, partially oriented	1%
	5402.43	--	Of polyesters, other	1%
	5402.52	--	Of polyesters	1%
	5402.62	--	Of polyesters	1%
87.02	8702.10	--	Motor vehicles principally designed for the transport of more than six persons, but not more than twelve persons, excluding the driver, including station wagons	1%
87.03	8703.90	--	Other	1%
87.04	8704.90	--	Other	1%
87.06	8706.21	--	For the vehicles of sub-heading No.8702.10	1%
	8706.39	--	For the vehicles of sub-heading No.8703.90	1%
	8706.49	--	For the vehicles of sub-heading Nos. 8704.30 or 8704.90	1%
87.11	8711.10	--	Two-wheeled motor vehicles of engine capacity not exceeding 75 cubic centimetres	1%
	8711.20	--	Two-wheeled motor vehicles of engine capacity exceeding 75 cubic centimetres	1%

**Exemption to all goods falling under sub-heading 8517 12 of the Customs Tariff Act:  
[Notifn. No. 26/08-Cus., dt.1.3.2008]**

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts all goods falling under sub-heading 8517 12 of the Customs Tariff Act, 1975 (51 of 1975), as specified in column (2) of the Table in the Seventh Schedule to the Finance Act, 2001 (14 of 2001), as amended from time to time, when imported into India, from the whole of the National Calamity Contingent duty of Customs leviable thereon under section 134 of the Finance Act, 2003 (32 of 2003).

**Exemption to goods from National Calamity Contingent Duty.  
Notifn. No. 29/08-Cus., dt.1.3.2008**

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.77/2003-Customs, dated the 14 th May, 2003 published in the Gazette of India, Extraordinary vide number G.S.R. 414(E) of the same date, except as respects things done or omitted to be done before such supersession, hereby exempts all goods (except goods falling under sub-heading 8517 12), as specified in column (2) of the Table in the Seventh Schedule to the Finance Act, 2001 (14 of 2001), as amended from time to time, when imported into India, from so much of the additional duty leviable thereon under sub-section (1) of

section 3 of the Customs Tariff Act, 1975 (51 of 1975) as is equivalent to the National Calamity Contingent duty leviable thereon under section 136 of the said Finance Act, 2001.

#### 4. EDUCATION CESS

##### Section 91:

(1) Without prejudice to the provisions of sub-section (11) of section 2, there shall be levied and collected, in accordance with the provisions of this Chapter as surcharge for purposes of the Union, a cess to be called the Education Cess, to fulfil the commitment of the Government to provide and finance universalised quality basic education.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, utilise, such sums of the money of the Education Cess levied under sub-section (11) of section 2 and this Chapter for the purposes specified in sub-section (1), as if may consider necessary.

##### Section 92:

The words and expressions used in this Chapter and defined in the Central Excise Act, 1944, the Customs Act, 1962 or Chapter V of the Finance Act, 1994, shall have the meanings respectively assigned to them in those Acts or Chapter, as the case may be.

##### Section 94:

(1) The Education Cess levied under section 91, in the case of goods specified in the First Schedule to the Customs Tariff Act, 1975, being goods imported into India, shall be a duty of customs (in this section referred to as the Education Cess on imported goods), at the rate of two per cent, calculated on the aggregate of duties of customs which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under section 12 of the Customs Act, 1962 and any sum chargeable on such goods under any other law for the time being in force, as an addition to, and in the same manner as, a duty of customs, but not including -

- (a) the safeguard duty referred to in sections 8B and 8C of the Customs Tariff Act, 1975;
- (b) the countervailing duty referred to in section 9 of the Customs Tariff Act, 1975;
- (c) the anti-dumping duty referred to in section 9A of the Customs Tariff Act, 1975; and
- (d) the Education Cess on imported goods.

(2) The Education Cess on imported goods shall be in addition to any other duties of customs chargeable on such goods, under the Customs Act, 1962 or any other law for the time being in force.

(3) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Education Cess on imported goods as they apply in relation to the levy and collection of the duties of customs on such goods under the Customs Act, 1962 or the rules or the regulations, as the

case may be.

[Note :- For exemption from Education Cess on specified goods, please see - General Exemption No. 128]

**4A. Exemption to specified goods from Secondary and Higher Education Cess.**

[Notfn. No. 28/07-Cus., dt.1.3.2007 as amended by 69/07 ]

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), read with section 136 read with section 139 of the Finance Act, 2007 (22 of 2007), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts all goods covered under notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 69/2004-Customs, dated 9th July 2004 which was published in the Gazette of India, Extraordinary vide number G.S.R. 411(E), of the same date, from the whole of the Secondary and Higher Education Cess leviable thereon under the said section 136 read with section 139 of the said Finance Act.

**5. ADDITIONAL DUTY OF CUSTOMS TO COUNTERVAIL LOCAL TAXES.**

[Notfn. No. 19/06-Cus., dt. 1.3.2006]

In exercise of the powers conferred by sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, on being satisfied that it is necessary in the public interest so to do, and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 19/2005-Customs, dated the 1st March, 2005 [number G.S.R. 117(E), dated the 1st March, 2005], hereby directs that all goods specified under the Chapter, heading, sub-heading or tariff item of the First Schedule to the said Act, having regard to the sales tax, value added tax, local tax and other taxes or charges leviable on sale or purchase or transportation of like goods in India, when imported into India, shall be liable to an additional duty or customs at the rate of four percent *ad valorem*.

**6. Notification related to Finance Act, 2003:**

[Notfn. No. 10/06-Cus., dt. 1.3.2006]

In exercise of the powers conferred by section 133 of the Finance Act, 2003 (32 of 2003), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby appoints the 1st day of March, 2006, as the date on which the provisions contained in the said section of the aforesaid Act shall come into force.

**7. Exemption to goods falling within the First Schedule when imported into India from whole of Education Cess:**

[Notfn. No. 13/12-Cus., dt. 17.3.2012]

In exercise of the powers conferred by sub-sections (1) of section 25 of the Customs Act, 1962 (52 of 1962), read with sections 91 and 94 of the Finance (No. 2), Act, 2004 (23 of 2004), the Central Government being satisfied that it is necessary in the public interest so to do, hereby exempts all the goods falling within the First Schedule to the Customs Tariff Act, 1975 ( 51 of 1975), when imported into India, from whole of Education Cess which is leviable thereon under

sub-section (1) of section 3 of the Customs tariff Act, 1975, read with sections 91, 93 and 94 of the said Finance Act.

**8. Exemption to goods falling within the First Schedule when imported into India from whole of Secondary and Higher Education Cess:  
[Notfn. No. 14/12-Cus., dt. 17.3.2012]**

In exercise of the powers conferred by sub-sections (1) of section 25 of the Customs Act, 1962 (52 of 1962), read with sections 136 and 139 of the Finance Act, 2007 (22 of 2007), the Central Government being satisfied that it is necessary in the public interest so to do, hereby exempts all the goods falling within the First Schedule to the Customs Tariff Act, 1975 ( 51 of 1975), when imported into India, from whole of Secondary and Higher Education Cess which is leviable thereon under sub-section (1) of section 3 of the Customs tariff Act, 1975, read with section 136, 138 and 139 of the said Finance Act.