

Beyond the Audit:

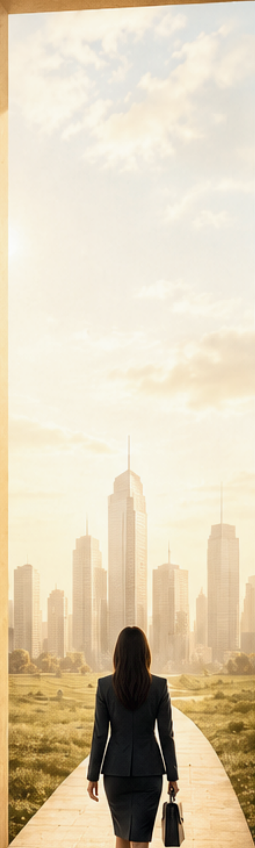
A Legal Framework
of Taxation

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A Legal Framework of Taxation

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Preface

Beyond the Audit: A Legal Framework of Taxation is an edited academic volume that brings together student scholarship on contemporary issues in Indian taxation law. The title reflects the central purpose of the book: to move beyond a narrow understanding of taxation as assessment, audit, and collection, and to examine taxation as a legal framework shaped by constitutional principles, administrative institutions, economic policy, technological change, and taxpayer rights.

The chapters in this volume engage with a wide range of themes across direct and indirect taxation. They examine the constitutional foundations of taxation, the legislative structure of income tax, the Goods and Services Tax regime, the dual GST model, GST Council federalism, reverse charge, digital services, GST 2.0 reforms, MSME compliance burdens, and the principle of equity in digital taxation. The book also includes focused studies on advance tax and SME liquidity, angel tax, virtual digital assets, intellectual property taxation, ancestral property, double taxation avoidance agreements, customs duties and smuggling, border carbon taxation, artificial intelligence in tax administration, and privacy concerns in tax investigations.

Collectively, these contributions show that taxation law is no longer limited to conventional questions of liability and exemption. It increasingly intersects with digital governance, cross-border commerce, environmental regulation, data privacy, fiscal federalism, startup financing, and the formalisation of small businesses. The volume therefore seeks to present taxation as a dynamic field of public law and economic governance, where statutory interpretation, administrative efficiency, and fairness must constantly be balanced.

The chapters have been arranged alphabetically by contributor name for consistency and ease of reference. This editorial choice allows each contribution to stand independently while preserving a coherent structure for readers. The formatting of the book follows a compact US Trade size layout suitable for print publication and digital circulation.

The editors gratefully acknowledge all chapter contributors for their research efforts and academic engagement. We also place on record our appreciation to the publishing team for their support in preparing this edited volume for publication.

About the Volume

Beyond the Audit: A Legal Framework of Taxation is an edited academic volume that examines taxation law as a dynamic field of legal, economic, constitutional, and administrative governance. The volume brings together research contributions on selected contemporary issues in Indian taxation, with particular attention to the changing nature of tax compliance, fiscal federalism, digital taxation, taxpayer rights, and regulatory reform. The book moves beyond the traditional understanding of taxation as a technical process of assessment, filing, and audit. It explores taxation as a legal framework that affects businesses, individuals, governments, and markets. The chapters analyse both direct and indirect tax questions, including income tax administration, advance tax, taxation of virtual digital assets, intellectual property rights, ancestral property, angel tax, customs duties, and cross-border tax disputes.

A significant part of the volume focuses on the Goods and Services Tax regime. The chapters examine the dual GST structure, GST Council federalism, reverse charge mechanism, GST 2.0 reforms, digital service exports, border carbon taxation, and the compliance burden on MSMEs. These discussions highlight how GST has reshaped Indian fiscal governance while continuing to raise important questions of equity, administrative efficiency, and taxpayer convenience. The volume also engages with emerging challenges in tax administration, including artificial intelligence, faceless assessment, digital compliance systems, privacy concerns in tax investigations, and the use of technology in revenue enforcement. These chapters demonstrate how modern taxation increasingly intersects with data governance, constitutional rights, and institutional accountability.

The purpose of this edited book is to provide readers with a broad and contemporary understanding of taxation law in India. It is intended to serve as a useful academic resource for students, researchers, legal professionals, tax practitioners, and policy observers interested in the evolving relationship between taxation, law, governance, and economic development. By bringing together diverse themes within a single volume, this book seeks to encourage further discussion on how India's tax system can remain legally sound, administratively efficient, economically responsive, and fair to taxpayers in a rapidly changing regulatory environment.

Acknowledgement

The editors express their sincere gratitude to all the contributors whose research papers form the foundation of this edited volume, *Beyond the Audit: A Legal Framework of Taxation*. Their engagement with contemporary issues in taxation law has made this collection academically meaningful and relevant.

We are grateful to CMR University School of Legal Studies for encouraging legal research and academic writing among students. The institutional support and scholarly environment provided by the University have contributed significantly to the preparation of this volume.

We also acknowledge the guidance, cooperation, and support received during the editorial process. The preparation of an edited book requires careful coordination, review, formatting, and compilation, and we appreciate the efforts of everyone who assisted in bringing the chapters together in a coherent form.

Our sincere thanks are due to Jupiter Publications Consortium India for their support in publishing this volume and for assisting in its production. We also thank the technical and publishing team for their contribution to layout, design, and final preparation.

Finally, we extend our appreciation to the readers, students, researchers, legal professionals, and tax practitioners for whom this volume is intended. We hope that this book contributes to further discussion, research, and critical engagement with the evolving framework of taxation law in India.

Glossary

Advance Tax	A system under the Income-tax Act, 1961 requiring taxpayers to pay tax in instalments during the financial year when estimated tax liability exceeds the prescribed threshold.
Angel Tax	A tax formerly imposed under Section 56(2)(viib) of the Income-tax Act, 1961 on excess share premium received by certain closely held companies above fair market value.
Artificial Intelligence	Technology that enables machines or software systems to analyse data, identify patterns, and support automated decision-making, including in tax scrutiny and compliance systems.
Assessment	The process by which tax authorities determine the taxable income, tax liability, deductions, exemptions, and compliance position of a taxpayer.
Carbon Border Adjustment Mechanism	A fiscal mechanism used to impose carbon costs on imported goods based on their embedded emissions, intended to prevent carbon leakage and equalise climate-related tax burdens.
Capital Gains	Profits arising from the transfer of a capital asset, including land, buildings, securities, or certain intangible assets, taxable under the Income-tax Act, 1961.
Central Goods and Services Tax	The component of GST levied by the Central Government on intra-State supplies of goods or services.
Compliance Burden	The administrative, financial, technological, and procedural effort required from taxpayers to comply with tax laws and reporting obligations.
Consumption-Based Taxation	A taxation principle under which tax is imposed at the place where goods or services are consumed rather than where they are produced.
Customs Duty	A tax levied on goods imported into or exported from India under customs law.
Digital Services	Services supplied through electronic or digital networks, including SaaS, cloud computing, online platforms, digital marketplaces, and remote technology services.

Double Taxation Avoidance Agreement	A treaty between two countries designed to prevent the same income from being taxed twice and to allocate taxing rights between jurisdictions.
Dual GST	The GST model followed in India under which both the Centre and the States levy GST simultaneously on the same taxable supply.
E-Filing	The electronic filing of tax returns, forms, declarations, and other statutory documents through an online tax portal.
E-Invoicing	A system under GST where specified taxpayers generate invoices electronically through a prescribed platform for real-time reporting and validation.
Export of Services	A supply of service where the supplier is located in India, the recipient is located outside India, the place of supply is outside India, payment is received in permitted foreign exchange or Indian rupees, and the supplier and recipient are not merely establishments of the same person.
Faceless Assessment	A digital tax assessment system that reduces direct interaction between taxpayers and tax officers by using electronic communication and centralised allocation of cases.
Fair Market Value	The value that an asset or share would ordinarily fetch in an open market transaction between willing parties.
Fiscal Federalism	The constitutional and financial arrangement governing distribution of taxing powers, revenue, and fiscal responsibilities between the Centre and the States.
Goods and Services Tax	A destination-based indirect tax levied on the supply of goods and services in India.
GST Council	The constitutional body established under Article 279A of the Constitution of India to make recommendations on GST rates, exemptions, procedures, and related matters.
Hindu Undivided Family	A distinct taxable entity under the Income-tax Act, 1961 consisting of persons lineally descended from a common ancestor and governed by Hindu law principles.
Input Tax Credit	Credit available to a registered taxpayer for GST paid on purchases, which may be used to offset GST payable on outward supplies.

Integrated Goods and Services Tax	The GST component levied on inter-State supplies, imports, and certain cross-border transactions.
Intellectual Property Rights	Legal rights over creations of the mind, including patents, copyrights, trademarks, designs, know-how, and other intangible assets.
Intermediary Services	Services involving arrangement or facilitation of supply between two or more persons, where the supplier does not provide the main service on their own account.
MSME	Micro, Small and Medium Enterprise, classified in India on the basis of investment and turnover thresholds.
Permanent Establishment	A fixed place of business or taxable presence through which a foreign enterprise carries on business in another country under international tax treaties.
Place of Supply	The statutory rule used under GST to determine the jurisdiction where a supply of goods or services is deemed to take place.
Reverse Charge Mechanism	A GST mechanism under which the recipient of goods or services is liable to pay tax instead of the supplier.
Royalty	Consideration received for the use of, or right to use, intellectual property, technical know-how, copyright, patents, trademarks, or similar rights.
State Goods and Services Tax	The component of GST levied by a State Government on intra-State supplies of goods or services.
Tax Deducted at Source	A mechanism under which tax is deducted by the payer at the time of making specified payments and deposited with the government.
Tax Treaty	An agreement between countries governing taxation of cross-border income, relief from double taxation, exchange of information, and dispute resolution.
Virtual Digital Asset	A digital representation of value, including cryptocurrency and certain digital tokens, regulated for tax purposes under the Income-tax Act, 1961.
Zero-Rated Supply	A supply under GST on which output tax is not charged, while input tax credit or refund remains available, typically including exports and supplies to Special Economic Zones.

List of Abbreviations

AI	Artificial Intelligence
AO	Assessing Officer
AY	Assessment Year
BEE	Bureau of Energy Efficiency
CBAM	Carbon Border Adjustment Mechanism
CBDT	Central Board of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CENVAT	Central Value Added Tax
CGST	Central Goods and Services Tax
CII	Cost Inflation Index
CPC	Centralised Processing Centre
CBAM	Carbon Border Adjustment Mechanism
DCF	Discounted Cash Flow
DIN	Document Identification Number
DPIIT	Department for Promotion of Industry and Internal Trade
DRI	Directorate of Revenue Intelligence
DTAA	Double Taxation Avoidance Agreement
EVC	Electronic Verification Code
FDI	Foreign Direct Investment
FMV	Fair Market Value
FY	Financial Year
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GST	Goods and Services Tax
GSTN	Goods and Services Tax Network
HUF	Hindu Undivided Family
IGST	Integrated Goods and Services Tax

IP	Intellectual Property
IPR	Intellectual Property Rights
IT	Income Tax
ITC	Input Tax Credit
ITR	Income Tax Return
LDC	Lower Deduction Certificate
LOB	Limitation on Benefits
MAP	Mutual Agreement Procedure
MSME	Micro, Small and Medium Enterprise
NAV	Net Asset Value
NRI	Non-Resident Indian
OECD	Organisation for Economic Co-operation and Development
OIDAR	Online Information Database Access and Retrieval
PAN	Permanent Account Number
PE	Permanent Establishment
RCM	Reverse Charge Mechanism
RBI	Reserve Bank of India
SaaS	Software as a Service
SEZ	Special Economic Zone
SGST	State Goods and Services Tax
SME	Small and Medium Enterprise
TDS	Tax Deducted at Source
TIEA	Tax Information Exchange Agreement
UCC	Uniform Civil Code
VAT	Value Added Tax
VCLT	Vienna Convention on the Law of Treaties
VDA	Virtual Digital Asset
WTO	World Trade Organization

About the Editors



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How to Use This Edited Book

This edited book is designed as a scholarly reference for readers interested in contemporary developments in Indian taxation law. The chapters may be read independently or as part of a broader study of the relationship between taxation, constitutional governance, economic policy, digital administration, and taxpayer rights. Readers who are new to taxation law may begin with the chapters dealing with the constitutional foundations of taxation, the structure of income tax law, and the Goods and Services Tax framework. These chapters provide the basic legal background necessary to understand later discussions on specialised topics such as reverse charge, digital services, double taxation avoidance agreements, and carbon taxation.

Readers interested in indirect taxation may focus on the chapters relating to GST, dual GST, GST Council federalism, GST 2.0 reforms, MSME compliance, digital taxation, reverse charge mechanism, export of digital services, customs duties, and border carbon taxation. These chapters examine how India's indirect tax system functions in practice and how it responds to emerging economic and technological challenges. Readers interested in direct taxation may refer to chapters on income tax administration, advance tax, angel tax, virtual digital assets, intellectual property rights, ancestral property, and investigatory powers under income tax law. These chapters explore the changing relationship between taxpayers and revenue authorities in an increasingly digitised and compliance-driven tax environment.

Each chapter contains an abstract, keywords, substantive discussion, conclusion, and references. The abstract provides a quick overview of the chapter's scope and argument. The keywords identify the principal themes covered. The references may be used for further research and academic writing. The chapters have been arranged alphabetically by contributor name for ease of reference and consistency in presentation. Readers may therefore use the Contents section to locate a chapter by title, contributor, or subject area. This volume is intended to support classroom learning, academic research, seminar discussions, and professional reference. It should be read as an academic resource and not as a substitute for professional legal or tax advice. Readers are encouraged to consult statutory provisions, notifications, circulars, and judicial decisions directly when applying any legal principle to a specific factual situation.

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Chapter 1

Assessment and Collection of Customs Duty in India: Legal Framework and Administrative Challenges

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Abstract

Customs duty constitutes an essential component of India's fiscal and regulatory framework governing international trade. Apart from serving as a significant source of governmental revenue, customs duties perform a broader economic function by regulating imports and exports, protecting domestic industries, and ensuring compliance with international trade commitments. The legal regime governing customs duties in India is primarily contained in the Customs Act, 1962 and the Customs Tariff Act, 1975, supplemented by rules, notifications, circulars issued by administrative authorities, and interpretations provided by judicial bodies.

Over the past decade, India has undertaken substantial reforms in customs administration aimed at enhancing trade facilitation and improving the efficiency of duty assessment and collection. Mechanisms such as self-assessment, electronic filing of bills of entry, risk management systems, and faceless assessment have transformed the functioning of customs authorities and significantly reduced procedural delays. At the same time, the customs administration continues to encounter complex challenges, particularly in matters concerning valuation disputes, classification of goods under the Harmonised System of Nomenclature (HSN), procedural inconsistencies across ports, and the exercise of discretionary powers by customs officers.

Judicial interpretation has played a crucial role in shaping the contours of customs law by clarifying statutory provisions relating to valuation, classification, reassessment, and refund of duties. Courts have frequently intervened to ensure procedural fairness and to prevent arbitrary exer-

cise of administrative authority. Despite ongoing reforms, issues relating to administrative efficiency, legal certainty, and consistency in application of customs law remain significant concerns.

This paper undertakes a doctrinal and analytical examination of the statutory framework governing the assessment and collection of customs duty in India. It analyses the legislative provisions, administrative mechanisms, and judicial decisions that structure the customs regime. The study further identifies key administrative challenges faced by customs authorities and suggests measures to enhance transparency, efficiency, and uniformity in the implementation of customs law.

Keywords: Customs Duty; Assessment; Customs Administration; Valuation of Goods; Trade Facilitation; CBIC; International Trade Regulation

1.1 Introduction

In the past, customs taxes have been essential for controlling international trade and raising money for the government. One of the main tools used by the Indian government to manage foreign trade and carry out its economic policy goals is customs taxes. In addition to being fiscal measures, the imposition and collection of customs taxes serve as tools for safeguarding domestic businesses, stopping smuggling, guaranteeing adherence to trade laws, and preserving economic stability.

The Customs Act of 1962 is the main piece of legislation that now governs customs duties in India. The Act offers a thorough framework that governs the import and export of commodities, the imposition and collection of customs charges, and the authority of customs authorities to enforce compliance. The Customs Tariff Act, 1975, which specifies the rates of customs duties applicable to various kinds of products, complements this Act.

These include determining the value of imported products, identifying the applicable rate of duty, classifying commodities under the Harmonised System of Nomenclature, and completing the necessary paperwork for import or export clearance. These tasks were formerly carried out by customs authorities using an officer-based assessment system. However, major procedural modifications have resulted from the growth of global trade and the desire to lower transaction costs.

The implementation of self-assessment under Section 17 of the Customs Act, which mandates that importers and exporters declare the classification, valuation, and relevant tariffs on products, has been one of the most significant developments in recent years. Instead of carefully examining

each declaration, customs officials now use risk-based procedures to confirm them. Although this change has decreased delays and increased efficiency, it has also brought forth new difficulties with enforcement and compliance.

To guarantee that customs rules are applied consistently throughout the nation, the Board releases circulars, notices, and administrative directives. The assessment and collection of customs taxes in India still confront a number of legal and administrative obstacles notwithstanding technology developments and procedural reforms. These include disagreements on the classification and value of commodities, uneven customs port procedures, protracted legal proceedings, and excessive litigation. This essay assesses the administrative difficulties involved in putting India's regulatory framework for the assessment and collection of customs taxes into practice.

1.2 Historical Development of Customs Law in India

India's customs charges have their roots in the ancient and medieval eras, when governments levied taxes on items that were carried across borders. Nonetheless, the British colonial era gave rise to the contemporary customs administration structure. The first comprehensive law governing customs taxes in India was the Sea Customs Act, 1878. The Act established the fundamental guidelines for import and export taxes and controlled customs administration for many years.

However, the quick growth of global commerce and economic development after independence required a contemporary legal framework that could handle today's trade issues. The Customs Act of 1962 was passed by Parliament in response to this necessity. The Act established a thorough framework for the imposition, evaluation, and collection of customs duties, replacing previous laws. In order to stop smuggling and other illicit trade practices, it also established enforcement procedures.

The Customs Tariff Act of 1975 was then passed in order to set tariff rates that applied to both imported and exported products. The Harmonised System of Nomenclature, which is extensively utilised for the classification of commodities in international trade, was one of the internationally recognised classification systems adopted into the Act. India has gradually brought its customs system into compliance with global norms created by the World Trade Organization and the World Customs Organization. Trade facilitation policies and globally recognized valuation principles have been adopted as a result of these advancements.

1.3 Statutory Framework Governing Customs Duty

1.3.1 Levy of Customs Duty

Section 12 of the Customs Act, 1962, which states that duties of customs shall be imposed on commodities imported into or exported from India at rates stated in the Customs Tariff Act or any other applicable law, contains the statutory power for imposing customs charges. Therefore, the imposition of customs tax is contingent upon three fundamental factors:

1. import or export of goods;
2. classification of goods according to the tariff schedule; and
3. finding the relevant rate of obligation.

The Supreme Court made it clear in *Garden Silk Mills Ltd. v. Union of India* that customs tax is due when goods reach Indian territorial seas, even though the applicable rate is decided on the day the bill of entry is filed.

1.3.2 Classification of Goods

Determining the applicable rate of customs tax requires first classifying the goods under the tariff schedule. The Harmonised System of Nomenclature, which divides goods into groups according to their attributes and nature, is used to classify goods. When commodities may fall under more than one tariff heading, disputes can result. Courts have reiterated time and time again that the tariff schedule's purpose, the description of the commodities, and their functional features must all be taken into consideration when classifying them.

The Supreme Court ruled in *Collector of Central Excise v. Wockhardt Life Sciences Ltd.* that tariff records and pertinent explanatory comments must be used to determine classification.

1.3.3 Valuation of Imported Goods

The amount of customs tax owed is mostly determined by the value of the items. According to Section 14 of the Customs Act, the transaction value, that is, the amount actually paid or due for the products when they are sold for export to India, is typically used to determine the worth of imported commodities. In accordance with the WTO Agreement on Customs Valuation, India has implemented valuation regulations.

Eicher Tractors Ltd. v. Commissioner of Customs is a seminal valuation ruling in which the Supreme Court ruled that the importer's claimed transaction value must normally be accepted unless there are good reasons to question its veracity.

Similarly, the Court stressed that customs officers cannot unilaterally reject claimed values without adhering to statutory valuation rules in *Commissioner of Customs v. Sanjivani Non-Ferrous Trading Pvt. Ltd.*

1.4 Mechanisms of Assessment of Customs Duty

1.4.1 Self-Assessment

In order to expedite customs processes and promote trade, the Customs Act was amended in 2011 to implement the self-assessment system. The categorization, valuation, and appropriate tariff for products must be declared by importers and exporters under this system. Customs officials use risk management systems to verify these declarations, and if inconsistencies are found, they may reevaluate them.

1.4.2 Provisional Assessment

Provisional assessment under Section 18 of the Customs Act allows customs authorities to temporarily assess duty when necessary information is unavailable or when further investigation is required. This mechanism ensures that goods can be cleared without unnecessary delay while the final duty liability is determined later.

1.4.3 Reassessment and Recovery

Customs officials have the authority to reevaluate products and collect unpaid or under-levied duties. Notices requesting unpaid duty may be issued under Section 28 of the Customs Act. The Supreme Court made it clear in *ITC Ltd. v. Commissioner of Central Excise* that reassessment may take place if the importer's declarations are determined to be false.

1.5 Administrative Structure of Customs Authorities

The administration of customs law in India is supervised by the Central Board of Indirect Taxes and Customs.

The Board performs several functions, including:

- formulation of customs policy;
- supervision of customs administration;
- issuance of circulars and notifications;
- coordination with international trade bodies; and
- implementation of trade facilitation initiatives.

The Board also administers technological platforms such as the Indian Customs Electronic Data Interchange System (ICES).

1.6 Literature Review

Scholarly interest in Indian customs law has grown significantly, especially in light of commercial liberalisation and globalisation. The dual use of customs taxes as both revenue-generating and regulating tools has been highlighted by academics like Datey (2021) and Jain (2022). Their writings draw attention to how complicated customs processes are and how ongoing reform is necessary to bring them into compliance with international norms.

The evolution of Indian customs valuation regulations and their conformity to the WTO Agreement on Customs Valuation are examined by Rao (2019). In order to guarantee openness and equity in trade practices, the study emphasises the significance of implementing globally recognised valuation techniques. In a similar vein, Chaturvedi (2020) examines how customs administration is affected by trade facilitation strategies including electronic data interchange and risk management systems. The analysis concludes that although implementation issues still exist, these reforms have greatly decreased transaction costs and increased efficiency.

In the literature, judicial rulings have also been thoroughly examined. In his discussion of the effects of significant Supreme Court rulings on customs valuation and classification, Singh (2021) points out that judicial interpretation has been essential in resolving legal uncertainties. A thorough examination that incorporates statutory requirements, administrative procedures, and judicial developments is still required despite the volume of extant material. In order to close this gap, this study offers a comprehensive analysis of the evaluation and gathering of customs duties in India.

1.7 Research Methodology

This study uses a doctrinal research style and mostly draws data from secondary sources. These consist of laws, court rulings, official documents, and academic publications. Interpreting legal rules and assessing their practical ramifications are the main objectives of this qualitative investigation. By looking at global norms and practices, especially those created by the World Trade Organization (WTO), the study also integrates a comparative viewpoint. This method aids in determining how closely India's customs system complies with international standards.

1.8 Legal Framework Governing Customs Duty

In India, a clear legal framework governs the imposition and collection of customs taxes. The legal foundation for imposing customs taxes on products imported into or exported from India is provided by Section 12 of the Customs Act, 1962. The rates of tax that apply to different items are specified under the Customs Tariff Act of 1975. The Harmonised System of Nomenclature, a globally recognised standard for product classification, serves as the foundation for the classification of goods under this Act.

In *Garden Silk Mills Ltd. v. Union of India* (1999), the Supreme Court explained that although the applicable rate is decided at the time of filing the bill of entry, customs duty becomes levied when goods enter Indian territorial waters. This judgment has been instrumental in defining the point of taxation under customs law.

1.9 Valuation and Classification of Goods

Two essential elements of the evaluation of customs duties are valuation and categorisation. According to Section 14 of the Customs Act, the transaction value, that is, the actual amount paid or owed for the products, will determine the worth of imported goods. The Supreme Court ruled in *Eicher Tractors Ltd. v. Commissioner of Customs* (2001) that unless there are good reasons to question its legitimacy, the transaction value must be accepted. Subsequent cases have consistently adhered to this premise.

Ambiguities in tariff entries frequently give rise to classification disputes. The Court stressed that classification must be based on the goods' description and pertinent explanatory comments in *Wockhardt Life Sciences Ltd.* (2012).

1.10 Mechanisms of Assessment

1.10.1 Self-Assessment

A paradigm shift in Indian customs administration occurred with the implementation of self-assessment under Section 17 of the Customs Act, 1962. Customs officials were mostly in charge of deciding the appropriate categorisation, valuation, and applicable duty prior to the 2011 modification. Procedural delays, higher transaction costs, and unnecessary administrative intervention were common outcomes of this old system.

The goal of switching to self-assessment was to bring India's customs processes into compliance with international best practices, especially those promoted by the WTO Trade Facilitation Agreement. Under the self-assessment regime, importers and exporters must indicate in the bill of

entry or shipping bill the accurate Harmonised System of Nomenclature (HSN) classification of the commodities, their assessable value, and the appropriate tariff rate.

This system is an example of a trust-based compliance paradigm, in which the taxpayer bears the primary responsibility for accuracy while the customs authorities maintain the authority to verify and audit. Under this approach, customs officers' duties have changed from direct assessment to post-clearance verification. Only a few consignments are thoroughly examined through the use of Risk Management Systems (RMS), while the bulk are cleared based on importers' declarations. This has made conducting business easier and drastically cut down on clearance time.

However, importers' honesty and compliance practices have a major role in the success of self-evaluation. Whether deliberate or unintentional, mistakes in classification or value might result in a short-levy of obligation and ensuing arguments. Acknowledging this, the law gives customs officials the authority to confirm self-evaluations and, if needed, start reevaluations.

In *ITC Ltd. v. Commissioner of Central Excise*, the Supreme Court emphasised the significance of self-assessment by noting that it is not final and is still subject to scrutiny and rectification by authorities. The ruling emphasised that the importer's declaration is not definitive and might be contested in line with legal requirements.

The self-assessment approach has created certain difficulties despite its benefits. These include a greater frequency of value disputes, a greater reliance on post-clearance audits, and uneven interpretations of tariff classifications. As a result, although self-assessment has boosted efficiency, it has also increased the importance of legal certainty in customs law and placed the burden of compliance on importers.

1.10.2 Provisional Assessment

Section 18 of the Customs Act of 1962 governs provisional assessment, which is a crucial tool for handling circumstances in which the correct duty assessment cannot be finished at the time of clearance. This could happen if the required paperwork is missing, if classification or valuation is unclear, or if more research is required.

According to this clause, the appropriate official may order that duty be assessed provisionally, provided that the importer or exporter executes a bond and provides any necessary security. The temporary evaluation protects the revenue's interests while facilitating the prompt clearance of

goods. Once the relevant data is obtained or the essential questions are answered, the final assessment is finished. Any discrepancy between the provisional and final duties is addressed by either paying extra duty or refunding excess duty.

The ability of provisional assessment to strike a compromise between two conflicting goals—promoting trade by enabling prompt clearance of products and safeguarding revenue by guaranteeing that the appropriate tariff is eventually collected—makes it significant. In actuality, related-party transactions and the import of products under special pricing agreements are two examples of difficult valuation situations where preliminary evaluation is commonly used.

Provisional evaluation should not be employed indiscriminately or in place of appropriate adjudication, according to court rulings. Customs authorities are required by courts to document their reasons for using provisional assessment and to finish the final evaluation in a reasonable amount of time. Although provisional evaluation offers flexibility, importers frequently experience uncertainty and financial hardship as a result of finalisation delays. Costs associated with compliance may also rise if bonds and securities are required. Stricter deadlines and improved administrative coordination are therefore required to guarantee the timely completion of final assessments.

1.10.3 Reassessment and Post-Clearance Recovery

A crucial protection in the customs structure is reassessment, which allows authorities to fix mistakes or omissions in the duty assessment. The Customs Act of 1962's Sections 17 and 28 are directly related to the authority of reassessment. Section 17 concerns verification of self-assessment, while Section 28 concerns recovery of customs duty not levied or short-levied.

If customs officials discover that the importer's self-assessment is inaccurate or lacking, they have the authority to reevaluate the items. This could happen in situations where exemption notifications are applied incorrectly, undervalued, or misclassified. Reassessment might be started at the time of clearance or later on through audits conducted after clearance.

In *ITC Ltd. v. Commissioner of Central Excise* (2019), the Supreme Court clarified the legal position on reassessment by holding that self-assessment is subject to verification and may be evaluated if discovered to be incorrect. The Court further noted that the statutory structure preserves the ability of customs officials to guarantee accurate duty collec-

tion by not treating self-assessment as final and binding.

The recovery of obligations under Section 28 is another crucial aspect of reevaluation. The appropriate authority may issue a show cause notice ordering the importer to provide an explanation for why the duty should not be recovered in cases where it has not been collected or has been short-levied. Additionally, this clause includes safeguards like natural justice standards and statute of limitations.

Reassessment must be conducted in compliance with due process, according to judicial interpretation. The Supreme Court ruled in *Priya Blue Industries Ltd. v. Commissioner of Customs* (2004) that an assessment order must be appealed before a refund can be requested. This ruling emphasises how crucial procedural discipline is to customs law.

Reassessment is necessary, but it frequently results in protracted litigation and ambiguity. Conflicts may occur over whether reassessment procedures are legitimate, how valuation regulations should be interpreted, or whether exemption notices are applicable. These problems highlight the necessity for more precise rules and uniformity in the use of reassessment authority.

The system for assessing customs duties in India is based on the methods of self-assessment, provisional assessment, and reassessment. While reassessment guarantees the accuracy of duty collection, provisional evaluation offers flexibility in challenging instances, and self-assessment increases efficiency and decreases administrative intervention. However, the implementation of these processes must be balanced and constant for them to be successful. Achieving a fair and effective customs assessment system requires bolstering institutional capacity, improving openness, and guaranteeing adherence to procedural protections.

1.11 Reforms and the Administrative Framework

India's customs regulations are administered by the Central Board of Indirect Taxes and Customs (CBIC). In an effort to increase efficiency, CBIC has implemented a number of reforms throughout the years.

Among them are:

- Electronic Data Interchange (EDI);
- Risk Management System (RMS); and
- Faceless Evaluation.

Transparency has increased and clearance times have been much shortened as a result of these measures.

1.12 Judicial Oversight

Judicial review plays a crucial role in ensuring fairness in customs administration. In *Priya Blue Industries Ltd.* (2004), the Supreme Court held that refund claims cannot be made without challenging the assessment order.

Similarly, in *Union of India v. Kamlakshi Finance Corporation Ltd.* (1991), the Court emphasized the importance of judicial discipline among administrative authorities.

1.13 Administrative Challenges

Despite reforms, several challenges persist:

- frequent valuation disputes;
- classification ambiguities;
- lack of uniformity across ports;
- procedural delays; and
- excessive litigation.

These challenges highlight the need for further reforms.

1.14 Conclusion

The assessment and collection of customs duties in India operate within a comprehensive and evolving legal framework that integrates statutory provisions, administrative practices, and judicial oversight. The Customs Act, 1962 and the Customs Tariff Act, 1975 together establish a detailed mechanism for duty administration, while the Central Board of Indirect Taxes and Customs ensures implementation through policy and technological reforms.

Significant progress has been made through initiatives such as self-assessment, faceless assessment, and risk management systems. However, persistent challenges relating to valuation disputes, classification conflicts, and procedural inefficiencies continue to hinder the effectiveness of the system.

Addressing these issues requires a multi-pronged approach involving legislative clarity, administrative efficiency, and technological innovation. Ensuring consistency in the application of customs laws, reducing litigation, and strengthening institutional capacity will be essential for achieving a balanced and efficient customs administration system in India.

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Chapter 2

Rethinking Agricultural Income Exemption in India: Judicial Interpretation and Emerging Tax Policy Challenges

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Abstract

On the basis of federal principles, the exemption of agricultural revenue from Union taxation has been an exceptional feature of the Indian fiscal and constitutional framework. The exemption was originally conceived as a measure of protection of the interests of the farming community, as well as the maintenance of fiscal autonomy of the states, though the economic situation has given rise to an important question of the continued validity of the exemption. The legal analysis of the provision has become necessary with the rise of the commercialisation of agriculture, the growth of agribusiness enterprises, as well as the misuse of the exemption of agricultural revenue as a means of tax evasion.

The current essay is a critical analysis of whether the current legal and constitutional framework is successful in maintaining a balance between the original rationale of the provision and the modern concept of equality, revenue protection, and the concept of justice in taxation, with particular emphasis on Section 2(1A) of the Income Tax Act of 1961, constitutional provisions, and the attendant mechanisms of partial integration. In addition to this, new issues such as abuse, administrative constraints, and enforcement are addressed by the paper.

The paper also explores significant legal interpretations that are essential to the understanding of agricultural revenue, particularly with regards to cultivation, association with land, and agricultural enterprise structure. The paper identifies doctrinal uncertainties and policy issues

with regards to preventing abuse while ensuring that legitimate agricultural activity is protected, as well as bringing it in conformity with economic realities.

Keywords: Agricultural income; Tax exemption; Judicial interpretation; Income-tax Act, 1961; Tax policy challenges.

2.1 Introduction

One of the most striking features of the Indian constitution and financial system is the non-taxation of agricultural revenue at the Union level. The basis of this policy can be traced back to the colonial period, with the implementation of the Government of India Acts of 1919 and 1935, which provided for the separation of revenue streams between the provinces and the Center. Since agriculture formed the principal industry in India during that period, it fell within the provinces' jurisdiction. This policy has been deliberately carried over in the constitution in order to shield the predominantly rural population of India from over-taxation at the Center.

Article 246 of the Indian Constitution, with reference to the Seventh Schedule, provides for the division of legislative powers between the Union and the States. The power of taxation of agricultural revenue is granted to the States through Entry 46 of the State List, while Parliament has the power of taxation of income "other than agricultural income" through Entry 82 of the Union List. The exclusion of agricultural income from the purview of the Union's taxing powers is also a socioeconomic decision. This was considered essential for the vulnerable farmers and for the autonomy of government from an economic perspective, especially during the initial years of Independence when agriculture provided employment for a majority of citizens and was largely for consumption.

The meaning and application of "agricultural income" have been explained by the Supreme Court through several landmark judgments over the years. The Supreme Court has explained the traditional test of agriculture in *Commissioner of Income Tax v. Raja Benoy Kumar Sahas Roy* (Supreme Court of India, 1957), wherein fundamental and later land activities were emphasized. Similarly, the Supreme Court has explained the essential relationship between land and agricultural activities in *Karimbil Kunhikoman v. State of Kerala* (Supreme Court of India, 1962) and has also examined the nature of income from plantation activities. The Supreme Court has sought to prevent the exception from being extended by establishing legal protections through these rulings.

Nevertheless, this constitutional framework has become more complex during the last few decades as a result of economic changes. The distinction between subsistence farming and other profit-seeking businesses has also become less clear because of the commercialization of agriculture, the emergence of agribusiness firms, contract farming, and plantation industries. The exploitation of this exemption for purposes of tax evasion and laundering of non-agricultural income using the guise of agricultural receipts has also created problems. The clarity of this exemption concept has also been undermined by the trend towards concentration of landholdings and the fusion of agriculture with industry.

In this regard, two main research questions are posed in the study: one is whether the judicial standards that have been set are adequate in preventing the abuse of the agricultural income exemption, and two, whether the broad constitutional exemption is consistent with the modern concepts of fiscal efficiency, horizontal fairness, and tax equity.

The arguments presented in this essay are that, despite the agricultural income exemption's justification in the past as a federal and welfare policy, there are grave concerns that have been raised with regard to the continuation of the policy in an era of commercialisation. Therefore, it is essential and timely that a thorough evaluation be made with regard to tax justice and constitutional federalism.

2.2 Constitutional and Statutory Framework

2.2.1 Constitutional Scheme

The Indian tax system is governed by the constitutional framework, which follows the federal principle of the Indian constitution and provides for a division of powers between the Centre and the States in taxation matters. The fundamental concept of the Indian taxation system, as provided in the Indian constitution, is that no tax shall be imposed or collected except by authority of legislation, as provided under Article 265 of the Indian constitution. The Indian constitution provides for the power of taxation. This clause provides for the exercise of the power of taxation within the limits of the Indian constitution and the Legislature.

The division of legislative powers in taxation matters is governed by Article 246 of the Indian constitution, along with the Seventh Schedule, which divides the legislative subjects into three sections: the Union List, the State List, and the Concurrent List. Each of the three sections provides for the subjects on which the Indian Legislature and the State Legislature can enact legislation. Such a framework of the Indian constitution pro-

vides for fiscal federalism in India.

The legislative authority of Parliament in regard to income tax is established by Entry 82 in the Union List, which allows for taxation of revenue other than agricultural revenue. The deliberate exclusion of agricultural revenue from taxation in the Union List is indicative of the constitutional intent to retain agricultural taxation in the legislative domain of State Legislatures. The State Legislature is empowered to impose agricultural revenue under Entry 46 of the State List. Thus, we observe that the Constitution clearly apportions legislative authority between State Legislatures and Parliament. State Legislatures are empowered to tax agricultural revenue, and Parliament is empowered to tax revenue other than agricultural revenue. There are two significant consequences of this Constitution.

Firstly, it respects the concept of fiscal federalism because it grants states the power to enact legislation that controls industries that are directly related to their economy. The reason behind this is that agriculture has been and continues to be an important part of the Indian economy. Secondly, this system ensures budgetary autonomy to the states to frame their own tax policies that are suitable to their agricultural development needs. Even though the states have the constitutional power to tax agricultural income, most states have chosen not to use this power or have limited it to plantation crops such as rubber, tea, and coffee.

Moreover, the allocation of taxing powers in the Constitution has been explained and sustained through a number of decisions. It has been emphasized in many decisions that taxation bills must be kept within their constitutional domains. It is to be determined on the basis of what is included in the Seventh Schedule. The inclusions of agricultural income in Union taxation have thus been regarded as a constitutional policy to maintain federalism.

2.2.2 Objectives Behind the Exemption

Socioeconomic, administrative, and political factors, which affected India's fiscal policies during the initial period of independence, are the basis of the exemption of agricultural income from Union taxation. The majority of the population depended on the agricultural industry as the principal source of income during the framing of the Constitution. Small landholdings, subsistent methods of production, and the financial circumstances of the producers were characteristic of the industry. It was considered a potentially burdensome task to levy income tax on agricultural income. It was, therefore, believed that the well-being of the agricultural

industry required the exemption of agricultural income from central taxation.

Socioeconomic protection of farmers is a primary objective of the exemption. The agricultural industry is, however, prone to changing market prices, disparities in land ownership, and inclement weather. Therefore, it was believed that taxing agricultural income at the Union level would make farmers especially small and marginal cultivators more economically vulnerable.

The administrative challenge of determining agricultural income for taxation purposes was another significant factor. Agriculture mostly operated outside the official banking institutions in the first few decades following independence. Production, sales, and profit-related records were frequently insufficient or nonexistent. In such a situation, tax officials would have faced significant administrative difficulties in accurately calculating taxable agricultural revenue. As a result, the exception was seen as a practical administrative choice that circumvented tough enforcement issues.

Finally, the political and economic factors have also played a vital role in maintaining the status of the exemption. The agricultural industry has traditionally been a politically sensitive industry, and the farmers comprise a significant voting segment of the Indian electorate. Any move towards taxing agricultural revenue has traditionally faced stiff political opposition. However, even as the agricultural industry has started becoming more commercialized, these political factors have played a vital role.

The concern for tax evasion by the improper classification of income from non-agricultural sources has led to the issue of controversy relating to the general exemption of agricultural income, which has been historically justified. The current system reflects a delicate balance between federalistic ideals, socio-economic goals, and administrative realities, even while making a distinction between large businesses and small farms during the period of reform. However, the continued appropriateness of the system in terms of tax equality and in terms of the process of commercialization and changing economic realities is a matter of controversy.

2.3 Judicial Interpretation of Agricultural Income

The legislative definition of agricultural income contained in the Income Tax Act has largely been affected by the interpretations of the courts. This has largely been due to the fact that the courts have had to interpret

whether the income earned from certain activities constituted taxable income or agricultural income. This has largely been due to the fact that the Constitution has granted the States the sole prerogative of taxing agricultural income. Some of the legal principles that have been established over the years include the dominant purpose test, the basic operations test, and the direct nexus with land test. The amount of agricultural income earned from intricate industries such as plantations, nurseries, and agro-processing has largely been ascertained as a result of these principles.

2.3.1 Foundational Case: *Raja Benoy Kumar Sahas Roy v. CIT*

The most significant ruling in this landmark case of *CIT v. Raja Benoy Kumar Sahas Roy* (Supreme Court of India, 1957) remains relevant in determining revenue in agricultural activities in India. The Supreme Court was required to determine the meaning of “agriculture” in relation to the Income Tax Act in order to determine whether any land-based companies would qualify as agricultural activity.

Facts

The revenue was earned by the assessee from forest land where trees were growing. Throughout operations, forest products were grown, conserved, and even collected. The Court was required to determine whether the money earned from these activities would qualify as agricultural revenue and thus would not be subject to national income tax. As the assessee was not carrying out any farming activities, the tax office claimed that there was no agricultural income. However, the assessee claimed that there were adequate connections with property as provided by the legislation.

Tests of Basic and Subsequent Operations

The Supreme Court examined the meaning of the term “agriculture.” The Supreme Court stated that the term “agriculture” involves the performance of two kinds of operations. For instance, planting, seeding, and tilling the land are basic operations of agriculture.

On the other hand, the subsequent operations include weeding, watering, trimming, and harvesting the crops grown on the land. Thus, it is necessary that the basic operations are performed on the land for the purpose of agriculture.

Land Doctrine and Nexus

An important doctrine that was laid down in this case was the need for a direct nexus between income and land. The Supreme Court was quite

categorical in its views, which stated that the farming operations must generate agricultural revenue from the land. The revenue, which has a remote or tangential connection with the land, cannot be termed agricultural revenue.

As a result of the spontaneous growth of the forest and as the assessee did not perform any significant agricultural activities, the Supreme Court concluded that this income cannot be termed agricultural income.

Long-Term Values Established

These principles have been established as precedent:

- Agriculture is something that requires human labour and talent to be applied to the soil.
- Basic requirements must be met in order to classify the activity as agriculture.
- Subsequent requirements in agriculture must have a close relationship to basic requirements.
- A close relationship must exist between land and income.

These principles have been used to determine if income is eligible for exemption as agricultural income.

2.3.2 Cases of Plantations and Processing

The subsequent decisions were concerned with the real issues involved in plantation industries, which include areas of overlap between agricultural and industrial activities, although it was in the case of *Raja Benoy Kumar* that the theory was established.

State of Kerala v. Karimtharuvi Tea Estate Ltd.

The case of tea plantations is unique in that tea leaves are grown in agricultural land and require thorough processing before they are ready for sale. In *Karimtharuvi Tea Estate Ltd. v. State of Kerala* (Supreme Court of India, 1966), the Court was required to assess whether income from tea cultivation could be wholly classified as agricultural revenue.

The Court noted that in the cultivation of tea, actual agricultural activities are undertaken, such as planting, trimming, and harvesting leaves. However, during the process in tea plants, raw leaves are processed into a commodity for trade. The income could therefore not be wholly classified as agricultural revenue.

Principle of Apportionment

In order to settle this problem, the Court resorted to the apportionment principle. It has been determined that the income from the tea plantation

should be divided into two types:

- Income from the agricultural business, such as the planting and harvesting of tea leaves.
- Income from the production and processing business.

This concept has been further reinforced by the Income Tax Rules, which state that 60% of the income from tea is treated as agricultural income, and 40% is treated as commercial income.

CIT v. Williamson Financial Services

CIT v. Williamson Financial Services (Supreme Court of India, 2008) is in line with the apportionment principle. In this case, the Court re-affirmed the position that in the case of plantation companies, where business and agricultural activities are closely intertwined, the companies tend to have composite incomes. In such cases, the courts make apportionments of the revenues based on the nature of the various stages of the business.

2.3.3 Horticulture, Nursery, and Related Activities

Judicial interpretations have also changed with reference to horticulture and nursery activities, which mostly involve the use of modern techniques and a controlled environment.

CIT v. Nursery Soundarya

In *CIT v. Nursery Soundarya* (Madras High Court, 2000), the question was whether income from the operations of a nursery could be regarded as agricultural income even if cultivation was carried out in pots and containers and not in soil. The assessee contended that plant cultivation in any medium was in essence agricultural activity, while the Revenue contended that the company was not agricultural because it was not traditional cultivation in soil.

The Court, in adopting a wider approach, decided that nursery activities could be defined as agricultural businesses if the plants were cultivated with a methodical approach that involved human skill and labor.

Extension of Interpretation

There is a gradual extension of interpretation in this decision. This is because of the Court's understanding that modern agricultural activities do not follow the traditional form and may include science, a controlled environment, and agricultural techniques.

Is Soil Cultivation Necessary?

More importantly, the Court observed that there is no need to cultivate the soil since a significant part of the activity is for the growth and nurturing

of plant life. The maintenance of the fundamental aspects of agricultural activity is vital.

This interpretation shows that the judiciary is willing to adapt the law to accommodate modern developments in agricultural activities.

2.3.4 New Doctrinal Examinations

Various standards have been created as a result of these decisions, and these standards are used by the courts to determine if the activity qualifies as agricultural.

Test of Basic Operations

Raja Benoy Kumar has created the basic operations test, which remains the fundamental requirement. The courts check if basic agricultural activities such as planting, sowing, or cultivating land have been completed.

Test of Dominant Purpose

Another standard used by the courts is the basic purpose of the activity. If the basic purpose of the activity is agricultural production, then the income would qualify as agricultural income even if other commercial activities are involved.

Direct Land Nexus

The income must come from the land directly through agricultural production, as per the direct link requirement. In general, it does not include activities that are merely associated with the land but are not actually involved in the cultivation.

Commercial vs. Agricultural Character

In some cases, there may be a question of whether the activity has shifted from being agricultural in character to industrial commercial.

2.3.5 Critical Analysis

1. **Benefits of Judicial Reasoning:** The interpretation of law has ensured that there is no abuse of the exemption and has greatly clarified the concept of agricultural revenue. The criteria have ensured a framework for study that is in balance between economic and constitutional principles. The basic operations test ensures that only legal agricultural activities are exempted from taxation. In a similar context, hybrid activities such as plantations, which are a mix of industrial and agricultural activities, are well covered by the apportionment concept.
2. **Grey Areas and Inconsistencies:** Although these contributions

are significant, some differences exist. The court may have different opinions regarding how to interpret contemporary techniques in agricultural activities, including hydroponics, greenhouse farming, and biotechnology-based farming. Moreover, the concept of direct linkage to land may not be apparent in agricultural activities conducted in controlled conditions that do not involve traditional land-based farming.

3. **Judicial Restraint vs. Expansion:** On the whole, it may be noted that the judiciary has attempted to achieve a fair balance between preventing abuses in tax exemptions and liberalizing the concept of agriculture in keeping with contemporary realities. However, in this latter regard, the judiciary has been criticized for going too far. All said and done, it may be noted that India's agricultural income laws have been significantly impacted by judicial interpretations. Indeed, through its landmark decisions and developments in judicial doctrine, the judiciary has provided critical guidance on the dichotomy between taxable commercial revenues and agricultural income.

2.4 Misuse, Commercialization and Tax Avoidance

In India, agricultural income has traditionally been excluded from central income taxation with the aim of protecting the interests of farmers, as well as maintaining the division of taxing powers between the Union and the States as enshrined in the Constitution. However, with the restructuring of the agricultural sector, the exemption of agricultural revenue from income taxation has come under criticism. With the increasing commercialization of the agricultural industry, it has become difficult to differentiate between agricultural income and commercial income.

2.4.1 Rise of Agri-Business

There have been many changes in the Indian agricultural sector over the past few decades. The new changes that have taken place in the industry are corporate farming, contract farming, and plantation crops like tea, coffee, rubber, and spices. There are many other examples of the integration of the agricultural business with export, marketing, and processing sectors as highlighted in the Economic Survey, 2023–24. Due to the commercialisation of the industry, it is difficult to make a clear distinction between business and agricultural income, as it still enjoys tax exemptions.

2.4.2 Agricultural Income as a Tax Shelter

Another factor that has been considered is the tax haven created by the agricultural income exemption. It is noted that some people are claiming non-agricultural income as agricultural income in order to escape the payment of tax. However, it is a big problem to verify these claims. The weather, market, crop, and land are some of the major factors that affect agricultural income. Besides, as the agriculture sector is a non-corporate sector, it is very difficult for the government to keep an eye on this sector.

2.4.3 Mechanism of Partial Integration

In order to stop any form of abuse, the Indian taxation system has included a mechanism of partial integration, in which agricultural revenues are taken into consideration while deciding the tax slab that needs to be levied on non-agricultural income. Although agricultural income is still tax-exempt, it has an impact on the tax slab for non-agricultural as well as agricultural income earners. However, this mechanism is quite narrow in scope and does not address the issue of large gains being reported as agricultural income.

2.4.4 Policy and Empirical Issues

Agricultural income is defined under Section 2(1A) and exempted from taxation under Section 10(1) of the Income Tax Act, 1961. This statutory framework reflects the legislative intent to exclude agricultural income from central taxation. However, there have been instances where data showed that some individuals with high incomes reported a significant proportion of their earnings as agricultural income. The problem of horizontal equity arises in such cases, as individuals with similar economic capacity may be taxed differently. These concerns highlight the need for effective verification mechanisms and regulatory safeguards to balance the interests of genuine farmers with the broader requirement of tax fairness.

2.5 Doctrinal Ambiguities and Policy Gaps

Despite the presence of a well-defined constitutional framework, the taxation of agricultural income remains riddled with a number of serious doctrinal ambiguities. Firstly, the absence of well-defined quantitative parameters has created difficulties in the distinction between small-scale subsistence farmers and large-scale agricultural enterprises. The absence of such parameters has resulted in the uniform exemption of agricultural income, which may prove to be highly favorable to high-income entities.

Moreover, the ambiguity associated with the interpretation of the term “derived from land” has created difficulties. Although the law has clearly stipulated the presence of a direct nexus between income and land, the interpretation of the term remains ambiguous, especially with the presence of modern agricultural practices. Inconsistency of the courts with the interpretation of the evolving nature of agricultural practices has also created difficulties. On the one hand, the courts have expanded the interpretation of agricultural income, while on the other, the courts have taken a narrow approach, thereby creating ambiguity. This is compounded by the lack of strong enforcement mechanisms. The lack of verification capabilities and overreliance on self-declaration, as well as the lack of documentation in the agricultural sector, add to this. Lastly, despite having the constitutional authority to tax agricultural income, State governments have remained reluctant to exert their powers to tax agricultural income.

2.6 Reform Proposals and Interpretative Solutions

A combination of judicial explanations, legislative reforms, and better coordination among the federal authorities is necessary in light of the growing complexities in agricultural income and its misuse. To uphold the constitutional provision of protecting legitimate farmers and maintaining fiscal equality and stopping tax evasion, a balanced approach is necessary.

2.6.1 Judicial Clarifications

The development of more precise judicial norms is one of the most important necessities. For the purpose of ensuring that revenue claimed as agricultural has a direct and substantial relationship rather than a remote or accidental relationship to land-based activity, a stronger nexus test should be implemented. This would help to prevent mistakenly identifying commercial money as farm income.

Clear legal direction on commercial-scale agriculture operations is necessary. The courts must make a distinction between conventional agricultural income and income derived from industrial or commercial operations, as huge agribusiness organisations increasingly participate in integrated activities such as cultivation, processing, and marketing. A more sophisticated interpretation would guarantee consistency in court decisions and would help to avoid uncertainty.

2.6.2 Legislative Reform Options

Threshold-based taxes is a plausible solution from a policy perspective. Although small and marginal farmers are still exempted, revenue gen-

erated from agricultural activities may be taxed beyond a certain level. This approach will not burden such poor groups further and will be in line with the principle of ability to pay.

Implementation of a differentiated tax system that differentiates between corporate or commercial farming and subsistence farming is another major improvement. Traditional or conventional farmers are still exempted from taxes, but large-scale agribusinesses that are earning substantial profits may not be. Furthermore, there is an urgent need to adopt more stringent audit and documentation standards. Transparency can be enhanced to a great extent through the maintenance of records, digital reporting of agricultural transactions, and audit procedures. The authorities may succeed in verifying income claims and reduce the scope of abuse through enhanced compliance procedures.

2.6.3 Federal Coordination Model

Effective reform requires good coordination between the Center and the States, given the constitutional powers distribution pattern. Data sharing agreements can be established with state agencies and central tax offices, which can be an important step in this direction. This capacity of enforcement could be further enhanced with the strengthening of the verification mechanism with the aid of technology intervention. Agricultural income exemptions shall be used in an honest manner without any scope of evading tax with good coordination between the Union and the States.

2.7 Conclusion

The constitutional foundation of income taxation in agriculture is marked by a subtle balance between federalism and socioeconomic objectives. Yet, with the increasing trend of integration in the field of agriculture, it is time to reassess the exemptions. Though these judicial standards have been useful in their limited ways, they still remain inadequate in the face of the new challenges and abuses. Clearly, it is time to reform, time to balance what is economically realistic with what is legally permissible. Finally, in order to be effective, any solution must balance the needs of honest farmers with the need to prevent abuse of exemptions and to ensure justice and equity in taxation.

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Chapter 24

Customs Enforcement and Trade Regulation: A Critical Appraisal of Prohibited and Restricted Goods

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Abstract

The Customs Act, 1962 is the initial law and legislative framework that regulates the importation and exportation of the goods within the territorial borders of India. At the heart of this framework are two categories of doctrinal goods of prohibition and restricted goods, the conceptual demarcation, regulatory treatment, and enforcement implications of which have far-reaching implications on trade law, constitutional rights, and international commerce.

In this chapter, a detailed doctrinal examination of Sections 2(33), 11, 111, 112, 113, 114, 115, 122, 123, 124, 125 and 126 of the Customs Act, 1962 has been done. This chapter, by analysing some of the landmark judicial cases involving the Supreme Court, High Courts and the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), helps clarify the changing judicial interpretation of prohibition and restriction, the constitutional aspects of custodial interference in trade, and the modern challenges of e-commerce, digital smuggling and AI-enhanced risk-based enforcement.

The chapter ends with a critical assessment of the customs enforcement paradigm in India against the norms of World Trade Organization (WTO), Basel Convention, and the framework of international customs cooperation.

Keywords: Customs Act 1962; Prohibited Goods; Restricted Goods; Confiscation; Section 11; Section 111; Section 125; Smuggling; CESTAT; WTO; Trade Prohibition; Risk-Based Enforcement.

24.1 Introduction

The law of customs as practised in India can never be replaced in its functions at the intersection of fiscal sovereignty, domestic policy and international trade regulation. The Customs Act, 1962 (“the Act”), which was enacted as a complete statute in order to consolidate and reform the law on customs, came to replace the previous Sea Customs Act, 1878 and the Land Customs Act, 1924. Since then, the Act has undergone much legislative evolution and development, including the Finance Acts of 2001, 2003, 2006, 2011, 2015 and 2018, which demonstrate the dynamic character of cross-border trade, as well as the variations in the needs of the State, both in terms of revenue protection and security.

The designation of goods as either prohibited or restricted by the Act is not just a taxonomic classification, but has decisive effects on importability, exportability, confiscability and penal liability. The difference lies in the definitional clauses of Section 2(33), which is supported by the prohibitory structure of Chapter IV and the regime of confiscation and penalty of Chapter XIV. The improper importation of prohibited goods causes the goods and the carriers to be under absolute confiscation, and those not limited goods are to be treated in a limited way, depending on the fulfilment of the stated conditions.

It is not just necessary that the practitioner in the maze of import-export regulations should be able to find doctrinal clarity in the matter, but the jurist in deciding competing claims of trade freedom and State control as well. The constitutional elements, in particular, the relationship between Article 19(1)(g), the right to practise any profession or to conduct any trade, and Article 19(6), reasonable restrictions in the public interest, contribute to the complexity of the analytic environment. Simultaneously, the world systems like the General Agreement on Tariffs and Trade (GATT), WTO disciplines on restricting trade, the Basel Convention on hazardous waste and the Revised Kyoto Convention on customs procedures of the World Customs Organization provide an invaluable comparative and normative background.

The chapter is intended to traverse statutory interpretation to judicial interpretation and through theory evaluation to contemporary applicability and provides a broad overview of one of the most significant conceptual dualisms in Indian customs law.

24.2 Statutory Framework: The Architecture of Prohibition and Restriction

24.2.1 The Definitional Axis: Section 2(33)

The defining point of the whole prohibition-restriction paradigm is the meaning of the term prohibited goods as per Section 2(33) of the Customs Act, 1962 which states:

“Prohibited goods”, in relation to which the importation or exportation of goods is prohibited in some instance by this Act or any other law, would, though not inclusive, refer to the goods in respect of which the conditions under which the goods are allowed to be imported or exported, have been observed.

This definition plays an important role on two material aspects. First, it has a cross-referential scope through incorporation of prohibitions as to any other law in force at the time being incorporated in it, and thus incorporates restrictions imposed by the Foreign Trade (Development and Regulation) Act, 1992, the Arms Act, 1959, and the Narcotic Drugs and Psychotropic Substances Act, 1985. Second, the proviso serves a transformative role: goods that are formally prohibited no longer remain prohibited goods after the requirements that must be met to allow their importation or exportation are complied with. This provision is the legal fact that the group of restricted goods is in fact a sub-group of conditionally prohibited goods, that is, goods the prohibition of which is removed through obedience.

The Act does not establish the category of restricted goods. Rather, the notion arises out of the definition of prohibited goods in a negative way, and in a positive way out of the regulatory practice of the Directorate General of Foreign Trade (DGFT), which includes goods in the ITC(HS) schedule as free, restricted, or prohibited. Restricted goods are goods that cannot be imported or exported without a licence or prior permission, and prohibition of such goods is conditional and subject to redress, unlike absolutely prohibited goods.

24.2.2 The Prohibitory Power: Section 11

The source of the Central Government’s authority to prohibit the import or export of goods is Section 11 of the Customs Act, 1962. In Section 11(1), the Central Government is given the authority to impose absolute or conditional prohibitions by means of a notification. Absolute prohibition makes the goods categorically banned, not admitting of any legal import

or export. A conditional prohibition is one that allows importation or exportation subject to the fulfilment of certain conditions and, therefore, includes goods in the nature of restricted goods.

Sub-section (2) lists twenty-two heads of permissible purpose, including national security and public morality up to the protection of intellectual property and the discharge of international obligations under the UN Charter. This is an unusually broad legislative task which bears witness to the omnibus nature of customs as a tool of public policy. The very important matter of inter-statutory coordination is dealt with by the new sub-section (3), introduced by the Finance Act, 2018, and requires prohibitions in other laws to be executable under the Customs Act only where so notified under Section 11.

24.2.3 Chapters IVA and IVB: Detection and Prevention of Illegal Trade

In 1969, a parallel regime in the detection of illegally imported goods and prevention of illegal exports was instituted by Chapter IVA, Sections 11A–11G, and Chapter IVB, Sections 11H–11M, respectively. Section 11B gives the Central Government the power to declare goods in cases where the scale of illegal import would justify special actions. Sections 11C, 11D, 11E and 11F place duties of intimation, disclosure, maintenance of accounts and voucher-based sale on individuals who hold such “notified goods”, effectively establishing a surveillance and accountability infrastructure unrelated to the formal import clearance process.

Such provisions have been applied in the case of goods like textiles and electronic goods which can be smuggled in large quantities. Chapter IVB works in the same manner on the export side, whereby Section 11-I provides authority to the Government to specify goods in vulnerable prone areas, and Section 11K requires the transport of goods in these prone areas to be covered by vouchers.

24.2.4 Confiscation and Penalties: Sections 111–127

The enforcement backbone of the Act is Chapter XIV. Section 111 lists the conditions in which imported goods will be liable to confiscation, including goods imported via non-designated routes, goods imported in violation of any prohibition, goods hidden in conveyances or packages, and goods not described in arrival manifests. Importantly, Section 111(d) is the gateway section to prohibited goods. Any import that is a prohibition under the Act or any other law entails obligatory confiscation liability.

Section 112 also provides personal penalties on improper importation,

distinguishing between prohibited goods and dutiable goods. In the case of prohibited goods, the amount is not more than the value of the goods or five thousand rupees, whichever is higher. In the case of dutiable goods, not being prohibited, the duty is not to exceed ten per cent of the duty which would otherwise have been paid or five thousand rupees, subject to Section 114A, and there is a provision of a reduction of the penalty to twenty-five per cent in the event of early payment. This distinction is of doctrinal importance. It indicates that the legislature is more severe in the case of absolute prohibitions.

Section 113 is a reflection of the same on the export side under Section 111, and Section 114 provides penalties on exports with the value of prohibited goods not to exceed three times the declared or determined value. Section 114A stipulates a compulsory equal punishment in collusion, wilful misstatement, or omission of facts. Section 114AA addresses false declarations up to five times the value of goods, a clause specifically aimed at document fraud in transactions related to customs.

Section 115 gives the power to seize conveyances implicated in smuggling, which has a significant exception in favour of hire carriers. Section 118 increases the liability to confiscation to packages and co-loaded goods. Sections 119, 120 and 121 address goods used to conceal, goods smuggled in a transmuted form and sale proceeds of smuggled goods, all of which guarantee that smuggling cannot be laundered through transformation or disposal.

Section 122 delegates adjudicatory power to the Principal Commissioner or Commissioner of Customs and to lower officers in amounts specified in thresholds announced by the Board. Section 123 provides inversion of the burden of proof to the specified goods, such as gold, watches, and other such goods, seized in the good faith that the items were smuggled.

Section 124 provides a requirement of show cause notice, right to be represented, and hearing prior to confiscation, a key protection of natural justice. Section 125 is the redemption fine clause, and gives the adjudging officer a discretionary power to allow redemption of goods through the payment of a fine instead of confiscation. This power applies to all goods except those the importation of which is completely forbidden. Section 126 is such that when property is confiscated, it vests in the Central Government.

24.3 The Prohibited/Restricted Dichotomy: A Doctrinal Critique

24.3.1 Conceptual Demarcation

The legal difference between forbidden and restricted goods is seemingly easy on the definitional level but turns out to be tricky in practice. In its simplest form, prohibited goods are those the importation or exportation of which is prohibited and has not been lifted by performance of the specified conditions. The restricted goods are goods whose importation or export is conditional, that is, goods that change status and become lawfully tradeable goods on the fulfilment of regulatory requirements.

The difference has colossal practical implications. Section 111(d) confiscation of prohibited goods is not discretionary; the confiscation must be carried out and the decision with respect to the confiscation cannot be left to the adjudicating authority. The power to redeem goods at the price of a fine under Section 125 may be availed at the pleasure of the officer, as applies to any goods, the importation or exportation whereof is prohibited, but is not mandatory. The pleasure is to grant redemption, not to confiscate. In comparison, in the case of goods whose terms of import have been fulfilled, restricted goods in compliance, prohibition does not exist and confiscation would be unsuitable. The courts have been called upon severally to patrol this border.

24.3.2 Absolute vs. Conditional Prohibition

Section 11(1) of the Act provides two modalities of prohibition: absolute prohibition and conditional prohibition. Goods that are strictly forbidden by law, for example narcotic drugs without a government licence, counterfeit currency and some kinds of wildlife products, admit no legal importation or exportation whatever. Goods that are conditionally banned, that is, which must have a licence, certificate of origin, phytosanitary certificate or DGFT permit, are legalised when compliant. This distinction is operationalised in the ITC(HS) classification published under the Foreign Trade Policy where goods are classified as either restricted, canalized, or prohibited.

The legal implication of such difference is best demonstrated in the context of Section 125. Although the officer can be given the choice to pay a fine instead of seizing prohibited goods, the word “shall” commits the officer to give the choice to non-prohibited goods. Courts have interpreted the difference in wording as indicating that in cases of goods that are absolutely prohibited, courts may exercise absolute seizure, without the need

to provide redemption. This understanding has been challenged in the case of goods that, although imported without a licence, might have been imported with one, a form of technical prohibition as opposed to absolute prohibition.

24.3.3 Discretion and Its Limits in Confiscation

The discretionary nature in seizing and penalizing exercise has been under scrutiny by the courts extensively. The judging body should be very careful in exercising the discretion with references to the character and the severity of the offence, the worth of the items, the extent of the guilt, and the common good. High or unfair seizure has been invalidated by the courts as arbitrary. It has also been held to vitiate the order where there is a failure to exercise discretion where the statute requires it, like a failure to avail the redemption right where good is non-prohibited under Section 125.

24.4 Case Law Analysis

24.4.1 *Collector of Customs v. D. Bhoormull* (1983)

Facts and Issue

Gold bars were discovered on the premises of the respondent in *Collector of Customs v. D. Bhoormull*, AIR 1983 SC 1024. The Collector of Customs began confiscation. The issue before the Supreme Court was whether it was the burden of the person in whose possession the goods were found to show that they were not smuggled and the standard of that proof.

Legal Significance

The Supreme Court found that Section 123 of the Customs Act, 1962 imposes the burden of proving on the individual whose possession the notified goods, including gold, have been seized that these are not smuggled goods. The burden of proof is preponderance of probability rather than proof beyond reasonable doubt. This ruling dramatically changed the factual situation in the area of customs, recognizing the practical challenges of enforcement and the policy need of discouraging smuggling. The case has created the standard that the reverse burden of Section 123 is constitutionally sound as a reasonable classification given the particular nature of contraband.

24.4.2 *M/s Apar Industries Ltd. v. Union of India (1999)*

Facts and Issue

In *M/s Apar Industries Ltd. v. Union of India*, (1999) 7 SCC 103, the appellant imported transformer oil and argued that she should not pay any customs duty. The Revenue claimed that the import could not be made under the applicable notification. The Supreme Court was requested to decide whether the notification about the exemption was applied properly and whether the goods were forbidden or just limited.

Legal Significance

The Supreme Court once again stated that exemption notifications should be interpreted literally and that the onus of proving that an exemption should be given lies with the importer. The case upheld the principle of affirmative obligations where the conditional prohibitions or restrictions are breached and the importer has a duty to show compliance or the goods will still be characterized as prohibited goods as per Section 2(33). The case continues to be a heavily relied-upon authority on strict construction of import exemptions and division of burden of proof in restriction compliance cases.

24.4.3 *Om Prakash Bhatia v. Commissioner of Customs (2003)*

Facts and Issue

In *Om Prakash Bhatia v. Commissioner of Customs*, (2003) 4 SCC 133, the appellant had imported second-hand goods without following the import licensing conditions. The Customs authorities confiscated the goods and fined them. The appellant appealed the order on the ground that the goods were not prohibited but were restricted and that the opportunity to pay a redemption fine was not provided.

Legal Significance

The Supreme Court ruled that goods imported without a mandatory import licence were what were referred to as prohibited goods under Section 2(33) at the time of importation, although, in theory, they could have been imported with a licence. A licence that is not acquired before an importation is not turned into a licenced importation by the fact that the importation was prohibited. This ruling strongly differentiated the nature of goods at the time of importation and the legal status that would otherwise have been the case had the conditions been fulfilled. It affirmed that the discretion by which customs officers can provide the Section 125 redemption option of such goods is permissive, but not mandatory.

24.4.4 *Gian Singh v. Union of India* (1995)

Facts and Issue

In *Gian Singh v. Union of India*, (1995) 5 SCC 300, the accused was in possession of foreign currency in excess of the limit allowed, purportedly to smuggle it. The money was taken and impounded. The point in question was whether seizure and confiscation of foreign currency, which did not qualify as goods in the ordinary meaning of this word, under the Customs Act were valid.

Legal Significance

The Supreme Court also determined that foreign currency was included in the definition of goods in Section 2(22) in the Act and was thus covered by the prohibition and confiscation regime. The ruling broadened the enforcement of the customs of both tangible goods and intangible ones, establishing a precedent of how capital-form smuggling should be treated. The ruling also helped in clarifying that the penal provisions of the Customs Act do not replace the operation of other legislations like FEMA and that the adjudication under the Act could be used alongside prosecutions under other legislations under Section 127.

24.4.5 *Syndicate Bank v. Commissioner of Customs* (2001)

Facts and Issue

The question in *Syndicate Bank v. Commissioner of Customs*, (2001) 7 SCC 721 was whether a bank which funded importation of goods could be held liable to penalties under Section 112 of the Customs Act, 1962 on the basis that it had dealt with goods which were liable to confiscation. The bank had funded the deal without being aware of misclassification of goods.

Legal Significance

It was held by the Supreme Court that the liability under Section 112(b), which is focused on persons in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing confiscable goods, involves the element of *mens rea*, that is, that the person was aware or had reason to be aware that the goods were liable to confiscation. Funding without this information did not entice penal liability. The case is a milestone in setting boundaries of the outer limits of the extended liability of Section 112, which safeguard bona fide financial intermediaries against vicarious customs penalties.

24.4.6 *CC (Port), Mumbai v. Sayed Ali (2011)*

Facts and Issue

Commissioner of Customs (Port), Mumbai v. Sayed Ali, (2011) 3 SCC 537 declared that misdeclaration of goods was in the import manifest. The Supreme Court held the question whether misrepresentation of description, not value, was a subject to confiscation under Section 111(m) or under Section 111(f).

Legal Significance

The Supreme Court proceeded to a word-by-word examination of the individual wording of Section 111, and it was determined that each clause deals with a particular mode of improper import and that the Revenue must determine which clause to apply in seeking confiscation. The decision placed focus on procedural accuracy in confiscation orders and that the show cause notice in Section 124 is required to state the precise ground of confiscation. The case is hailed as having insisted upon the principle that confiscation, a civil penalty of great gravity, is confined to the particular statutory act, and cannot be implied.

24.4.7 *Canon India Pvt. Ltd. v. Commissioner of Customs (2021)*

Facts and Issue

In *Canon India Pvt. Ltd. v. Commissioner of Customs*, (2021) 5 SCC 220, the Revenue attempted to re-assess imported camera devices on the basis of the improper classification and under-charging of duty. The issue was whether the officer who issued the show cause notice pursuant to Section 28 had the necessary jurisdiction.

Legal Significance

The Supreme Court ruled that the issuance of a show cause notice to re-assess the goods could only be done by the proper officer who had initially examined the goods. This could not be overridden by a different officer. The ruling has a wide-ranging consequence on customs enforcement, especially where prohibited and restricted goods are involved, since it establishes that jurisdictional propriety is a prerequisite that must be followed in order to have valid adjudication. Although developed in a duty context, the principle also applies to confiscation proceedings, which strengthens the rule of law in the administration of customs.

24.4.8 CESTAT Decisions: Pattern Analysis

CESTAT has made a lot of contribution in the development of the doctrine of prohibition and restriction. In *Rajiv Rajan v. Commissioner of Customs*

(*Chennai*), 2019-TIOL-1234-CESTAT-MAD, the Tribunal found that importation of a used laptop, which was a restricted good under the policy of DGFT then, without a prior licence made the used laptop a prohibited good at the time of importation, but that the redemption fine should be proportional. The Tribunal had a specific reference to the principle of proportionality based on Articles 14 and 19(6) of the Constitution to amend an excessive redemption fine.

Equally, in *M/s Global Trade Links v. Commissioner of Customs (Delhi)*, 2020-TIOL-908-CESTAT-DEL, it was found that the application of maximum penalties on first-time offenders without regard to the mitigating factors was arbitrary and that the adjudicating authority should have a reason as to the quantum of penalty, which underscores the need to exercise discretion judicially.

24.5 Constitutional Dimensions and Policy Implications

24.5.1 Trade Freedom and State Control: The Article 19(1)(g)/19(6) Axis

Article 19(1)(g) of the Constitution of India has been subject of testing into the constitutional validity of trade prohibitions and restrictions in the customs law that ensures by the right of every citizen the right to practise any profession or to carry on any trade, occupation or business. Article 19(6) allows the State to make reasonable limitations on this right on behalf of the general population. Import and export bans based on Section 11 of the Customs Act have always been held by the Supreme Court to be constitutionally valid restrictions under Article 19(6) so long as they are not arbitrary or disproportionate and serve a legitimate public interest, as seen in *Dwarka Das v. State of Madhya Pradesh*, AIR 1954 SC 224.

But the proportionality principle has become a significant self-imposed restriction on the exercise of prohibitory power. The manifestation of a ban that is out of proportion to the regulatory purpose that it alleges to accomplish is constitutionally questionable. In situations where the violation was technical, the goods were not inherently dangerous and the importer was acting in good faith on the basis of a misconceived belief about what was required to assure a licence, courts have quashed orders of absolute confiscation. Proportionality in the redemption fine under Section 125 functions as a proportionality system in the statute itself, and the courts have demanded that adjudging authorities cannot direct absolute confiscation without taking into account whether the circumstances are such as to justify the exercise of the redemption option.

24.5.2 Right to Livelihood and Customs Enforcement

The implication of Article 21 being extended to include the right to livelihood in *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180, on customs enforcement activity robbing small traders and micro-enterprises of goods is present. In cases where seizure of goods destroys the livelihood of a small importer who has committed a borderline technical offence, the courts have been willing to demand action commensurate. This constitutional caution is evident in the practice of CESTAT of adding fines and penalties in redemption in cases involving small or first-time importers, adding equity considerations to the customs enforcement calculus.

24.6 Critical Evaluation

The prohibition and restriction regime of the Customs Act, 1962 is conceptually sound but administratively complicated. There are a number of structural criticisms worth noting.

To begin with, there is no statutory definition of what constitutes restricted goods; hence, there is an interpretive ambiguity. The difference between prohibited and restricted goods with their decisive implications of confiscation, redemption and penalty is purely based on the definitional proviso in Section 2(33) and the ITC(HS) classification of DGFT. A legal codification of the restricted goods category, defined clearly and a single list of regulatory goods included in or notified of the Customs Act itself, would provide greater legal certainty and minimize litigation.

Second, judicial review has remained an issue in Section 125 with its discretionary architecture. The Act provides that the adjudicating officer has the authority to think fit the amount of quantum of redemption fine, the only limitation being that it must not exceed the market price of the goods minus any relevant duty. This broad, discretionary power, which is not specified in the statutes as to the standards under which it should be exercised, has given variable effects, over-punitive at some times and over-lenient at others, in the adjudicating authorities. Proportionality and consistency would be added to the redemption fine, equivalent to sentencing guidelines in criminal law, through legislative direction on the aspects to be taken into account in its remedy.

Third, the reverse burden of proof pursuant to Section 123, although constitutionally valid, sits ill with presumption of innocence and the right against self-incrimination. Its extension to other goods beyond gold and watches to a wide category as defined by government notification runs

the risk of being too broad to be applied, and the judiciary must at times police this use.

Fourth, the inter-statutory aspect of custom ban, which attracts the ban of dozens of other statutes, generates a problem of coordination failure, as different regulatory bodies, including DGFT, FSSAI, BIS, CDSCO and WPC, interpret their own law differently, providing a different guidance to importers and resulting in different enforcement results in various customs formations. An integrated electronic database of all prohibitions and restrictions on imports and exports, updated in real time and available both to importers and to the customs officers, would significantly decrease this coordination gap.

24.7 Conclusion

The system of the regulation of prohibited and restricted goods is rather complex and multi-tiered, and the Customs Act, 1962 unites fiscal, public safety, environmental, and international treaty obligations within one system of laws. The definitional architecture of Section 2(33), the prohibitory capacity of Section 11, the detection systems of Chapters IVA and IVB, as well as the confiscation and penalty regime of Chapter XIV, are all parts of an integrated enforcement system that has survived over 60 years of legislative amendment, judicial review, and administrative development.

This framework has been gradually contracted by judicial decisions of the Supreme Court and CESTAT who introduced proportionality, natural justice, and accuracy of jurisdiction as a restraint on the exercise of confiscatory power. The constitutional elements, particularly the modal between trade freedom in Article 19(1)(g) and restrictions that can be imposed in Article 19(6), have been bargained with finer points, as the shift to a more demanding rather than deferential approach to disproportionate confiscation orders has been made.

The current issues of e-commerce, electronic trade platforms and AI-based enforcement are in need of immediate legislative and administrative adjustments: legal definition of forbidden goods, systemic principles regarding the volume of a fine on redemption, real-time consolidated prohibition registers, and AI-based bans systems, which are legally liable. The customs law of India should also strive to remain in line with its international commitments under WTO, the Basel Convention and the Revised Kyoto Convention of WCO so that domestic prohibitions and restrictions are required and are fair and proportional.

The difference in concept between such prohibited and restricted goods is, in fact, not a question of doctrine, but a radical statement of the regulatory philosophy of the State: that there are such goods as are so hostile to the well-being of the people, as to be out of the category of goods traded in; and there are such goods, which are acceptable, but must be traded in a controlled environment, whose terms of trade are scrupulously adhered to. The integrity of this distinction, which must be maintained by statutory clarity, judicial rigour, and administrative sophistication, is critical to a customs regime that at once safeguards the interest of the people as well as the constitutional rights of traders.

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Editors' Final Note

As this volume concludes, we return to the idea that guided its preparation: taxation law is not only a technical framework for assessment and collection, but also a field of legal governance that affects rights, markets, institutions, businesses, and citizens. *Beyond the Audit: A Legal Framework of Taxation* was prepared to encourage academic engagement with taxation beyond routine compliance and procedure.

The chapters in this edited book reflect the breadth of contemporary taxation law in India. They address constitutional principles, income tax administration, GST federalism, MSME compliance, customs enforcement, digital services, artificial intelligence, data privacy, carbon taxation, startup finance, intellectual property, virtual digital assets, and cross-border tax disputes. Together, they show that taxation is closely connected with economic development, digital transformation, fiscal federalism, social equity, and the rule of law.

We hope this volume will assist students, researchers, practitioners, and policy observers in understanding taxation as a developing area of public law and economic regulation. The issues discussed in these chapters are likely to evolve further with changes in technology, business models, trade practices, and constitutional interpretation.

This volume does not claim to provide final answers. It is intended to support further discussion, research, and reflection. We sincerely thank all contributors for their research efforts and the publishing team for their valuable support in bringing this volume to completion.

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