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**Customs Act 1962 s 25 - Power to grant exemption  
from duty**

**(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon.**

**(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable.**

**(2A) The Central Government may, if it considers it necessary or expedient so to do for the purpose purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification in the Official Gazette, at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.**

**(3) An exemption under sub-section (1) or sub-section (2) in respect of any goods from any part of the duty of customs leviable thereon (the duty of customs leviable thereon being hereinafter referred to as the statutory duty) may be granted by providing for the levy of a duty on such goods at a rate**

expressed in a form or method different from the form or method in which the statutory duty is leviable and any exemption granted in relation to any goods in the manner provided in this sub-section shall have effect subject to the condition that the duty of customs chargeable on such goods shall in no case exceed the statutory duty.

**Explanation.—**”Form or method”, in relation to a rate of duty of customs, means the basis, namely, valuation, weight, number, length, area, volume or other measure with reference to which the duty is leviable.

**(4)** Every notification issued under sub-section (1) or sub-section (2A) shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette.

**(4A)** Where any exemption is granted subject to any condition under sub-section (1), such exemption shall, unless otherwise specified or varied or rescinded, be valid upto 31st day of March falling immediately after two years from the date of such grant or variation:

**Provided that** in respect of any such exemption in force as on the date on which the Finance Bill, 2021 receives the assent of the President, the said period of two years shall be reckoned from the 1st day February, 2021.

**(6)** Notwithstanding anything contained in this Act, no duty shall be collected if the amount of duty leviable is equal to, or less than, one hundred rupees.

**(7)** The mineral oils (including petroleum and natural gas) extracted or produced in the continental shelf of India or exclusive economic zone of India as referred to in

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section 6 and section 7, respectively, of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (80 of 1976), and imported prior to the 7th day of February, 2002 shall be deemed to be and shall always be deemed to have been exempted from the whole of the duties of customs leviable on such mineral oils and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, no suit or other proceedings in respect of such mineral oils shall be maintained or continued in any court, tribunal or other authority.

(8) Notwithstanding the exemption provided under subsection (7), no refund of duties of customs paid in respect of the mineral oils specified therein shall be made.

[Adapted from Lesson 12 of CS Advanced Tax Law]

A] The power for grant of exemption vests with the Central Government subject to the overall control of the Parliament. The Government on a rational basis may use this discretionary power of exemption based on any of the following grounds:

- a) Where the duty should not be levied at all.
- b) Where the goods do not reach the Indian soil at all.
- c) Where the goods have reached the Indian soil but are not available for consumption.
- d) Where the goods get damaged or deteriorated in transit.
- e) Where the exemption is used for controlling the economy and industrial growth of the country.

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B] The power to exempt includes the power to modify or withdraw; even a time bound exemption notification can be modified and revoked if it is in public interest and the doctrine of Promissory Estoppels cannot be invoked since a notification cannot be said to be making a representation or a promise to a party getting benefit thereof[Kasinka Trading v. U.O.I. 1994 (74) E.L.T. 782 (SC)]. However, an exemption notification cannot be withdrawn and duty cannot be demanded with retrospective effect [Honest Corporation v. State of Tamil Nadu 1999 STC 113 (HC)].

*General exemption*

C] If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, goods of any specified description from the whole or any part of duty of customs leviable thereon. [CD Sec 25(1)]

*Special exemption*

D] If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from payment of duty, any goods on which duty is leviable only under circumstances of an exceptional nature to be stated in such order. [CD Sec 25(2)]

*Effective date*

E] CD Sec25(4) provides that the date of effect of the notification will be the date of its issue. The following issues need to be kept in mind in case of general exemption.

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a) Where the exemption notification does not mention the date of its effect, the notification comes into effect from the date of its issue by the Central Government for publication in the Official Gazette.

b) Where the exemption is through a special order, the above rules do not apply. Special orders are issued separately for each case and communicated to the beneficiary directly by the Government. The beneficiary can claim refund for the period reckoned from the date of its issue.

F] A notification is to take effect from the date of the publication in the Official Gazette. Non-availability of the Gazette on the date of issue of the notification will not affect the operativeness and enforceability of the notification particularly when there are radio announcements and press releases explaining the changes on the every day. [ITC Ltd. v. CCE 1996 (86) E.L.T. 477 (SC)]

*Clarification of notification*

G] CD Sec 25(2A) empowers the Government to issue clarifications to the notifications within one year from the issue of the notification and such clarifications will have retrospective effect.

*No duty less than Rs.100*

H] Further, no duty shall be collected if the amount of duty leviable is equal to, or less than, one hundred rupees. [CD Sec 25(6)]

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