

12. Derelict Goods Dutiable.

All goods derelict, flotsam, jetsam or lagan which is landed or saved or which comes ashore from any wreck shall be subject to the same duty as goods of the like kind on import into Mauritius.

13. Payment of Duty, Excise Duty and Taxes on Manifested Goods.

All dutiable goods shown on the import manifest of any aircraft or ship shall be charged with duty, excise duty and taxes, as the case may be, unless it is proved, to the satisfaction of the Comptroller, that such goods were not landed in Mauritius.

14. Recovery of duty, Excise Duty and Taxes.

- (1) The correct amount of duty, excise duty, taxes and charges payable in respect of any goods shall, from the time when they should have been paid, constitute a debt due to Government at import or export, as the case may be, and shall be recoverable in a court of competent jurisdiction by proceedings in the name of the Comptroller.
- (2) Any debt due to Government under sub-section (1) shall be secured by a special privilege and a right of retention.

Special privilege is a privilege conferred by law to any particular person or authority to sell the goods in his possession and to take any amount (*en préférence*) on the proceed thereof.

Right of retention is the right conferred on any person or authority to retain possession of the goods until payment is effected.

15. Payment under Protest

- (1) Subject to subsections (2) and (3) where, in respect of any goods, a dispute arises as to-
 - (a) the amount of duty, excise duty, taxes or charges; or
 - (b) the liability of those goods to duty, excise duty, taxes or charges, the owner of the goods may pay under protest, the sum demanded by the Comptroller and the sum so paid shall, as against the owner of the goods, be deemed to be the proper amount of duty, excise duty and taxes on such goods.
- (2) Where duty has been paid in the manner specified in sub-section (1), the owner of the goods may within 28 days of the date of payment of the duty, appeal to the Tax Appeal Tribunal for the determination of the proper duty payable in respect of those goods.

- (3) Where excise duty has been paid in the manner specified in subsection (1), the owner of the goods may, within 28 days of the date of payment of the excise duty, make a claim for refund or adjustment to the Comptroller.
- (4) Where as a result of the payment of duty in the manner specified in subsection (1), value added tax on import as specified in any enactment relating to value added tax is claimed to have been paid in excess of the amount due, the owner of the goods may make a claim for refund or adjustment to the Commissioner for VAT within 28 days of the date of payment of such tax.

Sub-Part II - Valuation and Invoices

16. Delivery of documents with entry.

- (1) With the entry of any goods, there shall be delivered to the Comptroller the original invoices, bills of lading, bills of parcels, price lists, policies of insurance, letters and other documents showing the value of the goods at the place at which they were purchased together with the freight, insurance and other charges on the goods.
- (2) Invoices required under subsection (1) shall be submitted to the Comptroller in duplicate.
- (3) All invoices and certifications shall contain such particulars as may be prescribed, and the Comptroller may refuse to accept any invoice or certification which does not comply with the prescribed requirements.

16A. Use of computer system.

Notwithstanding the other provisions of this Act or any other enactment, the Comptroller may allow -

- (a) the import or export of goods under this Act; or
- (b) an entry in relation to excisable goods under the Excise Act to be made through such computer system as may be approved by the Comptroller.

17. Powers of the Comptroller over Documents.

- (1) Where information has been received by the Comptroller or the Comptroller has reason to believe that goods have been smuggled, under-declared, unlawfully entered or illegally dealt with, or that it is intended to smuggle, under-declare, unlawfully enter or deal illegally with any goods, or where any goods have been seized or detained, the importer or exporter shall, immediately upon being requested so to do by the Comptroller, produce and hand over to the Comptroller all books, invoices and documents relating to those goods or to any other goods imported or exported by him at any time within the three years immediately preceding the date of such request. The importer or exporter shall also produce for the inspection of the Comptroller, and permit him to make copies of, or take extracts from, all books or documents of any kind including price lists, bank drafts, orders, letters of credit, invoices, wherein any entry or memorandum appears, in any way, to relate to any such goods.

- (2) Any person, not being the importer or exporter, who has in his possession or custody any books, invoices or documents mentioned in subsection (1) shall produce such books, invoices or documents to the Comptroller on demand.
- (3) Notwithstanding any other enactment, subsection (2) shall apply to brokers, commission agents, manufacturers' representatives, commodity syndicates, and to other commercial enterprises and parastatal bodies, as the case may be.
- (4) Any person who refuses or neglects to comply with a request of the Comptroller under this section, and any person who produces any false book, invoice or document or makes any false representation in regard to the country in which goods were grown, produced or manufactured or processed, or makes any false representation with the intent to contravene this section, shall commit an offence and shall on conviction, be liable to a fine not exceeding Rs. 200,000 and to imprisonment for a term not exceeding 4 years..
- (5) For the purposes of subsection (4) an invoice which is drawn in a fictitious name or in the name of a person other than the importer of the goods specified shall be deemed to be a false invoice.

18. Mode of Ascertaining Ad-Valorem Duties

- (1) Where duty is leviable on goods by reference to their value, the value of those goods shall be the transaction value of the goods as determined in accordance with section 18A
- (2) Subject to subsections (3) and (4) where the value of the goods cannot be determined in accordance with section 18A, the value of those goods shall be determined in accordance with any of the paragraphs (a), (b), (c) or (d) in the sequential order in which they appear -
 - (a) the transaction value of identical goods accordance with section 18B;
 - (b) the transaction value of similar goods in accordance with section 18C;
 - (c) the deductive method of valuation in accordance with section 18D; or
 - (d) the computed method of valuation in accordance with section 18E.
- (3) The importer may, by notice in writing to the Comptroller, opt for the sequence of subsection (2)(c) and (d) to be reversed.
- (4) Where the value of the goods cannot be determined in accordance with any of the sections 18A, 18B, 18C, 18D or 18E, the value of the goods shall be determined in accordance with the fall back method of the valuation under section 18F.

18A. Transaction value of goods

The transaction value of goods shall be the price actually paid or payable for the goods when sold for export to an importer in

Mauritius, adjusted where appropriate in circumstances as may be prescribed, and shall in addition include -

- (a) all costs, charges and expenses incidental to the sale contract and delivery of those goods; and
- (b) the loading charges, freight, insurance and other charges and expenses in respect of those goods as may be prescribed,

provided that the prescribed conditions are satisfied.

18B. Transaction value of identical goods

- (1) Where the value of the goods cannot be determined under section 18A, the value of those goods shall be the transaction value of goods which are identical to the goods being valued when sold for export to an importer in Mauritius and exported at the same time or subsequently the same time as the goods being valued, provided that the prescribed conditions are satisfied.
- (2) For the purposes of this section, "identical goods"-
 - (a) means goods which -
 - (i) are the same in all respects, including physical characteristics, quality and reputation, as the goods being valued, except the value of the goods;
 - (ii) are produced in the country in which the goods being valued are produced; and
 - (iii) are produced by, or in behalf of, the person who produces the goods being valued; but
 - (b) does not include goods where engineering, development work, artwork, design work, plans or sketches undertaken in Mauritius are supplied, directly or indirectly, the importer of those goods, free of charge or at a reduced cost, for use in connection with the production and sale for export of those goods.

18C. Transaction value of similar goods

- (1) Where the value of the goods cannot be determined under section 18B, the value of those goods shall be the transaction which are similar to the goods being valued when sold for export to an importer in Mauritius and exported at the same time or substantially the same time as the goods being valued, provided that the prescribed conditions are satisfied.
- (2) For the purpose of this section, "similar goods" -
 - (a) means goods which -
 - (i) closely resemble the goods being valued in respect of component materials, parts and characteristics and are functionally and commercially interchangeable with the goods being valued, having regard to the quality and reputation of the goods and the goods being valued;
 - (ii) are produced in the country in which the goods being valued are produced; and
 - (iii) are produced by the person who produces the goods being valued; but
 - (b) Does not include goods where engineering, development work, artwork, design work, plans or sketches undertaken in Mauritius are supplied, directly or indirectly, the importer of those goods, free of charge or at a reduced cost, for use in connection with the production and sale for export of those goods.
- (3) Where the person who produces the goods being valued does not produce the goods, the goods produced by a different person shall be taken into consideration for the purposes of subsection (2).

18D. Deductive method of valuation

- (1) Where the value of the goods cannot be determined under section 18C, the value of those goods shall be determined in accordance with the deductive method of valuation specified in subsection (2).
- (2) The deductive method of valuation shall be based on the sale value in Mauritius of the goods being valued or of identical or similar goods less such expenses in respect of the importation and sale of those goods, as may be prescribed.

18E. Computed method of valuation

- (1) Where the value of the goods cannot be determined under section 18D, the value of those goods shall be determined in accordance with the computed method of valuation specified in subsection (2)

- (2) The computed method of valuation shall be based on the total sum of the cost of production and of materials used in producing the goods being valued together with the profit and general expenses usually reflected in the sale for export to an importer in Mauritius, as may be prescribed.

18F. Fall back method of valuation

- (1) Where the value of the goods cannot be determined under section 18E, the value of those goods shall be determined in accordance with the fall back method of valuation specified in the subsection (2)
- (2) Subject to subsection (3), the fall back method of valuation shall be determined on the basis of the value derived from the methods of valuation specified in sections 18A to 18E, applied in a reasonable manner and adjusted to the extent necessary to arrive at the value of the goods being valued.
- (3) The value of the goods being valued under subsection (2) shall not be determined on the basis of -
 - (a) the selling price in Mauritius of those goods produced in Mauritius;
 - (b) a system which provides for the acceptance for duty purposes of the higher of two alternative values;
 - (c) the price of those goods on the domestic market of the country of export;
 - (d) the cost of production, other than the computed method of valuation under the section 18E;
 - (e) the price of the goods for export to a country other than Mauritius; or
 - (f) arbitrary or fictitious values.

19. Under or Over Valuation of Goods.

- (1) Where the Comptroller finds that goods have been declared at a value different from their true value at the time and place of export he may, on such information as is available to him, determine the value of those goods and the importer shall pay duty, excise duty and taxes, if any, on the value so determined.
- (2) On determination of the value of any goods under subsection (1), the Comptroller shall give notice in writing of the basis of the valuation.
- (3) Where the importer disputes the value of the goods determined by the Comptroller, he may, within 7 days of the notice under subsection (2), notify the Comptroller of the dispute in writing.

19A. Confidentiality

- (1) Except for the purposes of administering customs laws or for the purposes of any judicial proceedings, no officer shall communicate to any person any matter relating to the valuation of goods.

- (2) Any officer who, without lawful excuse contravenes this section shall commit an offence and shall on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years.

20. Customs Advisory Committee.

- (1) There shall be established an advisory committee to be called the Customs Advisory Committee on Classification, Valuation and Origin of Goods.
- (2) The Committee shall be composed of the following members-
- (a) a chairman appointed by the Minister, on the advice of the Comptroller and the Mauritius Chamber of Commerce and Industry;
 - (b) a representative of Customs;
 - (c) a representative of the Mauritius Chamber of Commerce and Industry;
 - (d) a representative of the Ministry of Trade and Shipping; and
 - (e) any other co-opted member called upon by the Chairman.
- (3) The Committee shall be competent in reviewing all matters relating to classification, valuation or determination of origin of imported or exported goods, except matters involving fraud.
- (4) The Committee shall be empowered to call for the importer or exporter, as the case may be, and for the Comptroller, and the Committee shall be empowered to examine all documents in their possession.
- (5) The Committee shall perform its functions diligently and expeditiously and refrain from communicating to any unauthorised person any information supplied to it.