

**Valuation Control and PCA status:  
INDIA**

# OUTLINE

- Organizational Structure
- Flow of Import Procedure
- Current status of Valuation
- Valuation control experience
- Valuation control : Problem & Challenges
- Current status of PCA
- PCA : Problem and Challenges

# **Central Board of Excise & Customs**

## **CBEC Offices**

- Administration**
- Tax Research Unit (TRU)**
- Customs**
- Central Excise**
- Service Tax**
- Co-ordination**

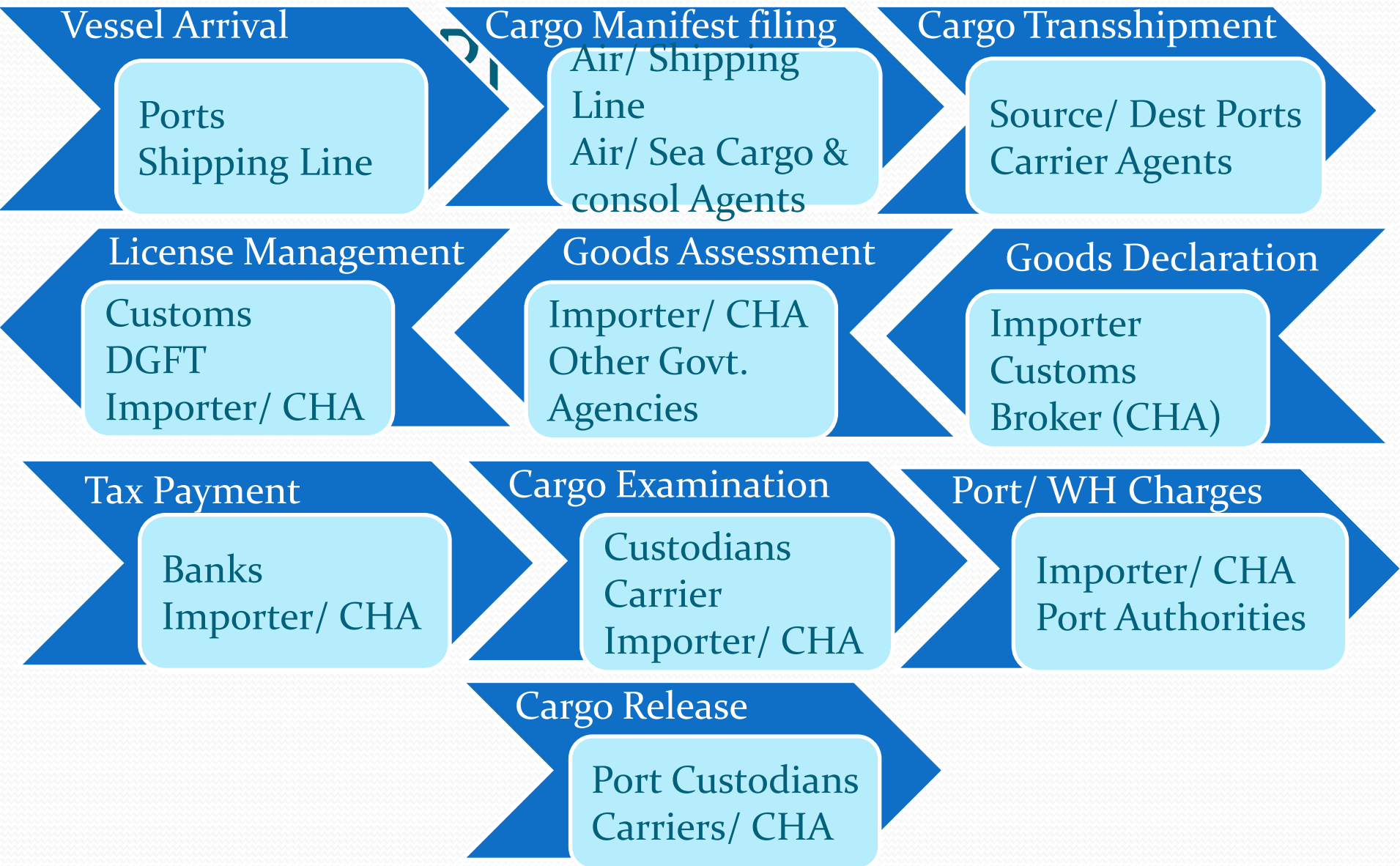
# Central Board of Excise & Customs

## Field Offices

- Directorates and Chief Commissionerate Zones consisting of Commissionerates
- Directorate headed by Director General or Director
- Zone headed by Chief Commissioner
- Commissionerate headed by Commissioner

# CBEC Field Offices Contd.

- ❑ 12 Directorates General
- ❑ 4 Directorates & Central Revenues Control Lab.
- ❑ 23 Excise Zones
- ❑ 11 Customs Zones
- ❑ 93 Central Excise Commissionerates
- ❑ 36 Customs Commissionerates
- ❑ 7 Service Tax Commissionerates

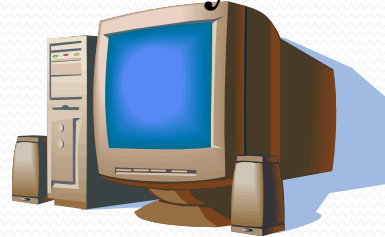


# Automated Customs Clearances with RMS

**E-Filing through  
ICEGATE**



**Risk Management System**



**No Assessment**



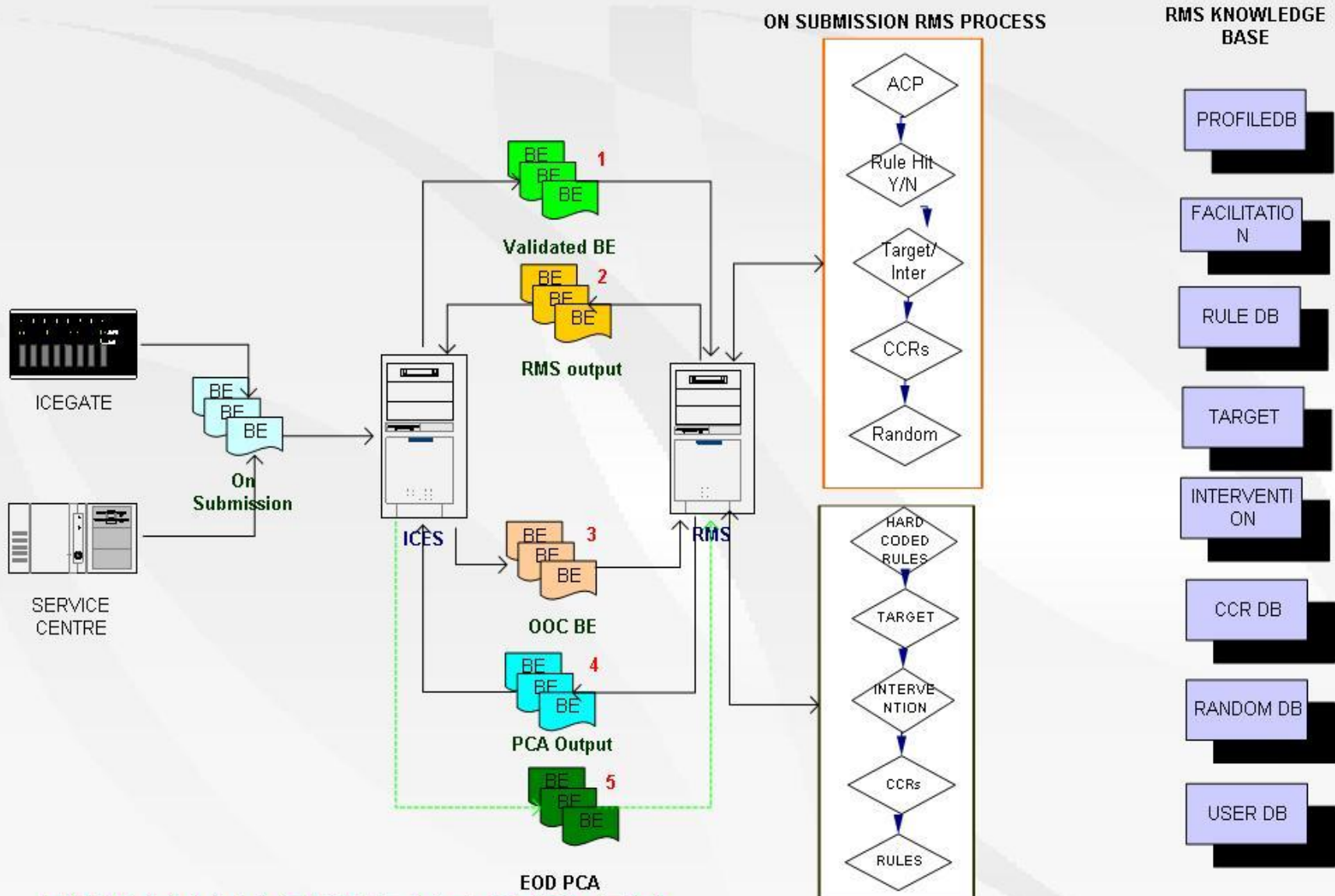
**No Examination**



**E- Payment &  
Delivery**







**RISK MANAGEMENT SYSTEM  
MESSAGE  
FLOW DIAGRAM**



# Current status of Valuation

- **India is a founding Member of the GATT (presently WTO)**
- **Was actively involved in the GATT negotiations (Tokyo Round, 1973-79), which developed the Agreement on Customs Valuation (ACV).**
- **India implemented the ACV in August 1988**

- **SECTION 14. Valuation of goods.** — (1) For the purposes of the Customs Tariff Act, 1975, or any other law for the time being in force, the value of the imported goods....shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, .....where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf :

# Current status of Valuation

## Legal Provisions:

- The provisions of sub-section (1) of Section 14 apply for the valuation of both imported goods and export goods. However, a common valuation law at international level applies only to imported goods and its basic principles are laid down in Article VII of General Agreement on Tariffs and Trade (GATT), 1948, currently known as GATT 1994 (administered by the World Trade organization, WTO). The Indian valuation law under Section 14(1) of the Indian Customs Act is based on the principles of Article VII of the GATT.

# Valuation Control Experience

- Customs Valuation (Determination of Value of Imported Goods) Rules, 2007
- Transaction Value (Rule 3): primary basis for valuation
  - However, it is subject to adjustment by certain Valuation Factors like Commissions and brokerage, except buying commissions; the cost of packing whether for labor or materials;
- Rejection of Transaction Value (Rule 12) if the truth or accuracy of the declaration is reasonably suspected or related party etc
- When the transaction value method is not applied, goods shall be valued by applying the subsequent methods in a strictly hierarchical order

# Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 at glance.

Rule 1	Short title, commencement and application
Rule 2	Definitions
Rule 3	Determination of the method of valuation.-
Rule 4	Transaction value of identical goods
Rule 5	Transaction value of similar goods.
Rule 6	Determination of value where value cannot be determined under rules 3, 4 and 5
Rule 7	Deductive value.
Rule 8	Computed value.
Rule 9	Residual method.
Rule 10	Cost and services
Rule 11	Declaration by the importer.
Rule 12	Rejection of declared value.
Rule 13	Interpretative notes. (schedule)

# Valuation Control Experience

- Transaction value of identical goods(Rule 4)
- Transaction value of similar goods(Rule 5)
- If value can be determined on basis of declared value ie transaction value or of identical/similar goods (Rule 6) then
  - Deductive value(Rule 7)
  - Computed value(Rule 8)
  - Residual method(Rule 9)
    - the value so determined shall not exceed the price at which such or like goods are ordinarily sold minimum customs values; or shouldn't be arbitrary or fictitious values

# Valuation control : Problem and Challenges

- Under-invoicing
- Related Parties- Transfer Pricing
- Second Hand Goods
- Abnormal discount or abnormal reduction
- Special discounts limited to exclusive agents
- Misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;
- Non declaration of parameters such as brand, grade, specifications that have relevance to value;
- The fraudulent or manipulated documents



# Valuation control : Problem and Challenges

- However the biggest challenge for customs officers :  
to facilitate trade so that delays can be avoided  
and to see that interests of revenue and other legal prohibitions are not violated.
- To ensure this-thorough examination of the Bills of entry and physical examination
- Take time, and delay the clearance of imported /reduce dwell time
- to reconcile 2 conflicting interests i.e. faster clearance vis-à-vis customs checks-Solution-Post clearance audit.

# Current Status of PCA

- Mentioned in Art VIII, GATT, Paragraph 1(c).
- Origin of the Self Assessment System & PCA : Kyoto Convention.
- Chapter 2: Kyoto C defines “*Customs Control*” as measure to ensure compliance with the Customs law.
- Chapter 6 of the Convention provides that “*Customs Control*” shall be limited to that necessary to ensure compliance with Customs law.
- Further, in application of Customs control : Use risk management- risk analysis to determine which persons/goods, including means of transportation, should be examined and the extent of examination.
- The Customs Authorities shall adopt a compliance measurement strategy like Audit Based Control to support risk management.

# Current Status of PCA

- Post Clearance Compliance Verification(PCCV) - Introduced in 2005
- the Risk Management System – Operational
- Done at Custom Houses, mainly on basis of documents submitted /transaction value
- Short levies identified and Compliance requirements and Conformance to various declarations
- Biggest drawback : Documents/Systems & Procedures cant be verified

# Current Status of PCA

- On-Site Post Clearance Audit (OSPACA) : Initiative based on Global best practices/Increased compliance environment and trade facilitation
- OSPACA introduced w.e.f. 1.10.2011- importers U/ Accredited Client Programme (ACP)- annual basis (FY)
- ACP – 3 categories for coordination : being done By Central Excise Commissionerate
- In order to avoid duplication of exercise - OSPACA with Central Excise and Service Tax Audit

# Current Status of PCA

- Going ahead ... PCA- by Custom Houses, shall continue side by side with OSPCA, the latter being done at the premises of the importers / exporters.
- To prevent duplication both PCA and OSPCA shall not be done for the same transaction.
- PCA dispensed with for ACP clients

# Current Status of PCA

- By its very nature OSPCA is a broad based audit with focus on systems and procedures even though the short levies of duties, if any, shall continue to be determined on transaction basis.
- OSPCA allows verification of self-assessment on periodic basis by scrutiny of relevant business records at the importers / exporters premise
- reduced clearance time/ conformance to the declarations

# Current Status of PCA

## Legal Authority

- Section 17(6) of the Customs Act, 1962, which-verification of correctness of assessment of duty on imported or export goods at the premise of importer or exporter.
- On Site Post Clearance Regulations 2011 has been notified(u/Sec 157 of the CA,1962) which prescribes the manner of conducting audit at the premises of importer or exporter.



# STATUS OF OSPCA IN INDIA

PERIOD	COVERAGE	OUTCOME
OCTOBER 2011 UPTO MARCH 2012	51 clients ( out of 260 )	41 Objections ( Rs 10 crores )
APRIL 2012 TO MARCH 2013	215 clients ( out of 308 )	152 objections ( Rs 120 crores )

# PCA : Problems and Challenges

- Training of Auditors / Availability
- In depth knowledge of accounting/business (mal)-practices
- Long drawn procedure with guidelines to adhere to - requires cooperation of assessee
- Standard practices are not adhered to by small businesses
- Large business - services of expert

# PCA : Problems and Challenges

- Technological advancements
- Tariff evolution-in comparison to changing technology-rather slow
- Non compliance with audit objections  
(Penalty clause incorporated)

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THANK YOU