



Customs Post Clearance Audit (PCA)





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International Perspective



International Perspective:

For modernization and harmonization of export and import procedures among the member countries of WTO and WCO PCA or audit-based controls are defined by the Revised Kyoto Convention as measures by which the Customs satisfy themselves as to the accuracy and authenticity of declarations through the examination of the relevant books, records, business systems and commercial data held by persons concerned.

Revised Kyoto Convention, states that, “The Customs shall evaluate traders’ commercial systems where those systems have an impact on Customs operations to ensure compliance with Customs requirements.”

In order to implement these International Conventions to which India is a signatory/ party, it is necessary that these audit-based controls are laid down systematically with proper authority of the law.

“Guidelines for Post-Clearance Audit (PCA) Volume-I” adopted by the Council, the WCO has defined the PCA process as a “structured examination of a business’ relevant commercial systems, sales contracts, financial and non-financial records, physical stock and other assets as a means to measure and improve compliance.”

WTO Trade Facilitation Agreement – Article 7 states:

Post-clearance Audit:

With a view to expediting the release of goods, each Member shall adopt or maintain post-clearance audit to ensure compliance with customs and other related laws and regulations.

Each Member shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Member shall conduct post-clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved the Member shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations and the reasons for the results.

Members acknowledge that the information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

Members shall, wherever practicable, use the result of post-clearance audit in applying risk management.

Introduction to Customs PCA



Introduction to Customs Audit – Indian Customs Administration :



Objective

Adopt/ maintain **PCA** to ensure **compliance** with **Customs & related laws/ regulations** creating flexibility to **enhance facilitation** for **importers/ exporters**.



Customs Audit Framework

- ❑ New **Section 99A of Customs Act** provides statutory framework for audit.
- ❑ Customs Audit Regulations, 2018 in place
- ❑ Circular No. 02/ 2019 - Customs dated 8 January 2019 summarises transition into the new approach towards Customs PCA
- ❑ **Four Audit Commissionerates** notified w.e.f. 1 January 2019 for all India; Mumbai, Nhava Sheva, Chennai and New Delhi – **functional from 1 April 2019**
- ❑ Assessment ambit broadened from “assessment of duty” to “assessment of entries made under Section 46 or Section 50 and the self-assessment of goods”.

Introduction to Customs Audit – Indian Customs Administration :



Types of Audit

- ❑ TBA, PBA and ThBA prescribed under the new dispensation
- ❑ TBA could subsequently be converted to PBA
- ❑ PBA (earlier OSPCA) involves review of import/ export over a given period, checking of relevant commercial records and contracts
- ❑ ThBA: Board would also select any criteria or Theme for the audit



Coverage

- DGARM to identify the potential focus areas and entities for audit
- ThBA to trigger PAN India coordinated approach
- Greater synergies amongst all Customs formations envisaged

DGARM – Focusing on Data Analytics:

01

The DGARM would function as part of CBIC for data analytics and risk management.

02

DGARM will do detailed data mining and analysis to generate outputs for focused and targeted action by field formations and investigation wings of the CBIC

03

It shall be responsible for providing analytical inputs to support identification, targeting and risk management functions of NTC, RMCGST and RMCC

04

NTC would be responsible for application of a nationally coordinated approach to risk analysis and targeting of risky goods and passengers crossing the borders of the country. It shall provide 24 * 7 operational risk interdiction supports to field formations of CBIC

05

RMCGST will institutionalise mechanism to collect necessary inputs, adopt coordinated approach and share the outcome for risk-based identification for scrutiny, audit and enforcement functions

06

RMCC will be responsible for assessment and targeting of risky cargo crossing the borders through Sea, Air and Land

07

Customs audit would take inputs from DGARM apart from other agencies to decide on TBA, PBA and ThBA

Types of Customs PCA



Types of Customs Audit:

Transaction based audit

- TBA was introduced in 2005.
- TBA, a form of erstwhile PCA
- TBA replaced system of concurrent audit, by separating audit function from assessment function facilitating expeditious clearance of imported / exported goods .
- TBA based on RMS
- TBA can also be converted into PBA

Premises based audit

- PBA was introduced in 2011
- PBA a form of erstwhile OSPCA applicable to ACP holders
- PBA to be conducted at premises of importer, exporter, Customs Warehouse, Public warehouse having license, Customs Brokers or any other person involved directly or indirectly in import export trade
- PBA for AEO certificate holders will be every 3 years

Theme based audit

- ThBA is a new basis for Audit
- Provides for review of data relating to entire business activity for a particular commodity, industry or issue
- Provides a systematic approach to data collection, data analysis to identify non-compliance
- Could entail PBA

Information, records incl. electronic records, documents or accounts to be maintained for 5 years w.r.t imported/ exported goods

Failure to comply with the Customs audit regulations liable to penalty

Department to identify 500 issues/ points for ThBA in Phase I

Indian Customs Types of Audit – Birds eye view

Anything To Declare?

Transaction Based Audit (TBA)



Transaction Based Audit (TBA) :

The objective of Transaction Based Audit is to monitor, maintain and enhance compliance levels, while reducing dwell time of cargo. To assess the degree of compliance and to ensure that duty has been correctly assessed and paid.

TBA does not normally require the auditor to visit the premises of the exporter/importer and the audit will be conducted at the Customs office. Although the goods have already been released from Customs control, yet Customs has the legal authority to collect duty that is short levied or non-levied or carry out a check for purposes of verifying compliance to other laws and impose penalties if irregularities are found.

Imports:

The following documents submitted by the importer, or his authorized representative will be examined check the accuracy and correctness of assessment of duty and compliance of all legal requirements under Customs Act or any other law - Bills of entry/bill of import/import declaration, invoice cum packing lists, import licenses/ authorizations and other records of transaction relating to imports.

Transaction Based Audit (TBA) :

Exports:

The following documents submitted by the exporter, or his authorized representative will be examined check the accuracy and correctness of value, duty (if applicable) and compliance of all legal requirements under Customs Act or any other law - Shipping bills/bill of export/export declaration, invoice cum packing lists, licenses/ authorizations and other records of transaction relating to export goods

The ICES system generates instructions at various stages of processing of declarations i.e., appraising instructions, Compulsory Compliance Requirements (CCR), examination instructions, target instructions, PCA instructions, etc. Generally, these instructions may relate to classification, valuation, prohibition / restriction, availability of benefit under exemption notification, if claimed by importer / exporter, levy of ADD / Safeguard duty / CVD etc. TBA officers will refer to these specific instructions alone but can also examine other aspects which affect importability / exportability of goods, classification, valuation etc.

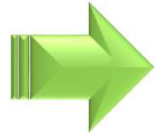
TBA officers will conduct a detailed check on various aspects of imports and exports.

Audit Procedure - TBA :

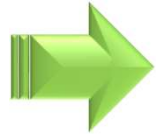
Procedure followed post verification of all import / export documents as per RMSS



Will seek further clarifications required if any. Queries will be restricted to where there is real information gap

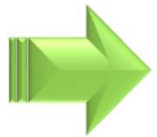


Replies to the queries received are acceptable then the Bills of Entry / Shipping Bill will be sent to history in ICES



Any short/excess payment or any irregularity detected, Consultative letters under Pre-Notice Consultation Regulations, 2018 will be issued

Reply to the Consultative letters are to be made within 15 days of receipt of the same



If auditee agrees to pay the demand and provides proof of payment then the objection gets closed



If auditee does not agree to pay or does not reply within the stipulated time issue of show causes notice will be initiated

Premises Based Audit (PBA)



Premises Based Audit (PBA) :

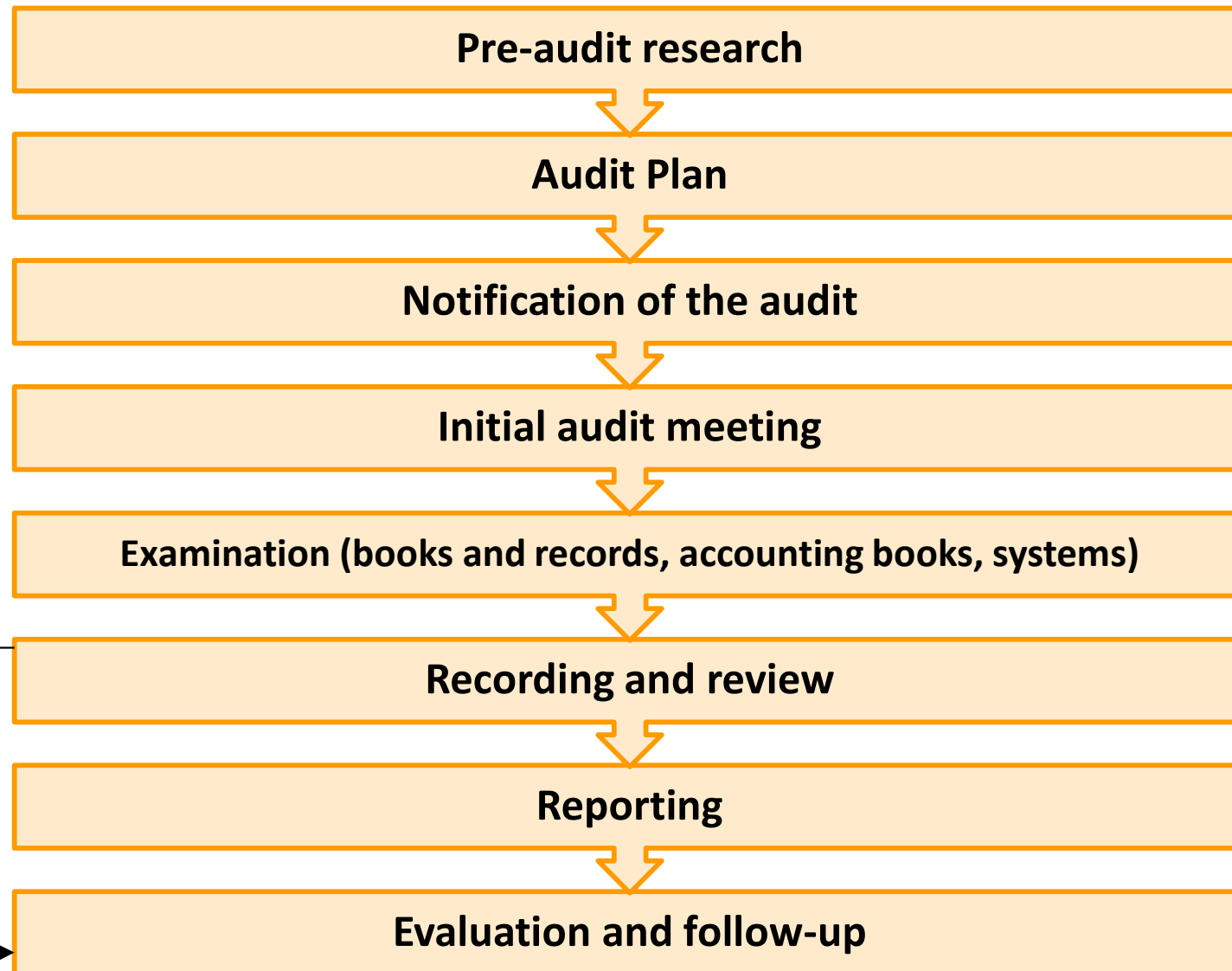
Transaction based review verifies compliance based on the documents available for a transaction. TBA has the limitation that it does not give the comprehensive profile of the reviewee because of limited number of documents submitted during clearance and paucity of time.

PBA on the other hand, is aimed at verifying the compliance level of the reviewee, by examining, if the internal control systems of the reviewee are robust enough to prevent systemic risk to revenue or other compliances.

During PBA, the procedure for verification covers inspection of goods, all transactions as a whole and extends to examination of bills of entry, bills of import, import declaration, import licence or authorization, shipping bills, bills of export, export declaration, export licence or authorization, bills of lading, country of origin certificates, invoice, packing lists, sales contracts, other financial or non-financial documents or records and the accounting system of the reviewee, whether kept in the written or printed or electronic form.

Review of PBA will be conducted in a systematic manner to assess the degree of compliance of a reviewee with the provisions of this Act or any other law for the time being in force.

Conduct of Field Audit (PBA) :



Physical inspection/ control (if necessary)

Third-party audit (if necessary)

Steps/ Checks followed for conducting PBA :



- **A Masterfile is prepared of the reviewee**

- **Conducting of Desk Review and preparatory interview to gather information about the reviewee and for review of internal systems**

- **Preparation of review plan**

- **Verification of the reviewee, including tour of premises, evaluation of internal controls, and preparation of Working Papers.**

- **Preparation of Review Reports and follow up**

- **Feedback**

Documents Required for Verification: Valuation – Imports / Exports :

Purchase/Sales Order / Contracts, Purchase/Sales Invoices for Imported/Exported Goods

Documents that contain the price and other conditions for purchase/Sale of goods from foreign supplier/buyer

Bill of Lading / Airway Bill`

Documents showing details of transportation of imported goods through Sea/Air

Insurance Policy

Documents for insurance of goods from the supplier to destination

National Import Data Base (NIDB) Data

NIDB data is maintained by Directorate of Valuation in respect of imported/exported goods from different countries

Documents Required for Verification: Valuation – Imports / Exports :

Prices of relevant period of London Metal Exchange(LME) / PLATT Journal

LME prices show the range of rates at which metals are sold in LME. These are printed twice.

PLATT compilation shows rates of different virgin plastic granules



Creditors/Debtors Ledger of foreign suppliers

Details of all transactions of suppliers and ledgers of foreign suppliers/buyers are relevant for the review



Creditors Ledger of transporters and insurers of imported goods

To match payments made of imported goods with amount declared in corresponding Bill of Entry

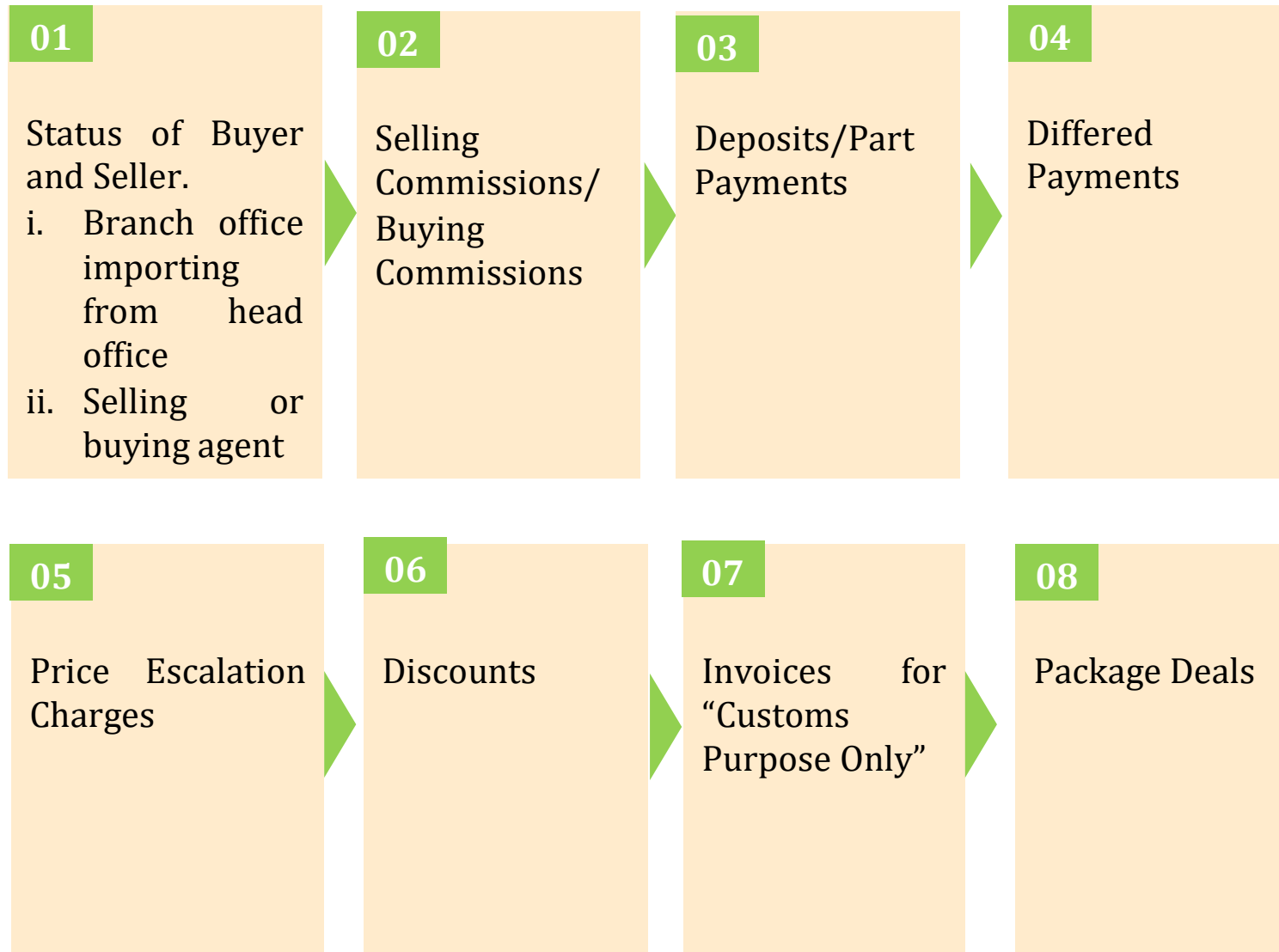


Bills of Entry

To check which Bills of Entry are cleared after full examination of goods and which are cleared through RMS without examination

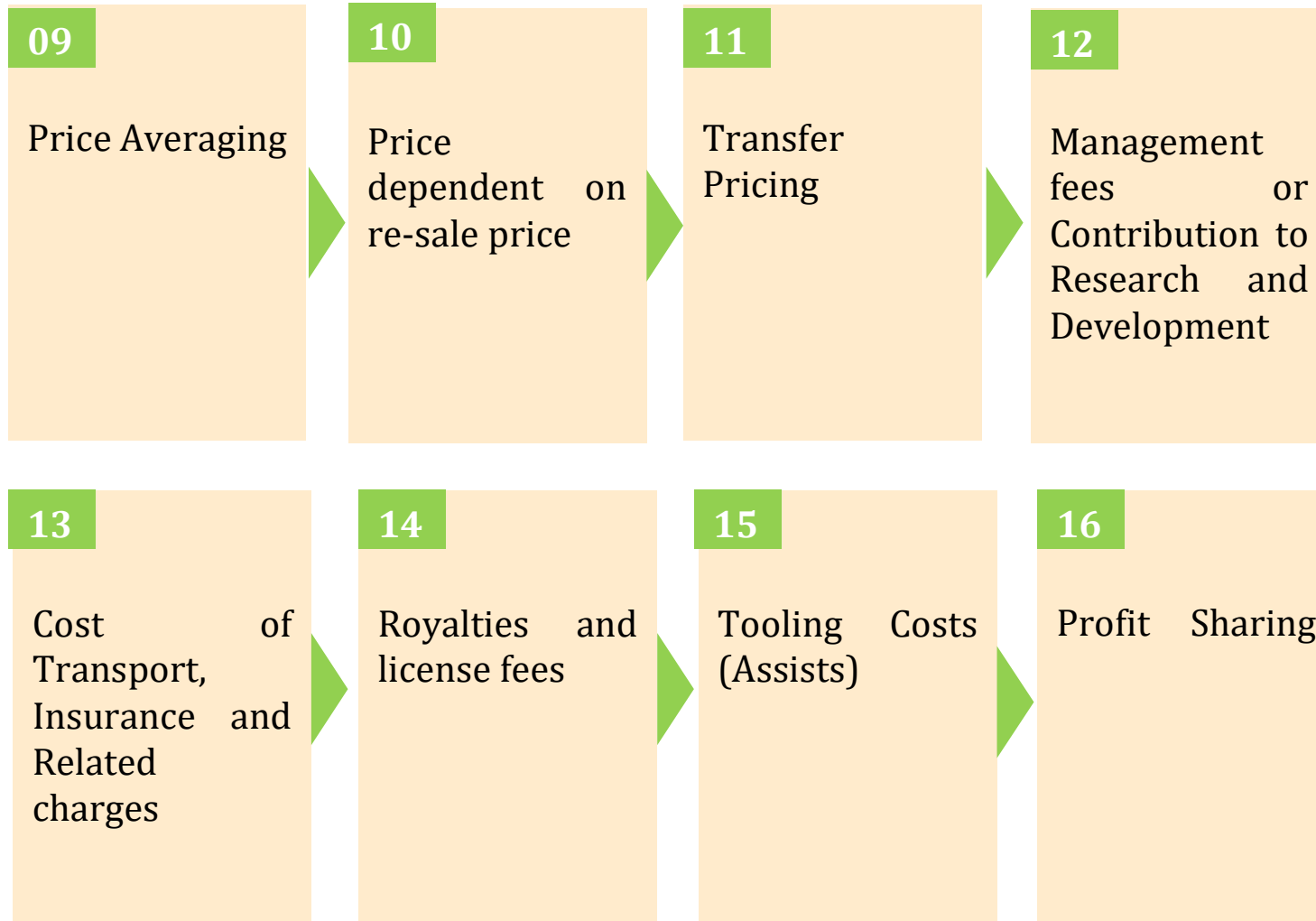
Revenue Risks Relating to Valuation Customs Valuation Rules, 2007 and WTO Valuation Agreement :

Agreement :



Revenue Risks Relating to Valuation Customs

Valuation Rules, 2007 and WTO Valuation Agreement :



Physical Verification of Documents at Premises



Documents Required for Verification : Imports Classification, Exemption and Import License :

Bills of Entry

Exemption Notifications claimed

Customs Tariff Act, 1975

ITC-HS Classification

Documents Required for Verification : Imports Classification, Exemption and Import License :

Shipping Bills

Exemption Notifications claimed

Customs Tariff Act, 1975

ITC-HS Classification

Documents Required for Verification : Imports Anti-Dumping Duty / Safeguard Duty/CVD :

Bills of Entry

List of goods on which Anti-Dumping duty is leviable

Relevant Notifications, Certificates of Country of Origin, Transport documents for imported goods

Customs Tariff, 1975 and ITC-HS Classification

Documents Required for Verification : Imports Concessional Rate of Duty for Manufacture of Specified Goods :

Bills of Entry / Stores Ledger

Goods Receipt Note (GRN) / Material Receipt Note (MRN) and Inspection cum receipt Report

Production Records

Sales invoices of specified goods

Documents Required for Verification :

Imports Preferential Areas / Countries :

Bills of Entry / Previous Imports

Certificates of Country of Origin (COO)

Bills of Lading / Airway Bills and Transport documents for imported goods

Samples/packing of imported goods

Documents Required for Verification : Imports Exports Promotion Capital Goods (EPCG) Scheme :

EPCG Licenses issued during last eight years and current financial year

Bills of Entry

Installation Certificates

Physical Verification of Capital Goods

Documents Required for Verification : Imports Exports Promotion Capital Goods (EPCG) Scheme :

Shipping Bills

Stores Ledger, Goods Receipt Note (GRN) / Material Receipt Note (MRN) and Inspection cum receipt Report

Documents Required for Verification : Imports Advance Authorization and DFIA :

Advance Licenses/DFIA issued during last three years and current financial year

Bills of Entry

Stores Ledger, Goods Receipt Note (GRN) / Material Receipt Note (MRN) and Inspection cum receipt Report

Shipping Bills

Action taken by Department so far.....



PCA by Audit Commissionerate's leading to issuance of Audit Circulars



Inconsistency in Classification for IGST purposes vs. Customs Classification under examination



Data Analytics used to track/ identify

- Variances in valuation of imported goods
- Inconsistency in classification of goods
- Attempts to work around additional levies such as Anti Dumping duty, etc.
- Scrutiny of FTA/ PTA benefits availed on import of goods
- Eligibility to claim MEIS/ SEIS benefits
- Closure of Advance Authorizations/ EPCG Authorizations and cancellation of bond even after receipt of EODC

Glossary:

Acronym	Full form	Acronym	Full form
ACP	Accredited Clients Programme	PCA	Post Clearance Audit
AEO	Authorised Economic Operator	PTA	Preferential Trade Agreement
CBIC	Central Board of Indirect Taxes and Customs	RMCC	Risk Management Centre for Customs
DGARM	Directorate General of Analytics and Risk Management	RMCGST	Risk Management Centre for Goods and Services Tax
EODC	Export Obligation Discharge Certificate	RMS	Risk Management System
FTA	Free Trade Agreement	SEIS	Service Exports from India Scheme
MEIS	Merchandise Export from India Scheme	TBA	Transaction Based Audit
NTC	National Targeting Centre	ThBA	Theme Based Audit
OSPCA	On-site Post Clearance Audit	WCO	World Customs Organization
PBA	Premises Based Audit	WTO	World Trade Organization

THANK YOU

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