



“A STUDY ON COMPARATIVE MODEL OF CUSTOMS VALUATION & CUSTOMS AUDIT”

MARIA RAJATHI P

Research Scholar

Department of Commerce
Central College Campus,
Bangalore City University
Bangalore – 01

ABSTRACT

Customs valuation and Customs audit practice is universal in nature and it has become global practice after developed countries adopted trade liberalization policies. Each and every country want their imports and exports to grow in order to maintain good trade balance and also to grow the economy. India's practice of customs are in align with global best practices as well as the recommendation by WTO (World Trade Organization). In today's changing economic scenario the liberalization policies towards trading plays a vital role in deciding the growth of the country's economy. The World Trade Organization is a notable regulator in providing tariff guidance on import-export policies. Majority of the countries follow the WTO guidelines to bring uniformity and transparency in the practice. The Europe Union also plays an important rules influencing the policies of WTO. The practice of customs is in tradition across various borders and it has been practiced in various methods and different tools are used to engage in export & import businesses. In the evolution of modern era and after globalization there has been a drastic change in customs practices. In formative years, the customs practices are considered as implementing agencies on behalf of government policies and subsequently the agencies become the formation of WTO (World Trade organization) & WCO (World Customs Organization) & others. These organizations have developed standards for trade policies for greater transparency and uniformity.

Key words – Customs Audit, Customs Valuation, Comparative Model

DESIGN/METHODOLOGY/APPROACH: This study is based on primary information data. The articles and guidelines on Customs Valuation and Customs Audit are analysed along with details of its practices in India. The analysis of the survey are taken for this paper. Data are collected from customs offices in Southern India.

FINDINGS: The results have shown the model adopted in the customs valuation and customs audit is contributing each other in customs process. The survey shows the model has great compatibility and field survey also confirms it. The methods adopted in customs practices are universal in nature and are in align with global standards.

RESEARCH LIMITATIONS: Primary data were taken from the customs office locations in southern India. The questionnaire was sent on online mode and responses received. The responses are only from southern part of India. The study may not represent the outcome of pan India and there may be error in recording the responses due to oversight by respondents.

INTRODUCTION

After the advent of globalization and subsequent liberal approaches towards policies, many of the countries across globe are started eliminating non-tariff barriers. Global Markets are kept open for the easy movement of goods in order to keep liberal export-import. In general the fees of customs duty is charged as the percentage of assessable value of the imported item. It's also strange to note many importers undervalue the goods and try to avoid customs duty. Framing a correct value is the challenging task of any importers. Customs officers who are all engaged in this duty often deploy their accumulated knowledge and skill to assess the customs duty and they try to scrutinize the data and fix the proper value of the products. The analysis of the information and taking decisions for the customs value is an important factors in import and export business.

India has evolved rules and regulations in foreign trade after independence and the strategy framed by the Central board of Indirect Taxes and customs (CBIC) is very proactive and a good facilitator in doing export-import business in India. The customs valuation in our country has deep mechanisms in leveraging foreign trade businesses. Guidelines given by WTO (World Trade Organization) customs valuation agreement is analyzed and implemented in our export and import sector. The WTO guidelines are considered as Trade Facilitation globally and our country had approved that framework for improving trading activities and also to build greater transparency. The customs valuation is age old practice among different nations and due to development in faster goods movements through ships and air the rules are also evolved rapidly. Forward development in technology and communication channels aided the formulation of customs valuation globally and WTO helped those framework and implemented globally. This paper analyses the WTO guidelines on customs valuation and its practice in India.

The Directorate of Valuation (DOV) is come under the department of CBIC (Central board of Indirect Taxes and customs) and its acting as the nodal agency to look after policy framework and drafting of institutional infrastructure in the department of customs valuation. DOV has been ascertained as department to be a part of World Customs Organization (WCO) and it is joined with global practices in customs valuation and represents our country. DOV was engaged in many activities to take up the customs practices in line with global practices and it established National Import Data Base (NIDB) and Central Registry Database (CRD) and came out with a bulletin in the name of “Valuation Bulletin”. This bulletin has information pertaining to valuation related information and international best practices and trends in customs valuation and market conditions etc. This bulletin is accessed in all customs departments and research organizations and it has become the repository of knowledge to the field of customs valuation.

The establishment of policies towards customs in every country is based on two different types of instruments namely, customs instruments, where the duty rates for individual products are decided and non-tariff instruments, which is used as tool to restrict imports and increase exports. Both of this instruments had a significant impact on the customs valuation practices. The non-tariff instruments is a valuable factor in reaching the objectives like economic, fiscal, social and political. In many of the study it is understood, that that non-tariff instruments is used to achieve political goals. It is also noted this is executed to honor the commitment towards organizations like WTO (World Trade Organization) and WCO (World Customs Organization) and others.

The import duties and its related taxes are the major revenue generating factors in many developing and developed countries. Often, this practices decide the national growth of the country. Due to this factor, the customs office are termed as revenue collection section in many countries. The development of Free Trade Agreements had forced many countries to adopt the customs practices as restricting forces for the political gains. However if the revenue generation is the main focus then the customs practice was considered as the part of Treasury or Finance portfolio and they join hands with other government agencies for border management roles.

In many centuries, the role of customs are termed as ‘gatekeeper’ and they make barrier to restrict import and export. The customs is the only place where the international trade will happen and it protects the interests of the nation. The roles and responsibilities of customs are often visible in their symbols, policies, rules etc. In today’s highly networked world, the customs office role is changing and they inclined to offer flexibility, speediness, when it comes for transaction. In other words, customs office are noted as facilitating office for the ease of doing business in the country.

The increasing adoption of liberal economy had made the countries to conduct different talks at different locations to facilitate free trade agreements and to increase transparency & adoptability of uniformity in customs practices. WTO has raised concerns over hefty documentation procedures, minimal use of information technology, lack of transparency towards imports and all these issues were discussed on different round of talks and new amendment of rules and regulations also suggested to facilitate import & export across different countries. When the years pass by all the suggestions are made as policies and it was considered as best practices and many countries are started following it for their own benefits.

International trade facilitation recommendations cover the following aspects:

- Trade procedures
- Customs and regulatory bodies
- Provisions for official control procedures applicable to import, export and transit including: general arrangements, customs controls, official documentation, health and safety, financial securities, and transshipment
- Provisions relating to transport and transport equipment, including: air transport; sea transport; and multimodal transport
- Provisions relating to the movement of persons
- Provisions relating to the management of dangerous goods
- Provisions relating to payment procedures
- Provisions relating to the use of information and communication technologies
- Provisions relating to the commercial practices and the use of international standards
- Legal aspects of trade facilitation

(Source: UN/CEFACT and UNCTAD 2002)

METHODOLOGY

Research methods are specific techniques/methods of data collection and analysis used to achieve the broad research objective through addressing the specific objectives of the study. Consequently, the researchers used secondary data from reputed journals and online resources to get the data for this study. This paper is concerned towards concept analysis so the secondary data was relied to complete the paper. Secondary data - the data that will be gathered from written materials like books, researches, Internal letters of the office and other internets in the authority's website.

LITERATURE REVIEW

Customs valuation is based, primarily, on the price actually paid or payable for the goods. The customs administration is a third party to the price, and so needs to rely on the price declared by the parties. Nevertheless, Customs can cross-check the value declared with the cost declared for the purposes of the corporate income tax base determination. The need for coherence between these two values is an important

control tool for the customs administration, if properly used. The relationship between customs valuation and the inventory cost of the goods is complex, and an adequate understanding of this issue is necessary to make correct use of this control tool. This article provides an overview of the possibilities available to customs administrations.

Customs valuation methods are established in the World Trade Organization's (WTO) Customs Valuation Code (CVC). Member States have transposed that regulation in their internal law. The main valuation method is Transaction Value (TV). According to this method, valuation is based on the price in a sale for export to the importing country, with some adjustments. The CVC establishes some circumstances which preclude the use of transaction value, chief amongst which is that the existence of a relationship between the parties has had an influence on the price. Transaction value, as defined by customs valuation rules, and an arm's length price of the goods (which is the objective of transfer pricing rules in the Income Tax) should basically be the same thing. Of course, we are assuming that TV is based on a sale in which the buyer is the importer. But customs valuation rules allow that TV be based on an earlier sale, between a manufacturer and a middleman, where both parties might not be residents in the country of importation. That is the case both in the US and European Union (EU) legal systems. In such cases, the link between customs valuation and the transfer price would be broken.

The emergence of the Customs community's interest in building Customs-Business partnerships (CBP) can be examined in the overall context of the development of government to business partnerships, including the often successful public-private partnerships (PPP) model. The concept of CBP is that relationships between Customs and business are shifting away from the former adversarial and interventionist approaches and moving towards relationships that represent an ambition of working together for a common purpose. Based on a theoretical review of the partnership dynamics, a conceptual collaborative governance framework is proposed and the key elements in designing and implementing CBP arrangements are identified and developed. It is argued that CBP should be interwoven with the overall strategies of Customs reform and modernisation and should go beyond operational and technical matters for effectiveness and sustainability.

In the world of administrative reform some people have been inclined to adopt 'buzz words' or 'catchphrases', concepts that are more symbolic than having actual substance. In the context of 'government to business' relationships, both the concept and the use of the term 'partnership' have emerged as potential catch-phrases and are used by policy makers and academics to suggest government and business are working together to achieve common goals. Whilst many of these government to business 'partnerships' seem to be lacking any real substance, there is an increasingly popular model known as a 'public-private partnership' (PPP) which has, in fact, been delivering tangible benefits to both partners, and to the broader community. This paper looks at the progress of the 'customs to business partnership' concept in this context, and discusses issues such as 'tangible benefits' and 'substance' whilst also proposing a possible framework to further develop the customs-business partnership approach.

Seemingly, the Customs community is not immune from following this new move to form ‘partnerships’ with business, and it is worthwhile considering whether the Customs approach to partnering is simply following the ‘buzz’. The World Customs Organization (WCO) designated ‘Customs and Business improving performances through partnership’ as the theme of its 2010 International Customs Day in which various partnership approaches at both regional and national levels were celebrated. Customs organisations operate in a complex environment of constant change. They are required to respond to the promotion of economic development and to comply with regional, national and international obligations. To accommodate changes in these areas, it is important to determine ‘a certain management type’ to implement change processes. As well, it is critical to identify the most significant characteristics of change management theory. In defining change management, the three constituents identified by Nickols (2004) – the task of managing change, a body of knowledge, and an area of practical application – are regarded as being the most relevant to this particular investigation. Having addressed the first two of Nickols’ constituents in part one of this article, the last is now addressed and draws as well on Kanter’s (1999) approach.

The Latvian Customs State Revenue Service (SRS) presents a striking example of a complex organisation where many factors are to be considered in order to effectively manage change. The globalisation of trade is a reality and inefficient customs practices impede trade. National economies will be significantly affected unless the necessary changes in operational practice are implemented. Customs and revenue administrations are facing very real challenges in this regard and the implications are far reaching. For example, if a customs organisation is incapable of adjusting its work practices to meet the needs of international trade and the costs for traders rise as a result, there will be a greater risk of companies leaving the country and re-locating to countries that offer more favourable economic conditions (and a more efficient customs service). This will result in an unacceptable loss of revenue and impact on international trade.

Any customs organisation depends on global trade and must therefore take steps to combat existing threats to security. That is why customs organisations are facing demands to continuously adapt or develop in response to the changing security environment. The change process is now an organisational challenge that demands a great deal of effort and energy. Unfortunately, the results often turn out to be more modest than expected. A really change-adept organisation reacts to events effectively and improves itself accordingly. It also plays a leading role in the innovation and management of change; in other words, it acts proactively instead of reactively (Kanter 1999).

HYPOTHESIS OF THE STUDY

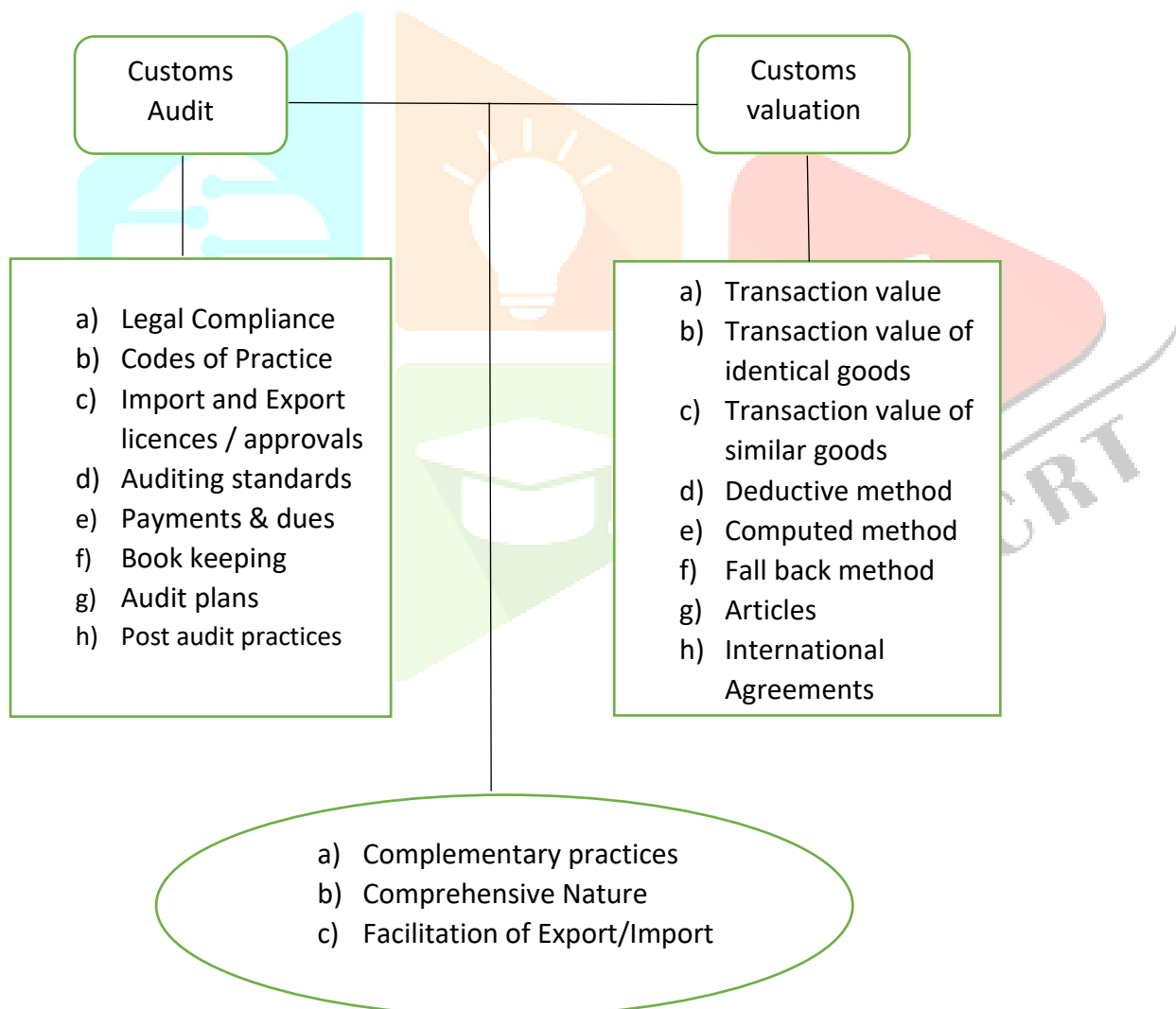
H1: There is no significant difference in International practice of Customs Valuation and its practice in India.

H2: There is no significant difference in International practice of Customs Audit and its practice in India.

H3: There is no significant difference in complementary nature of Customs valuation towards customs audit in practice.

RESEARCH FRAMEWORK

Below is the flow diagram which shows the research framework adopted in this research to study customs valuation and customs audit in India.



Significance of the Study

The research paper will have significant importance by showing the impact of applying Customs valuation & Customs Audit methods on trade facilitation including the following benefits

- 1) It enables employees more understanding of WTO valuation methods clearly.
- 2) Identifying the impact of the overall the customs valuation method affects the trade facilitation.
- 3) Establishing the solutions for the problems related to valuation method application according to the WTO agreement.
- 4) Finding out the advantages and disadvantages of the implementation of customs valuation & Customs Audit methods.
- 5) Describing also the knowhow and the ability of understanding implementation of the methods of employees of customs revenue and customs office's especially those working in assessment of declarations of import goods team which is also very helpful for higher officials.

OBJECTIVES OF THE STUDY

Objectives are the main crusader for the research activity. This will set direction to proceed further on the taken research. In the present study it is analysed the existing practices in customs valuation and customs audit in our country. The objectives are as follows.

- 1) To find out the existing common practices of customs valuation and customs audit in India.
- 2) To analyze the determining value of transaction under existing economic circumstances of customs valuation.
- 3) To explore the different customs audit methods in practice and its significance.
- 4) To study the impact of global best practices in customs valuation and customs audit and its adoption in our country.
- 5) To understand the effect of customs valuation and customs audit and its transparency in facilitating export-import of our country.

RESULTS AND DISCUSSION

The analysis was carried out in SPSS tool and 314 surveys were taken and analysed. The tools used are Multiple Regression Analysis. The results of the three hypothesis are as follows.

H1: There is no significant difference between Customs procedure followed in India and WTO recommendations.

R square is the proportion of the variance in the dependent variable which can be predicted from the independent variables. This value indicates that 32.5% of the variance in Customs procedure can be predicted from the independent variable - WTO recommendations. Hence, the regression model is termed fit and the relationship between dependent variable and independent variable are well established

H2: There is no significant difference in International practice of Customs Valuation and its practice in India.

R square is the proportion of the variance in the dependent variable which can be predicted from the independent variables. This value indicates that 31.2% of the variance in International practice of Customs procedure can be predicted from the independent variable – India's customs procedure. Hence, the regression model is termed fit and the relationship between dependent variable and independent variable are well established

H3: There is no significant difference in complementary nature of Customs valuation towards customs audit in practice.

R square is the proportion of the variance in the dependent variable which can be predicted from the independent variables. This value indicates that 40.9% of the variance in complementary nature of customs valuation can be predicted from the independent variable – Customs audit in practice. Hence, the regression model is termed fit and the relationship between dependent variable and independent variable are established

CONCLUDING REMARKS

The results shows that the complementary nature of customs valuation and customs audit are brining value addition to the customs practices in our country. The statistical analysis confirms the same. The null hypothesis are accepted in all the cases because the model adopted for this study didn't have any particular significance and everything is contributing in nature. Hence, it is concluded that the Customs Audit & Valuation model are align well and it is contributing in nature.

LIMITATIONS OF THE STUDY

This study was conducted in southern part of India and it may not represent the full population of India. Due to online responses some of the questions left by the respondents shows errors and it was corrected based on statistical rules. The study can be further enhanced by conducting pan India and collecting more samples.

References

- 1) Asia-Pacific Research and Training Network on Trade Working Paper Series, No. 25, December 2006
- 2) Ainsworth, RT 2007, 'IT-APAS: harmonizing inconsistent transfer pricing rules in Income Tax –
- 3) Customs – VAT', Boston University School of Law, Working Paper Series, Law and Economics, No. 07-23 (2007), http://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID1013518_code355514.pdf?abstractid=1013518&mirid=1.
- 4) Australian Customs and Border Protection Service (n.d.), Practice Statement No. PS2009/21, Applying for a Valuation Advice relating to transfer pricing, www.customs.gov.au/.
- 5) Bakker, A & Obuoforibo, B (eds) 2009, Transfer pricing and customs valuation: two worlds to tax as one, IBFD, Amsterdam.
- 6) Canada Border Services Agency 2001, Memorandum D-13-4-5 'Transaction value method for related persons', www.cbsa-asfc.gc.ca/publications/dm-md/d13-eng.html.
- 7) Canada Border Services Agency 2006, Memorandum D-13-3-6 'Income tax transfer pricing and customs
- 8) valuation', www.cbsa-asfc.gc.ca/publications/dm-md/d13-eng.html.
- 9) Cody, BJ 1993-94, 'Interaction of Customs and IRS values: recent developments in Section 1059A',
- 10) Journal of Corporate Taxation, vol. 20, p. 394.
- 11) Desiderio, D & Desiderio, FJ 2010, 'Thoughts on the "first sale" rule', World Customs Journal, vol. 4, no. 1, pp. 39-44.
- 12) Dorn, JW & Dorris, GC 1989, 'Transfer pricing between related parties – a comparison of US customs valuation rules and tax allocations under section 482', Intertax, no. 2-3, p. 72.
- 13) Ibáñez Marsilla, S 2002, 'La trascendencia de la valoración aduanera en el Impuesto sobre Sociedades.
- 14) Especial referencia al "transfer pricing"', Civitas Revista Española de Derecho Financiero, no. 113, pp. 47-98.
- 15) Levine, HJ & Littman, AJ 1994, 'The use of middlemen in importation of goods: inconsistencies between tax and customs valuation rules', Tax Management International Journal, vol. 23, no. 5, p. 233.
- 16) Lucas Mas, M 2008, 'Section 1059A: an obstacle to achieving consistent legislation?', International Transfer Pricing Journal, January-February, pp. 3-14.
- 17) Maisto, G 2001, 'Cross-border valuation for income tax, customs duties and VAT', IBFD Bulletin, March, pp. 107-13.
- 18) Martín Jovanovich, J 2002, Customs valuation and transfer pricing, Kluwer Law International, London.
- 19) Martín Jovanovich, J 2007, 'Precios de transferencia en materia aduanera e impositiva. El uso de las
- 20) directrices de la OCDE en el contexto del artículo 1.2.(a) del Acuerdo de Valoración de mercaderías

- 21) de la OMC', www.iaea.org.ar/doctrina/jovanovich.pdf.
- 22) Mavridis, P 1994, 'Determining income tax cost for property imported from related parties', Journal of Taxation, vol. 81, p. 168.
- 23) Neville, MK Jr 1993, 'Customs planning may avoid conflict with IRS transfer pricing rules', Journal of International Taxation, vol. 4, no. 2.
- 24) Neville, MK 2008, "First sale for export" under attack by Customs – again', 19 Journal of International Taxation, vol. 19, no. 17.
- 25) Offerman, SI 1999, 'The effect of customs reconciliation on taxable income', Brooklyn Journal of International Law, vol. 25, no. 3, p. 693.
- 26) Organisation for Economic Cooperation and Development (OECD) 2010, OECD transfer pricing guidelines for multinational enterprises and tax administrations, OECD, Paris.
- 27) APEC Secretariat 2003, The Revised Kyoto Convention: a pathway to accession and implementation, prepared by the Centre for Customs & Excise Studies, University of Canberra,
- 28) APEC Sub-Committee on Customs Procedures (SCCP), Asia Pacific Economic Cooperation (APEC) Secretariat, Singapore.
- 29) T Hayes 1993, Can EDI eliminate Customs? Address by Mr TP Hayes, AO, Secretary General, Customs Co-operation Council, to the Pan-Asian EDI Summit, Kuala Lumpur, Malaysia, July.
- 30) Revised Kyoto Convention, Ch. 6, p. 9.
- 31) Trade Facilitation Issues in the Doha Ministerial Declaration Review of the GATT Articles, Article X: Communication from
- 32) The WCO to the Council for Trade in Goods, dated 11 July 2002.
- 33) WCO 2005, Framework of Standards to Secure and Facilitate Global Trade, World Customs Organization, Brussels.
- 34) WCO Framework of Standards, p. 6.
- 35) WCO Framework of Standards, p. 13.
- 36) <https://taxguru.in/custom-duty/customs-valuation-india.html>
- 37) https://www.wto.org/english/tratop_e/cusval_e/cusval_info_e.htm
- 38) [https://taxguru.in/custom-duty/customs-valuation-india.html#:~:text=India%20is%20presently%20following%20the,\(ad%2Dvalorem%20rates\).&text=India%20implemented%20the%20ACV%20in%20August%201988.](https://taxguru.in/custom-duty/customs-valuation-india.html#:~:text=India%20is%20presently%20following%20the,(ad%2Dvalorem%20rates).&text=India%20implemented%20the%20ACV%20in%20August%201988.)
- 39) <http://ris.org.in/pdf/Chaturvedi-Sachin-2006-CustomsvaluationinIndia.pdf>