Gold Imports and the Sleight of Hand

Why in news?

Duty-free gold imports meant for exports after value-addition is being routed to the domestic market and such diversion must be checked.

What is the issue?

- An average of 170 tonnes of duty-free gold are imported every year that has found its way into domestic consumption.
- This translates to approximately 7 billion dollars of imports, with customs duty of 700 million dollar and GST of 300 million dollar foregone every year.
- The haul seized from exporters in Hyderabad, Gandhinagar, Mumbai and Kolkata helps set the context to a phenomenon that goes largely undetected.
- The number of cases caught in these instances is surprisingly lower than the conventional smuggling channels such as hand-carry and cross-border/ sea routes.

Gold consumption in India increased to 797.3 tonnes in 2021, the highest in the past five years, according to the World Gold Council data. India is ranked 9th among the countries that hold the most gold as of 2021.

How it is done?

- The gold is bought from a bank duty-free for export, the manufacturer makes plain jewellery, which typically takes eight days, and sells it in the domestic market against exchange of a bar.
- The bar would go back to the manufacturer, thereby showing work-in-progress for exports.
- Before the end of the 90th day, gold-coated jewellery with underlying copper is exported and that batch is sold in the domestic market as plain jewellery.
- In principle, one could turn the stock at least eight times before exporting and also, at the end, earn the duty differential.
- The entire machinery is well-orchestrated and pre-decided, thereby earning the approval of Indian Customs, and making the export legally proper.
- In spite of the minimum value-addition norm in place, the value of the export shipment is kept lower and invariably remains undetected in an online system monitored by risk protocols.
- Recently, many nominated banks/agencies have been slapped with penalties as they were the importers on record and, consequently, supplied gold to the exporters.
- The source of the problem rests with the buyer of duty-free gold and not the nominated banks/agencies that supply gold to them.
- The investigations conducted by the Directorate of Revenue Intelligence (DRI) highlights the differential duty liability on the nominated banks/agencies and not the exporters, who allegedly indulge in the fraud.

What does the law mandate?

- The Customs law mandates that for making a tax demand beyond the period of two years of import, there needs to be a collusion or suppression of facts on the part of the importer.
- Unfortunately, with the demand being slapped on the nominated bank/agency, the cases do not stand legal scrutiny in the absence of any evidence.
- The exporter, on the other hand, having got away with a small penalty and no duty demand is perpetually tempted to repeat it.
- Gold smuggling continues unabated under the watch of the regulators, making this a challenge.

What is the way out?

- The only possible solution to this is to remove the tax arbitrage and mandate that only GST registered jewellers or those that have unique ID for being a manufacturer for exports can take up manufacturing of jewellery for export purpose.
- There has to be a mechanism in place whereby the nominated agencies/banks are able to track the remittances received by the exporter.
- The India International Bullion Exchange could provide a solution to this problem by shifting the liability completely over to the exporter.
- The exporters need to be mandated to buy gold through the exchange platform against duty bond and linking it with the remittance.

Reference

1. https://www.thehindubusinessline.com/opinion/tax-evasion-in-gold-business/article6508032ece