
BUDGET 2020

DETAILED ANALYSIS

INDIRECT TAXES



CUSTOMS

Legislative Changes

1. **Additional responsibility on importer claiming FTA benefit on import into India**—A new Chapter VAA (section 28DA) has been added to the Customs Act which provides that:
 - (a) Importer intending to avail FTA exemption notification benefit will have to make a declaration at the time of import that goods qualify as originating goods for preferential rate, and possess sufficient information regarding satisfying country of origin criteria;
 - (b) Merely submitting certificate of origin (COO) will not absolve the importer's responsibility regarding the origin criteria of the imported goods;
 - (c) In case of doubt regarding origin of imported goods, the customs authorities may request the importer to furnish such information or any additional information. The customs authorities are also empowered to dis-allow the benefit of FTA in cases where no such information is furnished;
 - (d) Wherever required, the customs authorities are also empowered to seek required information from the COO issuing authority for verification of the origin criteria. Till such verification, the customs authorities may temporarily suspend the benefit of FTA on such import of goods from the foreign supplier;
 - (e) In the interim, goods will be allowed to be cleared either on provisional basis and with appropriate security for the differential duty amount or without giving the subject FTA benefit;

- (f) Basis the information furnished and verification by the customs authorities, depending on whether the imported goods comply with the country of origin criteria, the customs authorities may allow or dis-allow the FTA benefit.
- 2. Time limit for adjudication of show cause notice (SCN) issued under Section 28 of the Customs Act** – Explanation 4 has been added to Section 28 of the Customs Act to provide that provisions introduced in section 28 vide the Finance Act 2018 (including time limit for adjudication of SCN by the department) will not be applicable to SCNs issued prior to the commencement of the Finance Act, 2018 (i.e., 29.03.2018).
- 3. Central Government empowered to prohibit import and export of goods to prevent injury to the Indian economy** – Section 11(2)(f) of the Customs Act amended to empower the Central Government to prohibit import and export of goods (apart from gold and silver in respect of which the Central Government is already empowered), to prevent injury to the Indian economy by its uncontrolled import / export.
- 4. Electronic Duty Credit Ledger and Duty Credit** – A new Section 51B has been added to the Customs Act which provides that:
- (a) Electronic duty credit ledger will be set up which shall be maintained in the customs automated system;
 - (b) It will be credited with duty credit, to be issued by the Central Government, in lieu of taxes suffered on inputs / raw materials used in the manufacture or processing of exported goods (or carrying out operations on such exported goods) and other financial benefits (to be specified)
 - (c) This duty credit can be used for payment of all types of customs duties (BCD, IGST, SWS, CVD, SAD, anti-dumping duties, safeguard duty, etc) payable at the time of import, and can be transferred for use by any other importer.

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5. **Safeguard measures** – Section 8B of the Customs Tariff Act has been substituted to empower the Central Government to apply safeguard measures in case any article is imported into India in such increased quantity and under such conditions so as to cause or threaten to cause serious injury to domestic industry. Such safeguard measure will include imposition of safeguard duty or application of a Tariff Rate Quota or any other measure that may be considered appropriate by the Central Government.
 6. **Anti-circumvention provisions added in the Countervailing Duty Rules** –Several provisions are being added in the Countervailing Duty Rules, 1995 to enable investigation into cases of circumvention of countervailing duty, for enabling imposition of countervailing duty on such circumvention.
 7. **Strengthening of anti-circumvention provisions in the Anti-dumping Duty Rules**– Several changes have been made in the Anti-dumping Duty Rules, 1995 to strengthen the existing anti-circumvention measures by making them more comprehensive and wider in scope to take care of all types of circumventions of antidumping duty in line with best international practice.
 8. **Imposition of Health Cess on import of certain medical equipment**–Clause 139 of the Finance Bill, 2020 provides for levy of “Health Cess”, as a duty of customs, on the import of medical devices falling under customs tariff headings 9018 to 9022. It will be payable at the rate of 5% *ad valorem* on the import value of such goods. This Health Cess is not payable on medical devices which are exempt from BCD, including under the FTA notifications.

Rate Changes

9. **Changes in tariff rate of customs duty (BCD)** – On several products tariff rate of customs duty (BCD) has been enhanced. Further, four new tariff items have been added

to the First Schedule to the Customs Tariff Act. These new rates and new entries have been provided in **Annexure-1**.

- 10. Changes in effective rate of customs duty (BCD)** – In respect of several products, the effective rate of customs duty (BCD) has been revised. Such revised rates have been provided in **Annexure-2**.
- 11. Withdrawal of exemption notifications**–Existing customs duty exemption has been withdrawn in respect of several goods. List of such goods and exemptions has been annexed as **Annexure-3**.
- 12. Social Welfare Surcharge (SWS) exemption**– Several goods have been exempted from payment of SWS. List of such goods have been annexed as **Annexure-4**.
- 13. Excise duty rate changes** – Rate of excise duty on several products has been revised. List of such revision has been annexed as **Annexure-5**.

GOODS AND SERVICES TAX (GST)

Facilitation measures for Trade and Industry

- 1. Input Tax Credit on debit note** – Date of issuance of debit note has been delinked from the date of issuance of the underlying invoice for purposes of availing input tax credit in terms of Section 16(4).
- 2. Cancellation of Voluntary Registration** – Cancellation of registration which has been obtained voluntarily under sub-section (3) of section 25 will also be covered under clause (c) of sub-section (1) of Section 29.

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3. **Revocation of Cancellation** – A proviso to sub-section 1 of section 30 of the CGST Act is being inserted to empower the jurisdictional tax authorities to extend the date for application of revocation of cancellation of registration in deserving cases
 4. **No late fee on non- issuance of TDS Certificates** – Section 51 of the CGST Act is being amended to remove the requirement of issuance of TDS certificate by the deductor and the corresponding provision of late fees for delay in issuance of TDS certificate. Therefore, there is no late fee provision if the deductor does not issue TDS certificate

For improving compliance

5. **Provision for Composition scheme amended to exclude service suppliers** - Section 10 of the CGST Act is being amended, so as to exclude from the ambit of the Composition scheme certain categories of taxable persons, engaged in making-
 - (a) supply of services not leviable to tax under the CGST Act, or
 - (b) inter-State outward supply of services, or
 - (c) outward supply of services through an e-Commerce operator
6. **Fraudulent availment of credit provision made more stringent** - Section 122 of the CGST Act is being amended by inserting a new sub-section to make the beneficiary of the transactions of passing on or availing fraudulent Input Tax Credit liable for penalty similar to the penalty leviable on the person who commits such specified offences.

Section 132 of the CGST Act is being amended to make the offence of fraudulent availment of input tax credit without an invoice or bill a cognizable and non-bailable offence; and to make any person who commits, or causes the commission and retains the benefit of transactions arising out of specified offences liable for punishment

7. **Provision made to set up GST Tribunal in Jammu and Kashmir and Ladakh -** Section 109 of the CGST Act is being amended to bring the provision for Appellate Tribunal under the CGST Act in the Union territory of Jammu and Kashmir and Ladakh.
8. **Transfer of Business Assets without consideration removed from Schedule II -** Entries at 4(a) & 4(b) in Schedule II of the CGST Act is being amended with effect from 01.07.2017 to make provision for omission of supplies relating to transfer of business assets made without any consideration from Schedule II of the said Act.
9. **No refund of inverted duty structure on tobacco products for compensation cess retrospectively -** The refund of accumulated credit of compensation cess on tobacco products arising out of inverted duty structure in Compensation Cess has been disallowed with effect from 1.10.2019 vide notification No. 3/2019- Compensation Cess (Rate) dated 30.9.2019. This notification is being given retrospective effect from 1.7.2017 onwards. Accordingly, no refund on account of inverted duty structure shall be admissible on tobacco products for any period.