



# BUDGET 2021-22

## IMPACT ON INDIRECT TAXES

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Former Additional DGFT and Development Commissioner-SEZ's

Union Budget (2021-22) was presented on 1<sup>st</sup> February 2021 by the Hon'ble Finance Minister. The salient features and highlights include:

### **Focus on six pillars to revive the economy, as announced by the FM:**

- Health and Wellbeing
- Physical and Financial Capital and Infrastructure
- Inclusive Development for Aspirational India
- Reinvigorating Human Capital
- Innovation and R&D
- Minimum Government and Maximum Governance

### **CUSTOMS**

#### **A. Bill of Entry Requirements**

- Bill of Entry is to be filed one day prior to the arrival of conveyance
- Earlier provision states that the Bill of entry was to be presented within 30 days before the expected arrival of vessel
- It shall not be later than by the end of day on which goods have arrived in India
- Different time limit in specific instances can be set-up by the Board
- The Importer and CHA have to gear up to meet the time-lines

#### **B. AIDC – a new provision**

Agriculture Infrastructure and Development Cess (AIDC) for financing improvement in Agriculture, Infrastructure/other development expenditure has been introduced with an aim to finance agriculture Infrastructure and development, as follows:

- With effect from 2.2.2021
- To be levied as an additional levy on the CIF value of imported goods
- SWS would be levied on AIDC (exempted on Gold and Silver)
- Imports under FTA, EOU, Advance Authorization Schemes exempted from AIDC
- It has been imposed on Petrol/Diesel at Rs 2.5/4 per litre respectively

#### **C. Social Welfare Surcharge (SWS) amendments**

The amendments in Social Welfare Charge are proposed as follows:

- SWS on Marble and Travertine/Block of Marbles (251511/251512) revoked
- SWS @ of 3% on Gold and Silver revoked; they would attract surcharge at the normal rate, only on value plus basic customs duty
- SWS on the value of AIDC imposed on gold and silver exempted

#### **D. Common Customs Electronic-Portal**

A "Common Customs Electronic Portal" has been introduced similar to the GST regime. This endeavours to:

- Facilitate registration and filing of documents like the Bill of entry, Shipping bills, Duty-payment etc.
- Empower the Authorised officer to amend documents electronically with safeguards
- Enable the importers and exporters also to carry out specified amendments

- Post notices, orders, summons etc. on the portal itself

#### **E. Anti-Dumping & Countervailing Duty Amendments**

- Time-limit for has been limited to five years for imposition of ADD/CVD as against for a fixed period of five years
- Final findings on ADD/CVD are to be issued by Designated Authority at least three months prior to expiry of ADD/CVD under review
- ADD/CVD in respect of circumvention cases can be Imposed retroactively wef date of initiation of anti-circumvention investigation
- Anti-absorption provisions introduced for specific cases
- ADD/CVD not applicable to SEZ/100% EOU units, unless the end-products are sold in the Domestic Tariff Area
- Temporarily revocation of ADD/CVD shall not exceed one year at a time
- Procedural and technical amendments for causing investigation into cases of imports in increased quantity causing injury to domestic market have been incorporated

#### **F. ADD and CVD on Primary Infrastructure Item - Steel**

- ADD revoked on import of Cold-Rolled Flat products of stainless steel
  - width 600mm to 1250 mm
  - non *bona-fide* usage
  - originating in or exported from PR China, Korea RP, European Union, South Africa, Taiwan, USA
- ADD revoked on import on following products for a short-time period (02.02.2021 to 30.09.2021)
  - Straight Length Bars and Rods of Alloy-steel originating/exported from PR China
  - High Speed Steel of Non-Cobalt Grade originating/exported from Brazil or PR China
  - Flat rolled product of steel, plated or coated with Alloy originating/ exported from PR China, Korea and Vietnam

#### **G. Customs (IGCR) Rules, 2017 - amendments thereof**

Customs IGCR Rules introduced in June, 2017 (Import of Goods at Concessional Rate of Duty) has been amended as follows:

- Importer permitted to clear imported capital goods on payment of differential duty and interest on depreciated value
- Depreciation norms as applied to EOU's would be applicable
- Materials (excepting gold, jewellery and other precious metals) imported under IGCR Rules permitted to be sent to job-worker under prescribed procedure
- 100% out-sourcing for manufacture of goods permitted on job work

#### **H. Important Amendments/Announcements**

- New conditional exemption notifications will be valid for two years
  - Ending 31st March from the date notified
  - Existing conditional exemption shall be valid up to 31<sup>st</sup> March, 2023
- Two-years' time-period prescribed for completion of inquiry/investigation culminating into the issuance of Notice
  - This will start from the initiation of Audit/Search/Seizure/Summons
  - Extendable by one year by Commissioner/Principal Commissioner
  - On production of sufficient cause
  - Stay-period excluded for issue of SCN
- Cases involving input tax credit under GST being claimed on basis of fraudulent invoices and utilised for the payment of integrated tax on exports will attract penalty,
  - Up to five times the amount of refund to be levied under Customs
  - This penalty will be in addition to penalty imposed under GST
- Jurisdictional Commissioner (Appeals) empowered to certify the correctness of the inventory of gold seized

- Power to confiscate any goods entered for exports for which wrongful claim of remission/refund of any duty/tax levy under Customs Act, 1962/other laws has been granted
- 'Turant Customs' introduced in 2020 for faceless, paperless, and contactless Customs measures has been found helpful
- Items on which Customs Duty Rates are revised:
  - Reduced duty on copper scrap from 5% to 2.5%
  - Basic and Special additional excise duty on petrol and high-speed diesel oil (both branded and unbranded) is reduced
  - Increased duty on solar inverters from 5% to 20%
  - Raised duty on solar lanterns from 5% to 15%
  - New tariff items under 24041100 and 240419 00 have been inserted in accordance with upcoming HS 2022 nomenclature
  - NCCD (National Calamity Contingent Duty) of 25% is prescribed on these tariff items with effect from 1st January 2022
  - Customs duty increased on cotton, silks, alcohol, etc.

#### **I. Withdrawal of Exemption notifications:**

- Customs duty exemptions that have been rescinded are as follows:
  - 1/2011-Customs of 6.1.2011 - exemption to all items of machinery, instruments, appliances, components or auxiliary equipment for initial setting up of solar power generation project or facility
  - 34/2017-Customs of 30.6.2017 - exemption to tags or labels (whether made of paper, cloth, or plastic), or printed bags (whether made of polyethylene, polypropylene, PVC, high molecular or high density polyethylene) imported for fixing on articles for export or for the packaging of such articles
  - 75/2017-Customs of 13.9.2017 - exemption for goods imported for organizing FIFA Under-17 World Cup, 2017
- Sunset clause is introduced for all existing conditional exemptions which shall be valid till 31 March 2023, unless withdrawn earlier

#### **Central Excise**

#### **J. Important Central Excise amendments**

- An Agriculture Infrastructure and Development Cess (AIDC) as an additional duty of excise has been proposed on Petrol and High speed diesel
- However, the Basic Excise Duty (BED) and Special Additional Excise Duty (SAED) on Petrol and High-speed diesel is reduced and the consumer will have no additional burden on account of imposition of AIDC

#### **GST**

#### **K. GSTR-1 needs to be filed to avail ITC**

##### **Amendment of Section 16 of the CGST Act**

- Section 16 of the CGST Act deals with the eligibility and conditions for claiming ITC (Input tax credit)
- This section 16 has been amended to allow taxpayers' to claim input tax credit based on GSTR-2A/2B statements
- Henceforth, input tax credit on invoices or debit notes is available only when the supplier has furnished the details of such invoice or debit note in the statement of outward supplies
- It is mandatory to communicate this information to the recipient of such invoice
- **New provision:** A new condition has been inserted in the Act for claiming ITC wherein details of invoices should now be uploaded by the suppliers in GSTR-1 and ITC is to be availed only once GSTR-1 is filed
- **Earlier provision:** ITC was restricted to 105% of the eligible credit indicated in GSTR-2A as per return filed by supplier in form GSTR-1

**L. Interest on tax liability**

There is a provision for interest @18% on delay in remittance of tax beyond due date. It has now been made amply clear that the interest is payable on Net Tax Liability (Tax liability after adjusting the Input Tax Credit) and not the Gross Tax liability (total output tax) and that it shall be applicable retrospectively.

**M. Attachment of Bank Account**

- Section 83(1) now empowers the Commissioner to provisionally attach the properties (including bank account) upon provisional assessment, tax collected but not paid to Government, inspection of goods in movement, scrutiny of returns etc.

**N. Pre-deposit of 25% of penalty amount to contest Appeal**

- As per a new proviso to Section 107, no appeal can be filed before the Appellate authority against order passed on seizure of goods unless a penalty of 25% is paid

**O. Release of goods which have been seized**

- The penalty amount for or release of goods/vehicle in case of default of E-way bill, has been increased from 100% to 200% of the tax amount
- A time-line of seven days for issue of Notice has been introduced
- In the event of detention of vehicle release can be obtained by the transporter on payment of penalty as follows:
  - 200% of tax payable if owner of the goods comes forward for payment
  - 50% of the value of goods in case the owner of the goods does not come forward
  - Rs 1 lakhs, whichever is lower

**P. Zero Rated Transactions**

- Payment to be received within time-limits prescribed for exports

Payment must be received within the time-period prescribed, failing which there will be a recovery along with interest. However, the notification is awaited

**Supplies towards authorized operations in SEZ**

Supplies to SEZ Developer or Unit was treated as zero rated supply and now supplies made only for authorized operations shall be considered as zero rated

**Q. Reconciliation Statement and GST Audit**

- Requirement of getting books audited under GST has been done away with
- Provision for self-certified reconciliation of Annual Return with Audited Financial Statements introduced
- Commissioner may exempt a class of taxpayers from the requirement of filing the annual returns

**R. Supplies between a Company and its Member**

- Supply includes transaction between persons and its members
- As per a new provision the definition of 'Supply' has been broadened to include transactions between a Person (other than individual) and its members for cash, deferred payment etc. and taxed accordingly
- It is now evident that the scope of 'Supply' includes transactions between the member and its company
- However, GST shall be applicable on such transactions

#### S. **Miscellaneous Provisions:**

- Seizure and confiscation of goods in transit is now a separate proceeding
- It is no longer a part of section 74
- Section 74 deals with cases of
  - Non-payment of taxes
  - Short-payment of taxes involving fraud or suppression of facts
- Hence, the entire proceeding is different from Recovery of Tax
- Self-assessed tax now includes invoices declared in GSTR-1 even if tax has not been paid on such invoices in GSTR-3B
- Jurisdictional Commissioner is now empowered to call for information from **any person** as against the earlier provision to call only the **concerned person**
- An opportunity of being heard to the **concerned person** is being provided for using the information obtained under sections 150/151 for any proceedings
- Jurisdictional Commissioner will be able to exercise powers under section 151 to call for information

#### **Central Sales Tax**

#### T. **CST Amendments**

- Under section 8 of Central Sales Tax Act, 1956, Form "C" can be issued only in cases where the Registered person:
  - Resells the goods so procured
  - Utilises the same in manufacture, processing and sale of only those goods currently covered under CST
- Goods covered under CST include:
  - Petroleum Crude
  - High Speed Diesel
  - Petrol
  - Natural Gas
  - Aviation Turbine Fuel
  - Alcohol for Human Consumption

#### **Important Government Statements:**

1. MACRO-ECONOMIC FRAMEWORK STATEMENT 2021-22  
available at: <https://www.indiabudget.gov.in/doc/frbm1.pdf>
2. Relevant Notifications are available at:  
<https://www.indiabudget.gov.in/doc/cen/explanatorynote.pdf>
3. The sources referred to are primarily from the Government Budget site and speech of the Hon'ble Finance Minister. However, various sites available in the public domain have also been referred to.