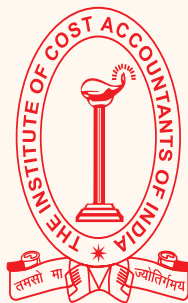




PRE BUDGET MEMORANDUM 2020 - 21

(Suggestions on Customs)



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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"Behind Every Successful Business Decision, there is always a CMA"



MISSION STATEMENT

“The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.”

VISION STATEMENT

“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

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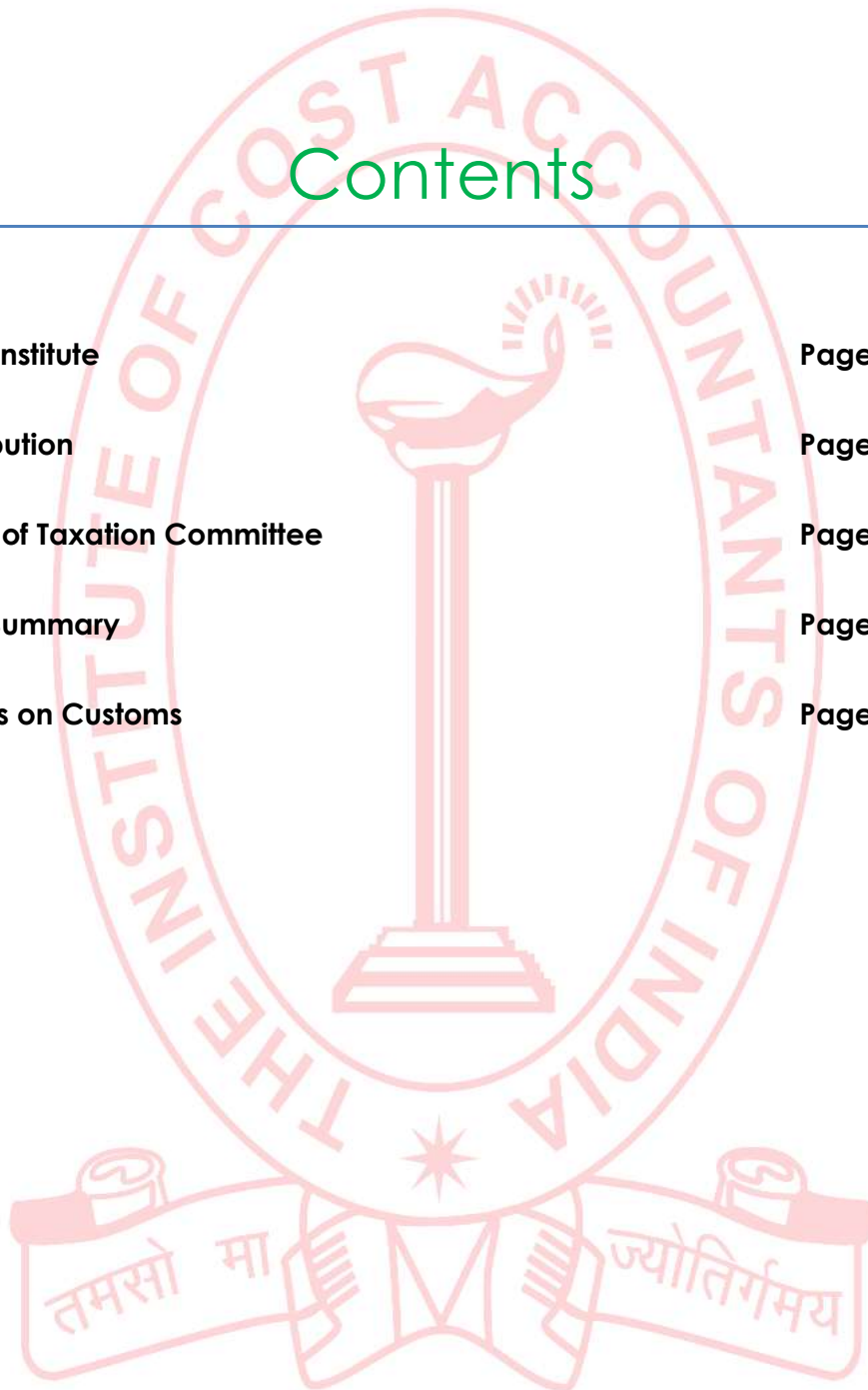
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About The Institute

The Institute of Cost Accountants of India (ICAI) is a premier professional body of Management Accountants in the country established on 28th May, 1959 under the Cost and Works Accountants Act, 1959 enacted by the Act of Parliament to regulate the profession of Cost and Management Accountancy in India. It is Statutorily Recognized by the Act of Parliament in 1959 - as The Cost & Works Accountants of India (ICWAI). The ICWAI is recognized by the Parliament as The Institute of Cost Accountants of India (ICAI), w.e.f. 1st Feb, 2012.

The Institute is governed by a Council in accordance with provisions of the Cost and Works Accountants Act, 1959 as may be amended from time to time and Rules and Regulations framed there under.

The Institute, as a part of its obligation regulates the profession of Cost and Management Accountancy. The Institute also pursues the vision of cost competitiveness, cost management, efficient use of resources and structured approach to cost accounting as the key drivers of the profession. The Institute has been associated and taken part in all the major tax reforms in the country starting from Direct Tax to Indirect Tax regime including VAT/Central excise/Service Tax ending with the biggest tax reform in India in the way of implementation of GST

Over the year the Cost and Management Accountancy profession has registered a tremendous growth and has occupied a prominent role in our economy and society.

The curriculum of the Institute is designed to impart professional knowledge of Cost and Management Accountancy, taxation and related subject to make the qualified CMA industry ready. The expertise of the students qualifying in the Institutes Examinations are suited to render effective services to Industries, Financial bodies, etc.

The Institute is a member of the International Federation of Accountants (IFAC), The Confederation of Asian and Pacific Accountants (CAPA), The South Asian Federation of Accountants (SAFA), National Foundation for Corporate Governance (NFCG), Federation of Indian Chambers of Commerce and Industry (FICCI), Confederation of Indian Industry (CII) and The Associated Chambers of Commerce and Industry of India (ASSOCHAM). The Institute, as a leader in the field of accountancy in the South Asian Region, is also imparting training to accountants from overseas countries.

The consistent and determined efforts of the Institute to promote the growth of Cost and Management Accountancy Profession and valuable services rendered to the Industrial and commercial organization fuelled the urge that the profession should play its due role in the economic development of the nation.

Our Contribution

COST AND MANAGEMENT ACCOUNTANCY PROFESSION IN INDIA

With the globalization of all economic activities, the industries both in manufacturing and service sector have recognized the potential of Cost and Management Accounting profession in giving support in effective resource management and making the operations more cost effective for facing the challenges of management

Cost and Management Accountants provide services in investment planning, profit planning, project management and overall managerial decision making process. The Institute and its members have been contributing constructively in the field of accountancy and Taxation besides cost & management accounting. The members of the Institute are professionally qualified and experts to handle the critical issues relating to Accounting and taxation in and outside the Country. Many members of the Institute are holding top management positions, viz., Chairman, CEO/CFO, Managing Director, Finance Director, Financial Controller, Chief Accountant, Cost Controller, Marketing Manager, Chief Internal Auditor etc. With members of the Institute both in practice and employment in industry, the Institute has been one of the major pillars of the accounting and taxation system of country.

Central Government has constituted an all India cadre known as Indian Cost Accounting Service (ICAS) at par with class-I services for framing fiscal and tax policies.

The Specialized knowledge and skill of the professional members of the Institute are being given due recognition from time to time for different Audit or Certification work under different statutes like maintenance of Cost Accounting Records and Cost Audit under section 148 of The Companies Act 2013 and Valuation Audit, Cenvat Audit/Service Tax Audit under section 14A, and 14AA of the Central Excise Act, 1944, and Audit under VAT of Different states. CMAs are also recognized as auditor in GST rules. Apart from the above, various certification works also entrusted to PCMA's under DT and IDT regime.

The Institute, in recent past, has come out with a number of publications, handbooks on the both Direct and Indirect Tax for the benefit and capacity building of its members and other stakeholders. As a part of its obligation towards the society and stakeholders, the Institute has been organizing seminars, webinars, workshops and certificate courses on both Direct and Indirect Taxation in order to ensure capacity building among its stakeholders.

The Objectives of Taxation Committee

- Monitoring of Current tax legislation and analyzing changes of the existing legislation.
- Sharing of knowledge and experiences, proposing and recommending collective suggestions to the Ministries and Bodies for consideration to amend the legislation.
- To examine various laws, rules, regulations, circulars etc which are enacted or issued by the Government from time to time.
- To prepare and submit representations to the Governmental authorities and to send suitable Pre-Budget and Post-Budget Memoranda containing suggestions for improvements in the respective legislation.
- To respond to issues on Tax laws and practice referred by the Governmental authorities/Statutory Authorities/ Regulatory Bodies and stake holders.
- To assist, advice, update and guide to amend or modify Tax laws in the country for transparency, simplification and inclusion.
- To disseminate the knowledge through webinars and seminars, workshops to the members and students of the Institute.
- To conduct Seminars, workshops in different locations of the country to make aware the members and general public on various changes in the tax laws and capacity building
- To bring out new Publications and revise the existing publications relating to Direct and Indirect Tax laws.
- To organize courses on Tax Laws and practice.
- To update members in the field of taxation through fortnightly issue of E-Bulletin.
- To carry out various researches and publish the same.
- To deal with such other matters as the Council or the Taxation Committee may consider appropriate.

Executive Summary

We would like to extend our gratitude to Hon'ble Finance Minister Smt Nirmala Sitharaman for giving an opportunity to the Institute to submit the Pre-Budget Memorandum 2020-21 on Customs.

Suggestions were called from our members for incorporating the same in Pre Budget Memorandum 2020-21. Suggestions received in response from the members and business houses have been incorporated and compiled to prepare the final suggestion which we are submitting for kind consideration.

The suggestions has been drafted keeping in mind the progress and the vision of the country in order achieve Simplification and better control in terms of transparency and faster resolution of disputes etc.



Suggestions on Customs – Pre Budget Memorandum 2020-21

1. Valuation under Customs and Transfer Pricing

Both Customs and TP require taxpayer to establish arm's length principle with respect to transactions between related parties. Objective under respective laws is to provide safeguard measures to ensure that taxable values (whether it is import value of goods or reported tax profits) are the correct values on which respective taxes are levied. The above objective, while established on a common platform has diverse end-results as seen below: - To increase Customs duty amounts, the Customs (GATT Valuation) Cell would prefer to increase the import value of goods. - To increase tax, the Revenue Authorities would prefer to reduce purchase price of goods.

Suggestion:

The diverse end-results create ambiguity in the manner in which the taxpayer should report values under the Customs and the Transfer Pricing. There are various contradicting judicial precedents which favour and contradict the use of custom valuation in transfer pricing. These contradicting decisions necessitate a greater need for convergence of transfer pricing mechanism under the Act and the Customs Regulations.

There is a need for a common platform that would provide a 'middle-path' of arm's length price that is equally acceptable under Customs Law and under the Transfer Pricing.

2. Steel products - USA & China Trade war

Ensuing trade discord between USA & China, protectionist measures by EU, Canada, Turkey etc. and global steel excess capacity is impacting the steel market. The resultant increase in steel imports into India and consequently an increase in the country's current account deficit is a cause of serious concern for the steel industry. Imposition of import duty will provide that much needed

correction. Therefore, it is recommended to increase BCD from 10% and 12.5% to 25% on the following steel imports:

- i. Hot Rolled Steel - SAE 1006, SAE 1008, SAE 1010, SS400, SPHT 270, any form of IS 10748 and IS 2062
- ii. Cold Rolled Steel – CQ, DQ
- iii. Galvanised Steel - Defective/Secondary
- iv. Colour Coated Steel - JISG3312 ASTM, RAL 5012
- v. Wire Rods - IS 7904 High Carbon wire rods

Suggestion:

Increase in basic customs duty for certain steel products.

3. Clarification on disposal of scrap

The condition no. 48 under Sl. No.404 of customs notification no.50/2017 dated. June 30, 2017 was amended under pre-GST regime vide notification no.6/2017-Customs dated. February 2, 2017 to allow the disposal of goods imported after availing exemption as such goods were required for petroleum operations and are no longer required for petroleum operations, on payment of applicable customs duty on depreciated value of the goods. In this regard, it is submitted that E&P sector has constructed various onshore and offshore facilities including platforms, pipelines through lumpsum turnkey contracts. For construction of most of the facilities, equipment/goods were imported/domestically purchased by availing exemption or concession of applicable customs duty/excise duty. Many items like cranes, pumps, engines, valves, separators, tanks and piping etc. were imported along with platforms/processing facilities and consolidated value is declared in Bill of entries. As and when such items become unusable due to continuous use, these items are replaced by new items and such old items are declared to be disposed off as scrap. The requisite condition of exemption notification for utilizing the goods in connection with the petroleum operations is duly satisfied. Accordingly, it is requested that a clarification may be issued that the condition no.48 of Notification no.50/2017-Customs (supra) and similar condition under Notification No.3/2017-Integrated Tax (Rate) dated. June 28, 2017 is not applicable on disposal of items which have been used for petroleum operations and are no longer required and have become scrap.

Suggestion:

Provide clarification on non-applicability of customs duty on disposal of scrap.

4. Custom duty levied on clean fuel

LNG is a clean fuel and mainly used in fertilizer and Power sector. Recognizing the shortage of gas, Government has encouraged import of LNG. Import Duty (Basic Customs Duty) @ 2.5% plus Social Welfare surcharge @10% is applicable on import of Liquefied Natural Gas (LNG), thus the effective Customs duty comes to 2.75%. Import of LNG for exclusive consumption in generation of electric energy for public distribution is exempt from customs duty subject to certain conditions. However, other important sectors like fertilizer, LPG, CNG, PNG, and Petrochemical bears the burden of effective Custom duty @ 2.75%. The 140 Customs duty increases the landed cost of imported LNG for domestic and industrial consumers. Since the domestic production of Natural Gas is not enough to cater the increasing demand, import of LNG at large scale is required to augment supply of Natural Gas for priority sectors such as Fertilizer, CNG, LPG, PNG etc. It is suggested that LNG Import may be exempted from payment of customs duty (present rate @ 2.5% plus SWS @10%) to provide relief to gas based industries and domestic consumers.

Suggestion:

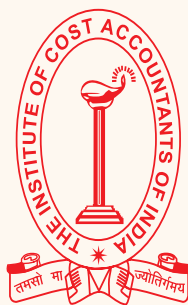
Exemption from Payment of Customs Duty on Import of Liquefied Natural Gas (LNG).

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