

Budget 2021 - Key Indirect Tax Proposals (Part 8)

04 March 2021

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UPDATES

The Finance Bill, 2021 (**Bill**) was a fully digital budget in the backdrop of COVID-19. It proposes several changes to strengthen the foundation of indirect tax laws such as the introduction of an online customs portal. The Budget also proposes several changes to emphasise building production capabilities in India, such as increasing customs duty rates on certain goods. Several proposals have also been made to reduce compliance burden for taxpayers under the GST framework such as the removal of requirement of GST audit by a chartered/cost accountant. We discuss some of the key changes below.

1 Customs Act, 1962

1.1 Customs Online Portal

The Bill seeks to introduce an online portal for Customs similar to the GSTN portal under the Goods and Services Tax laws. This portal would be a single point solution for facilitating registration, filing bills of entry, shipping bills, other documents and forms, and payment of duties of Customs. An amendment is also proposed to Section 153 to allow service of order, decision, summons, notice or any other communication to the taxpayer through the common portal.

This portal is expected to be a positive step towards streamlining Customs related compliances. It is also likely to assist in seamless integration of Customs clearance process with the faceless Customs assessment program known as 'Turant Customs' which was introduced in year 2020.

1.2 Automatic expiration of exemptions

Under the provisions of Customs Act, 1962 (**Customs Act**), certain conditional exemptions have been granted from the payment of customs duty on certain products. The Bill proposes to now expire these conditional exemptions in a time-bound manner. It is proposed that all conditional exemptions will expire on the 31 March of the year which follows after the exemption has been in place for two years (i.e. on the 31 March falling immediately after two years from the date of grant of such exemption). This period may also be varied or rescinded by the Government. The validity of all existing exemption i.e. the exemption which is in force as on the date on which the Bill receives the President's assent, will be calculated from 1 February 2021 and therefore will expire on 31 March 2023.

1.3 Time limit for completion of inquiry/investigations

The Bill proposes to insert Section 28BB to provide a time limit of 2 years for completion of inquiry or investigation under the Customs Act which would result in issuance of show cause notice. The time limit would be applicable to all cases, including those involving fraud, collusion, wilful suppression etc. The time limit of 2 years may be extended by the Principal Commissioner for an additional 1 year on sufficient cause being shown and for reasons to be recorded in writing.

Notably this amendment, if adopted, will come into effect prospectively and would not cover any on-going enquiry/ investigation.

The Finance Bill, 2021 proposes to amend indirect tax laws with an aim to provide impetus to domestic production, rationalize Customs duty and safeguard measures, and reduce the compliance burden on the taxpayer.

1.4 Time of presenting bill of entry

The Bill proposes to amend Section 46(3) to mandate presentation of bill of entry at the customs station on the day preceding the day of arrival of aircraft or vessel carrying the goods. The Bill also proposes to empower the Board to prescribe different time limits as it may deem fit for presentation of the bill of entry but not later than the end of the day of arrival.

The proposed amendment is likely to decrease the time required for Customs clearance of imported goods.

1.5 Electronic amendment of documents

The Bill proposes to amend Section 149 to allow electronic amendment of any document through the customs automated system on the basis of risk evaluation. The Board, under the proposed provision, may also specify the amendments that can be carried out by the importer or exporter on the common Customs portal.

The proposed amendment is in line with Government's efforts to integrate various aspects of tax laws by use of technology. Electronic amendment would allow faster transmission of importer/ exporter related data and documents, thus, resulting in efficient communications between various Customs department.

2 Customs Tariff Act, 1975

2.1 Anti-absorption of countervailing and anti-dumping duties

The Bill proposes to insert anti-absorption provisions for countervailing and antidumping duty. The proposed provisions will allow the Central Government to modify the countervailing/ antidumping duty on goods where the countervailing/ antidumping duty has been absorbed in a manner that renders it ineffective. The modification shall be effective from such date not earlier than the date of initiation of inquiry in this regard, as the Central Government may notify.

'Absorption of countervailing/antidumping duty' is said to take place:

- a. if there is a decrease in the export price of an article without any commensurate change in the resale price in India of such article imported from the exporting country or territory; or
- b. under such other circumstances as may be provided by rules.

The amendments proposed are in line with international practices and will ensure that importers do not counteract the effectiveness of countervailing and anti-dumping duties imposed on goods.

2.2 Countervailing and anti-dumping duties on EOUs/SEZs – Only to the extent of clearance in domestic market

The Bill proposes to insert Sections 9(2A) and 9A(2A) to specify those situations in which countervailing/ antidumping duty may be imposed on goods imported by a 100% export-oriented unit or special economic zone unit. It proposes that countervailing/ antidumping duty will not apply to goods imported by these units unless-

- a. it is specifically made applicable in the countervailing/ antidumping notification to such units; or
- b. such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, countervailing/ antidumping duty will be

imposed on that portion of the article so cleared or used, as was applicable when it was imported into India.

2.3 Five years validity of countervailing and anti-dumping duties

The Bill proposes to amend Sections 9(6) and 9A(5) to restrict the validity of countervailing/ antidumping duty from 'five years' to '*upto* five years'. It has further been provided that if the countervailing/ antidumping duty is revoked temporarily, the period of such revocation will not exceed 1 year at a time.

2.4 Imposition of Agriculture Infrastructure and Development Cess

The Bill proposes to introduce Agriculture Infrastructure and Development Cess (AIDC) to be levied on import of specified goods. To ensure that imposition of such cess does not impose any additional burden on the consumer, the basic customs duty rates on such specified goods would be lowered. The value of imported goods for the levy of AIDC will be in the manner prescribed under Section 14 of the Customs Act, 1962.

3 Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017

The Bill proposes to amend the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR Rules) to provide the following facilities:

- a. allow job-work of the materials (except gold and jewellery and other precious metals) imported under concessional rate of duty;
- b. allow 100% out-sourcing for manufacture of goods on job-work;
- c. allow imported capital goods that have been used for the specified purpose to be cleared on payment of differential duty, along with interest, on the depreciated value. The depreciation norms would be the same as applied to export-oriented units, as per Foreign Trade Policy.

These amendments bring much needed clarity on the issue of use of imported goods by job-worker for manufacturing under the IGCR Rules. Previously, there were divergent views on whether the imported goods given by the principal to its job-worker for manufacturing would be eligible for the concessional rate of Customs duty. With the proposed amendment, this ambiguity stands addressed.

4 Central Goods and Services Tax Act, 2017

4.1 Input Tax Credit

There are four conditions prescribed under Section 16 of the Central Goods and Services Tax Act, 2017 (CGST Act) for the recipient of goods/services to avail input tax credit (ITC). The Bill proposes one more condition for availing ITC by the recipient.

The Bill provides that ITC can be availed if details of invoice/debit note are furnished by the supplier in the outward supply return (GSTR-1) and communicated to the recipient as per Section 37 of the CGST Act. If the supplier fails to declare details of invoice/debit note in GSTR-1, ITC will not be available.

4.2 Removal of requirement of GST audit by Chartered Accountant or Cost Accountant

The Bill proposes to delete Section 35(5) of the CGST Act to remove the mandatory requirement of obtaining and submitting audited annual accounts and reconciliation statements from specified professionals. Further, the Bill also proposes to substitute Section 44 of the CGST Act to remove the mandatory requirement of

furnishing a reconciliation statement duly audited by a specified professional. The new Section 44 proposes the filing of the annual return along with a self-certified reconciliation statement.

4.3 Interest to be charged on net cash liability

The Bill proposes to substitute proviso to Section 50 of the CGST Act to provide that interest payable for supply made and declared in the return for a tax period, furnished after due date would be payable on portion of tax which is paid by debiting electronic cash ledger.

This provision is being introduced retrospectively from 1 July 2017 and will result in charging of interest on net cash liability.

4.4 Seizure and confiscation under separate proceedings

The Bill proposes certain amendments which will result in seizure and confiscation of goods and conveyances being considered as a separate proceeding from recovery of tax i.e., the assessing officer can continue with seizure and confiscation of goods and conveyances even after conclusion of recovery proceedings under Section 73 and Section 74 of the CGST Act.

5 Integrated Goods and Services Tax Act, 2017

5.1 Zero rated supply to SEZs only if supply for authorised operations

The Bill proposes to amend the Integrated Goods and Services Tax Act, 2017 (IGSTA) to provide that supply to a Special Economic Zone developer or a Special Economic Zone unit would qualify as zero-rated supply of goods or services if it is for authorised operations.

5.2 Omission of provision permitting the supplier to pay integrated tax and claim refund

The Bill proposes to delete the provision permitting a supplier to pay integrated tax and then subsequently claim refund thereof for making a zero-rated supply. The proposed amendment provides that refund of unutilised input tax credit on supply of goods or services can be claimed without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the CGST Act. That said, if supplier fails to realise foreign exchange as per the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, it would be liable to deposit the refund along with interest within 30 days after expiry of the time limit. The government has retained the power to declare the class of goods/person who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid. Further, as per the text of the proposed provision, it seems that the government will introduce safeguards and procedure in relation to refund of integrated tax on zero rated supply.

6 Revocation/ suspension of certain anti-dumping and countervailing duties

- a. Anti-Dumping duty is being temporarily revoked for the period commencing from 2 February 2021 till 30 September 2021, on imports of the following-

S. No.	Anti-dumping Duty	Revoked under
(i)	Straight Length Bars and Rods of alloy-steel, originating in or exported from People’s Republic of China, imposed vide Notification No. 54/2018-Cus (ADD) dated 18 October 2018	Notification No. 05/2021-Cus (ADD) dated 01 February 2021
(ii)	High Speed Steel of Non-Cobalt Grade, originating in or exported from Brazil, People’s Republic of China and Germany, imposed vide Notification No. 38/2019-Cus (ADD) dated 25 September 2019	Notification No. 06/2021-Cus (ADD) dated 01 February 2021
(iii)	Flat rolled product of steel, plated or coated with alloy of Aluminium or Zinc, originating in or exported from People’s Republic of China, Vietnam and Korea RP, imposed vide Notification No. 16/2020-Cus (ADD) dated 23 June 2020	Notification No. 07/2021-Cus (ADD) dated 01 February 2021

Countervailing duty is being temporarily revoked for the period commencing from 2 February 2021 till 30 September 2021, on imports of Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products, originating in or exported from People’s Republic of China, imposed vide notification No. 01/2017-Cus (CVD) dated 7 September 2017. This is being affected through Notification No. 02/2021-Cus (CVD) dated 1 February 2020

- b. Provisional Countervailing duty is being revoked on imports of Flat Products of Stainless Steel, originating in or exported from Indonesia, imposed vide notification No. 2/2020-Customs (CVD) dated 9 October 2020. This is being affected through Notification No. 01/2021-Cus (CVD) dated 1 February 2020.
- c. In Sunset Review, anti-dumping duty on Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250 mm of non-bonafide usage originating in or exported from People’s Republic of China, Korea RP, European Union, South Africa, Taiwan, Thailand and United States of America has been discontinued upon expiry of the anti-dumping duty hitherto leviable vide notifications no. 61/2015-Customs (ADD) dated 11 December, 2015 and 52/2017-Customs (ADD) dated 24 October, 2017. This is being affected through Notification F. No. 7/18/2020-DGTR dated 20 January 2021.

7 Customs Tariff Rates

With the introduction of Budget 2021, several rate changes have been made in the Customs Tariff. The most notable rate changes are as follows:

7.1 Increase in rates

Sr. No.	Description	From	To
Auto Sector			
1.	Specified auto parts like ignition wiring sets, safety glass, parts of signaling equipment, etc.	7.5%/ 10%	15%
Metal products			
2.	Screws, Nuts, etc.	10%	15%

Mobile and related devices

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Sr. No.	Description	From	To
3.	Inputs, parts or sub-parts for manufacture of specified parts of mobile phone	0	2.5%
4.	Printed Circuit Board Assembly (PCBA) and Moulded Plastic, for manufacture of charger or adapter	10%	15%
5.	Inputs and parts [other than PCBA and moulded plastic] of mobile charger	Nil	10%

Solar Devices

6.	Solar Inverters	5%	20%
7.	Solar lanterns or solar lamps	5%	15%

*Also, to attract Agriculture Infrastructure and Development Cess at the rate of 5%

7.2 Decrease in rates

Sr. No.	Description	From	To
1.	Nylon fibre and yarn	7.5%	5%

Input for Aviation Sector

2.	Components or parts, including engines, for manufacture of aircrafts by Public Sector Units of Ministry of Defence	2.5%	0
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Animal Husbandry

3.	Feed additives or pre-mixes	20%	15%
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*Also, to attract Agriculture Infrastructure and Development Cess at the rate of 2.5%

8 Project import benefits to 'High Speed Rail Projects'

The benefit of 'project import' notifications that allow duty free import of goods to be used in specified projects has been extended to all high-speed rail projects. The National High Speed Rail Corporation Limited will be the sponsoring authority for such high speed rail projects.

Appropriate amendments have been made to affect this change. Project Imports (Amendment) Regulations, 2021 have also been operationalised for this purpose.

Our detailed updates on key tax proposals across different areas can be accessed through the links below:

- [1. Implications for InvITs and REITs](#)
- [2. Rationalisation of Equalisation Levy provisions](#)
- [3. Impact on mergers and acquisitions](#)
- [4. Tax incentives for International Financial Services Centre](#)
- [5. Key tax proposals for housing sector](#)

UPDATES

6. [Key tax proposals for employees](#)
7. [Other key proposals](#)
8. [Key indirect tax proposals](#)

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