



# Budget Update -2021

## Summary of Indirect Tax Updates in Finance Bill 2021

### Key Highlights:

- ✓ Extension of scope of supply
- ✓ Legal validity of Rule 36(4)
- ✓ Removal of GST Audit
- ✓ Int on net tax liability from 01<sup>st</sup> July 2017
- ✓ Customs Updates

Document Date: 02<sup>nd</sup> February 2021

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## CHANGES IN GST

### 1. Retrospective amendment to include activities by an association to its members

(Clause 99 and 113 of Finance Bill, 2021)

The following clause has been inserted to expand the meaning of the term supply under section 7(1) of CGST Act, 2017 w.e.f. 01<sup>st</sup> July 2017

*(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration.*

An explanation has also been included to the effect that *notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another.*

Further, entry 7 of Schedule II which classified the following activity as supply of goods has been omitted w.e.f. 01<sup>st</sup> July 2017

*Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.*

#### **H&A Comments:**

The said retrospective amendment has been proposed to overcome the ruling of the Apex Court in the case of **State of West Bengal v. Calcutta Club Ltd. cited 2019-TIOL-449-SC-ST-LB**, where the levy of Service Tax/VAT was struck down on the principle of mutuality.

Even under GST, levy of GST on Clubs, Societies, Associations can be contested on the same lines under GST. The said amendment could have wider implications, beyond the issue of taxability of activities of a club/association and its members since the entry also includes constituents. The Constitutional validity of the said entry and the validity of retrospective amendment still have to be tested, as it appears that the entry has been introduced merely to overcome the decisions of the Apex Court. Till further clarity emerges, it may be advisable to comply with the law.

With the amendment in place, entry 7 of the Schedule II considering supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration as a supply of goods has been **omitted retrospectively**.

## **2. Additional condition for availing Input Tax Credit**

(Clause 100 of Finance Bill, 2021)

Section 16 of the CGST Act provides eligibility and conditions for availing the input tax credit. A new clause has been added under section 16 requiring the details of the invoice has been furnished by the supplier in the statement of outward supplies (GSTR-1) and such details have been communicated to the recipient (GSTR-2A).

### **H&A Comments:**

Rule 36(4) of the CGST Rules, 2017 had been inserted vide Notification No.49/2019 - Central Tax dated 09.10.2019 with effect from 09.10.2019, where the credit was restricted to 105% of the inputs reflected in GSTR-2A .

Various Writ applications have been filed before the High Courts, challenging the legal validity of the said rule as there is no specific condition provided under section 16(2) of the CGST Act, 2017 and thereby it can be said that the condition imposed under rule 36(4) of the CGST Rules, 2017 is an additional requirement which increases the scope of the principal Act.

Though Section 43A was inserted vide the CGST Amendment Act, 2018 the same has not been notified till date and thereby not effective as on date to enable the rule 36(4) *ibid* to derive the power.

To overcome the above challenge, a new condition is proposed to be inserted in Section 16 of the CGST Act to give legal validity to the requirement of Rule 36(4). The said amendment appears to be prospective in nature and hence its validity prior to the introduction of the said condition in Section 16 would be highly disputed.

It is pertinent to note that present restriction provides a taxpayer to avail the credit up to 105% of the eligible credit available in his GSTR-2A/2B. Going forward taxpayer could avail only the ITC pertaining to the invoices reflecting in the GSTR-2A/2B, considering the specific condition introduced in Section 16(2) of the CGST Act.

Whereas it is a well stated principal that substantial benefit of credit should not be denied due to the default by vendors. Similarly, provisions/ disputes in Central Excise, Service Tax and VAT have been held to be unreasonable in the past in the following decisions wherein held credit cannot be denied when the vendor did not deposit taxes:

- Commissioner of Trade & Taxes, Delhi and others Vs. Arise India Limited and others [TS-2-SC-2018-VAT]
- Kay Kay Industries (2013-TIOL-41-SC-CX). (2013-TIOL-41-SC-CX)
- Bharti Telemedia Ltd. Vs. Union Of India & Ors. - [Appeal Number: W.P.(C) 6293/2019]
- Sri Ranganathar Valves Pvt Ltd Vs Assistant Commissioner (CT) (FAC) 2020-TIOL-1611-HC-MAD-VAT

Therefore, in our view on any default on the part of vendor, the recipient cannot be denied the credit.

### **3. Self-certification of Reconciliation Statement instead of Auditor**

(Clause 101 and 102 of Finance Bill, 2021)

Section 44 of CGST Act 2017 has been amended to furnish annual return along with a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, along with the audited annual financial statement electronically.

#### **H&A Comments:**

The taxpayer would be required to submit a self-certified reconciliation statement. Earlier the responsibility was on the auditor. The responsibility of correctness of reconciliations & GST Law compliances has been shifted from the Auditor to the taxpayer himself.

### **4. Interest payable on net cash liability made effective from 1st July 2017**

(Clause 103 of Finance Bill, 2021)

Proviso to Section 50(1) of the CGST Act has been substituted retrospectively w.e.f 01<sup>st</sup> July 2017, as under

*“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger”.*

**H&A Comments:**

With a minor change in the wording of the said proviso, it has been made abundantly clear that the effect of the said proviso would be applicable w.e.f. 01<sup>st</sup> July 2017.

Whoever paid the interest liability on gross GST liability, they should apply for the refund of excess paid interest.

## **5. Delinking of proceedings under section 73 or 74 from the proceeding under the Section 129 and 130**

(Clause 104 of Finance Bill, 2021)

In Explanation 1(ii) provided under section 74 of the CGST, for the words and figures “sections 122, 125, 129 and 130” the words and figures “section 122 and 125” shall be substituted.

**H&A Comments:**

Through this amendment Section 129 and 130 has been excluded, whereby the proceedings initiated against other persons would not be deemed to be concluded automatically on conclusion of proceedings against the main person under Section 73 or 74. The proceedings against other persons under Section 129 and 130 initiated against other persons would still continue even after conclusion of proceedings under Section 73 or 74.

## **6. Tax replaced with increase in Penalty under Section 129**

(Clause 108(ii) of Finance Bill, 2021)

Section 129(1)(a) of the CGST Act, 2017 provides for detention and seizure of goods and conveyance in transit. Currently, the release of goods and conveyance is allowed on payment of tax and penalty equal to 100% of tax payable on such goods. However, as per the proposed

amendment, the goods and conveyance so detained and seized are now subject to release on payment of penalty equal to 200% of tax payable on such goods.

Similarly, in cases where the owner of the goods does not come forward to make payment for release of such goods, the owner would be required to make payment of applicable tax and penalty equal to 50% of the value of goods. As per the proposed amendment, the release on goods would be allowed on payment of penalty equal to 50% of the value of goods or 200% of tax payable, whichever is higher.

#### **H&A Comments:**

These amendments have been proposed with an intention to substantially increase the burden of penalty for contravening the provisions of the CGST Act including E-Invoice and E-way Bill provisions. Further the amendment has done away with the requirement to pay tax by substituting the words 'penalty' for 'tax and penalty', which has also been nullified by the corresponding increase in penalty. The present lack of clarity on how to adjust the tax paid under Section 129, while filing Form GSTR-3B, would now be settled.

## **7. Time period specified to issue notice and pass order**

(Clause 108(iii) of Finance Bill, 2021)

It has been proposed to amend Section 129(3) of the CGST Act to prescribe a specified time limit for issuance of notice within 7 days of such detention or seizure specifying the penalty payable and thereafter, pass an order within a period of 7 days from the date of service of such notice for payment of such penalty.

With an increase penalty, section 107 of the Finance Bill, 2021 it further requires the assessee to deposit a sum equal to 25% of the penalty in order to file an appeal against order issued u/s 129(3).

#### **H&A Comments:**

1. The amendment has reduced the time limit to adjudicate the proceedings in case of detention of goods. This will result in quick redressal and release of goods and conveyance.
2. It may be noted that with increased penalty, the increased pre-deposit beyond 10% of the disputed tax amount, as prescribed for other appeals would be an undue hardship for the Assessee.



## 8. Right to sell goods and conveyance on failure to pay penalty

(Clause 108(v) of Finance Bill, 2021)

Clause 108(v) of the Finance Bill, 2021 allows detaining authority to sell/dispose the goods and conveyance in such manner and recover penalty payable in case the Assessee fails to pay the penalty as determined in order issued u/s 129(3) within 15 days from receipt of such order. Earlier, the time was 14 days from such detention or seizure.

Goods which are perishable, hazardous in nature – time limit would be 15 days from receipt of such order which may be reduced by the officer as he deems fit.

Also, the amendment now does not link Section 129(6) to Section 130, i.e., confiscation of goods or conveyance and levy of penalty.

The proviso added through the amendment allows release of conveyance (only and not goods) to the transporter on payment of penalty of Rs. 1 Lakh or penalty as prescribed u/s 129(3), whichever is less.

### H&A Comments:

1. The time limit to pay the penalty u/s 129 is now clear and extended marginally.
2. The amended provision is stringent in manner that the earlier provisions only gave the power to confiscate the goods and the conveyance. Whereas the new amendment now amplifies the power of the authority to confiscate and sell/dispose the goods and the conveyance.
3. The inserted proviso gives sigh of relief to the transporters against whom the detention proceedings are initiated due to fault of the supplier/receiver.

## 9. Section 129 and 130 are independent provisions – Delinking

(Clause 109 of Finance Bill, 2021)

Clause 109 of the Finances Bill, 2021 substitutes the words '*notwithstanding anything contained in this act*' with '*where*'. Further, when the goods are confiscated u/s 130 of the Act, the assessee shall be given an option to pay fine in lieu of confiscation which shall not be less than penalty equal to 100% of tax payable on such goods.

Also, section 129(6) earlier was linked to Section 130, which has been amended now.

Section 130 has also been delinked from demand and recovery provisions under Section 73 & 74. (refer clause 104 of Finance Bill, 2021)

**H&A Comments:**

Clause 108 of the Bill seeks to amend section 129 of the Central Goods and Services Tax Act to delink the proceedings under that section relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty. Therefore, proceedings u/s 129 and 130 are now independent proceedings and are mutually exclusive. The amendment has followed the ruling of Hon'ble Gujarat High Court in the case of Synergy Fertichem Pvt Ltd Vs State of Gujarat Special Civil Application No. 4730 of 2019 dated 08/03/2019.

## **10. Insertion of explanation for self assessed tax under section 75**

(Clause 105 of Finance Bill, 2021)

Explanation has been inserted under sub section (12) of Section 75 for the word 'Self assessed tax' would include the tax payable on supplies declared in GSTR-1 returns but not included and paid GST liability in GSTR-3B returns.

Earlier such instances were routed through Section 73 & 74, i.e., time period to issue show cause notice was present and the opportunity of being heard was provided to the assessee.

For a situation where GSTR 1 does not match to the GSTR 3B for the tax period(s), the department now:

- Is not restricted by 3/5 years' time limits to issue SCN (Section 73 & 74)
- SCN need not be issued
- Opportunity to be heard is not provided
- Recovery proceedings can be directly taken up by the officer (Section 79)
  - Types of recovery - Bank account/property attachment, selling goods under control of officer, garnishee order to taxpayer's customers.

As the amendment to the Act is through an explanation, could it be a retrospective amendment? In our view this explanation is having the prospective application only as there is no mention about the retrospective application.

**H&A Comments:**

This explanation provides clarification for the word self-assessed tax would include the taxes which are declared in GSTR-1 but not paid in GSTR-3B for the purpose of recovery of taxes under Section 79 without following the process of raising SCN, providing opportunity to being heard and then if the situation demands recovery taxes in accordance with Section 79. Principles of natural justice have been overlooked cases where there genuine reconciliation issues, and this could be disputed.

Circular 26/26/2017 dated 29<sup>th</sup> December 2017 allowed for rectifying errors or omissions in GST returns as the returns cannot be revised. This provision, must be read in line with the Circular wherein, the GSTR-1 Vs GSTR 3B must be matched for the entire financial year including corrections done before September month GST returns of the subsequent financial year.

Also, any amendment which has a substantive change, will always be considered to having a prospective change.

It would be possible to obtain a stay order where bank accounts (or other recovery methods) have been attached to ensure that business functions are not affected.

Going forward, risk averse taxpayers could ensure that GSTR 1 matches to GSTR 3B while filing the GST returns. This would require that strong internal control procedures are in place. (cut off dates, back dated entries, revenue recognition, etc.)

## **11. Extension of validity for provisional attachment of property, bank account**

(Clause 106 of Finance Bill, 2021)

Subsection (1) of Section 83 of CGST Act, 2017 amended that, Commissioner is of the opinion that to protect the interest of the Government revenue, to attach provisionally property including bank account of the taxable person or any person who retains the benefit and at whose order or instance the following transactions undertaken:

- a. Supply of any goods or services or both without issue of any invoice or issue of an incorrect or false invoice.
- b. Issuing any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder.

- c. Taking or utilising input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder.
- d. Taking or distributing input tax credit in contravention of section 20 (Input service distributor), or the rules made thereunder.

From the initiation of the proceeding under the provisions of Assessment, Inspection, Search, Seizure & Arrest and Demand & Recovery till the expiry of one year from the date of the order made thereunder.

### **H&A Comments:**

This enables the Commissioner to attach the property including bank account of the taxable person or any person who retains the benefits and at whose order or instance taken the above transactions would be valid from starting of the above proceedings as compared to during the pendency of the above proceedings.

It is settled position of law that property can be attached only when the authority is of the opinion that after closer of proceedings there may be ultimate default of tax payment. How can the revenue officers determines the tax evasion or quantum of tax evasion or ultimate default of tax payment by the tax payer in the beginning of proceedings are not clear. These provisions are challengeable before the Court.

‘Interest of government revenue’ is not similar to ‘public interest’ therefore, could be considered to be vague and subjective.

This increases the compliance burden on the taxpayer. The taxpayers are by default being viewed as tax avoiders and in a negative light. This perception has to be changed by the common man and the government.

## **12. Power to call for information.**

(Clause 110 of Finance Bill, 2021)

Power to collect statistics under Section 151 has been substituted to power to call for information which states as follows:

*“The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein”*

**H&A Comments:**

In the earlier provision, Commissioner by notification would direct to **collect statistics** relating to any matter dealt with by or in connection with this Act and Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns relating to any matter in respect of which statistics is to be collected. Now, statistics would not be required to be collected for the same.

### **13. Bar on disclosure of information**

(Clause 111 of Finance Bill, 2021)

Section 152 provided to bar on disclosure of individual return or part thereof with respect to matters given for the purpose of Section 150 (Obligation to furnish information return by specified authorities) and Section 151 (Power to collect information) without the previous consent in writing of the concerned person or his authorised representative no person engaged in Section 150 and 151 shall be permitted to see or have access to any information or any individual return referred to in section 151.

Amendment has been made to include principles of natural justice when proceedings are undertaken. Although, the intention is to restrict the disclosure of information therefore, including these wordings here are unclear.

**H&A Comments:**

In the earlier provision, only the individual return or part thereof were not allowed to be disclosed. However, now restricted for any information. Also, person who is engaged in the collection of statistics under this Act or compilation or computerisation thereof were allowed to see or have access, but after amendment such power has been provided only without previous consent in writing of the concerned person or his authorised representative.

### **14. Power to issue instructions or directions**

(Clause 112 of Finance Bill, 2021)

Amendment has been made to section 168 which provides powers to the Board to issue such orders, instructions or directions to the central tax officers to observe and follow such orders, instructions or directions, wherein, the 'Commissioner' referred to in various provisions are amended as follows:

- Section 44 has been considered instead of Section 44(1) -Annual returns due to recent amendment
- Section 151(1) has been omitted from the list.

**H&A Comment:**

Section 168(2) provided to identify the 'Commissioner' in various provision of the GST law.

## **15. Amendment in IGST Act for Zero related supply**

(Clause 114 of Finance Bill, 2021)

Following the amendment in Section 16 of IGST Act 2017

1. Supply of goods and services to SEZ or SEZ developer would be treated as zero rated supplies only if provided for **authorised operation**.
2. Refund option available for supplies of goods without payment of tax has been restricted to realisation of sale proceeds. Where sale proceeds are not received within the time frame prescribed in FEMA 1999, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50.
3. Supplies of goods and services with payment of taxes have been restricted and only be provided if notification issued by government specifying (notification awaited):
  - a. a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid
  - b. a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.

**H&A Comments:**

Following are the comments for the provisions amended

1. There was restriction in the Rules for claiming for refund of supplies to SEZ or SEZ developer only if supplied for authorised operation. However, such restriction was not provided in parent act which has been amended to include the same. Supplier may not be knowing whether the SEZ Unit is purchasing the goods really for authorized operations or not. To this extent litigation on this issue will increase substantially.

2. Receipt of sale proceeds in case of export of goods was restricted through Rule 96B notified vide Notification 16/2020 CT dated 23<sup>rd</sup> March 2020 however such provisions in the parent Act were not available. This amendment has provided an enabling power in the act for the same.
3. Restriction has been provided for export/zero rated supply of goods and services with payment of tax by giving power to government to notify class of persons and goods and services.
4. So *export with payment of IGST* (automatic, system driven processing & sanctioning the IGST Refunds based on shipping bill) no longer be available for all the exporters. It is for the Government to give that option to specific person who is dealing with specific good or services. In some cases exporters claimed the ITC on basis of fake invoices, IGST was paid by using such Credit and Customs refunded such amounts to exporters. In some cases vendors of exporters claimed the bogus credits and discharged their liability through such credit. Because of these reasons Govt wants to restrict that IGST refund option only to few Organized Sectors.
5. Therefore it is suggested to all the exporters to make their shipments *with payment of IGST* so that your existing Credit can be liquidated in the form of automatic refunds.
6. Once the Finance Bill is signed by the President of India, exporters may be required to file the Monthly applications to Jurisdictional officers for claiming the refunds claims.

## **KEY CHANGES IN CUSTOMS ACT**

### **1. Introduction of new Common Customs Electronic Portal**

(Clause 80 and 91 of Finance Bill, 2021)

In section 2, after clause (7A), the following clause shall be inserted, namely:

*'(7B) "common portal" means the Common Customs Electronic Portal referred to in section 154C;'*

After section 154B of the Customs Act, the following section shall be inserted, namely:

*"154C. The Board may notify a common portal, to be called the Common Customs Electronic Portal, for facilitating registration, filing of bills of entry, shipping bills, other documents and forms prescribed under this Act or under any other law for the time being in force or the rules or regulations made thereunder, payment of duty and for such other*

*purposes, as the Board may, by notification, specify.”*

**H&A Comment:**

The statutory framework is being provided vide Section 154C for a common online portal, which shall be a common place for all customs related facilities viz. registration, filing of bill of entries, shipping bills and other documents, payment of duties etc. The customs portal is likely to be integrated with GSTN also.

## **2. Pre-trial disposal of seized gold, the Application shall lie before Jurisdictional Commissioner (Appeals) instead of Magistrate**

(Clause 81, 85 and 88 of Finance Bill, 2021)

In section 5 of the Customs Act, in sub-section (3), for the words and figures “Chapter XV and section 108”, the words, figures, brackets and letter “*Chapter XV, section 108 and subsection (1D) of section 110*” shall be substituted.

In section 110 of the Customs Act, after sub-section (1C), the following sub-section shall be inserted, namely:

*“(1D) Where the goods seized under sub-section (1) is gold in any form as notified under sub-section (1A), then, the proper officer shall, instead of making an application under sub-section (1B) to the Magistrate, make such application to the Commissioner (Appeals) having jurisdiction, who shall, as soon as may be, allow the application and thereafter, the proper officer shall dispose of such goods in such manner as the Central Government may determine.”*

In section 139 of the Customs Act, in the Explanation, for the words, brackets, figures and letter “a Magistrate under subsection (1C) of section 110”, the words, brackets, figures and letters “*a Magistrate under sub-section (1C), or Commissioner (Appeals) under sub-section (1D), of section 110*” shall be inserted.

**H&A Comment:**

In order to quicken the process of disposal of the seized goods (gold), the application shall now be placed before Commissioner (Appeals) within the appropriate jurisdiction instead of the Magistrate. The inventory drawn before Commissioner (Appeals) shall be



presumed to be true for all its contents]

### 3. Providing sunset period of conditional exemptions under the Customs Act

(Clause 82 of Finance Bill, 2021)

In section 25 of the Customs Act, after sub-section (4), the following sub-section shall be inserted, namely: “(4A) Where any exemption is granted subject to any condition under sub-section (1), such exemption shall, unless otherwise specified or varied or rescinded, be valid up to 31st day of March falling immediately after two years from the date of such grant or variation:

Provided that in respect of any such exemption in force as on the date on which the Finance Bill, 2021 receives the assent of the President, the said period of two years shall be reckoned from the 1st day February 2021.”

#### **H&A comment:**

The Hon’ble Finance Minister mentioned in her budget speech that there are several outdated exemption notifications prevailing under customs which would to be eliminated, certain 80 outdated exemptions were eliminated last year and 400 exemptions is under pipeline this year.

Further, going forward all the **conditional exemptions** under the customs shall have sunset period of 2 years from the end of FY in which the exemptions are issued, unless explicitly stated otherwise. For exemptions in force as on the date of Finance Bill 2021, the sunset period shall expire on 31st March 2023.

Several end-use based exemptions, especially the ones utilized under the mega projects package, import for the purpose of manufacturing are likely to be impacted. The life-time exemptions are put to a permanent stop and the trade would require frequent consultations with the MoF in order to ensure time limit of exemptions be fine-tuned timely extended in deserving cases.

#### 4. Prescribing time limit for completion of proceedings of show cause notice

(Clause 83 of Finance Bill, 2021)

After section 28BA of the Customs Act, the following section shall be inserted, namely:

*“28BB. (1) Any inquiry or investigation under this Act, culminating in the issuance of a notice under sub-section (1) or sub-section (4) of section 28 shall be completed by issuing such notice, within a period of two years from the date of initiation of audit, search, seizure or summons, as the case may be:*

*Provided that the Principal Commissioner of Customs or the Commissioner of Customs may, on sufficient cause being shown and for reasons to be recorded in writing, extend the said period to a further period of one year.*

*(2) For computing the period under sub-section (1), the period during which stay was granted by an order of a court or tribunal, or the period for seeking information from an overseas authority through a legal process, shall be excluded.*

*Explanation: For the removal of doubts, it is hereby declared that nothing contained in this section shall apply to any such proceeding initiated before the date on which the Finance Bill, 2021 receives the assent of the President.”*

##### **H&A Comment:**

A new Section 28BB is inserted to act as rigour upon the investigation authorities to conclude the proceedings with a definite a time-period. Going forward, the show cause notices issued in pursuance of audit, search, seizure or summons shall have to be issued within 2 years from the initiation of such proceedings. This time-period is extendable to 1 year on approval by Principal Commissioner or Commissioner of Customs after sufficient cause being shown and upon reasons to be recorded in writing. However, finally the show cause notices shall be issued within time limit prescribed under Section 28 of the Customs Act, 1962.

The period of stay obtained from Court or Tribunal or the period during which information is sought from overseas authority shall be excluded from the above period.

#### 5. Advancing the time frame for filing Bill of Entry

(Clause 84 of Finance Bill, 2021)

In section 46 of the Customs Act, in sub-section (3):

(i) in the opening portion, for the words and brackets “before the end of the next day following the day (excluding holidays)”, the words and brackets “*before the end of the day (including holidays) preceding the day*” shall be substituted.

(ii) for the words “Provided that”, the following shall be substituted, namely:

*“Provided that the Board may, in such cases as it may deem fit, prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival: Provided further that”;*

**H&A comment:**

The time limit for presentation of import bill of entry has been further advanced to ‘end of the day’ preceding the day of arrival of the aircraft/ vessel/ vehicle. Discretionary powers extended to the Board to prescribe different time limits for presentation of Bill of Entry.

No change in the late fee’s threshold for delayed presentation [which remains INR 5,000 per day for first 3 days and INR 10,000 per day for every day thereafter].

The indication is to improve the clearance timings for import of goods considering the international benchmark.

## **6. Confiscation power where goods entered for exportation under wrongful claim of remission or refund**

(Clause 86 of Finance Bill, 2021)

In section 113 of the Customs Act, after clause (j), the following clause shall be inserted, namely:

*“(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;”*

**H&A Comment:**

The goods which are entered for exportation under the wrongful claim of ‘remission or refund of any duty or tax or levy to any other wrongful claim under any Customs Act or any other law, shall now be liable to confiscation.

The ramifications are therefore that any goods which are entered for export [under a wrongful claim of] drawback, RODTEP, Advance authorization, EPCG authorization, Rule 96 (10) be liable for confiscation.

It would be noteworthy as to how the claims based on interpretations would be dealt with. As on date, the SEZ unit's claims to RODTEP are not being specifically allowed, therefore the declaration by SEZ unit's as to claiming of RODTEP could land them in ready-made soup, even when the issue might be interpretational one.

## **7. Penalty for fraudulent utilisation of input tax credit for claiming refund**

(Clause 87 of Finance Bill, 2021)

After section 114AB of the Customs Act, the following section shall be inserted, namely:  
*'114AC. Where any person has obtained any invoice by fraud, collusion, willful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed.*  
*Explanation. – For the purposes of this section, the expression "input tax credit" shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017.'*

### **H&A Comment:**

Under the new section 114AC, penalty for irregular ITC on an invoice (used for claiming refund) would now be punishable under the Customs Act also. The penalty shall be 5 times of the amount of refund so claimed by virtue of the invoice.

The penalty is in addition to the penalty as imposable under Section 122 (1) of the CGST Act. On an apparent it might appear that a single offence is being postulated under the CGST Act and the Customs Act, on a careful reading it seems that the offence under both legislations are different [1] availing of ITC under the CGST Act and [2] claiming of refund under the Customs Act. Therefore, the principle of dual jeopardy may not kick in, and both penalties might survive legislative competency.

However the imposition of penalty for GST refunds in cases of export by the Customs Act, 1962 may involve legal challenges before Courts. IGST on imports are governed by the Customs Law not the IGST on Export cases.

## **8. Broadening the scope of Amendment of documents**

(Clause 89 of Finance Bill, 2021)

In section 149 of the Customs Act, after the proviso, the following provisos shall be inserted, namely:

*“Provided further that such authorisation or amendment may also be done electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria: Provided also that such amendments, as may be specified by the Board, may be done by the importer or exporter on the common portal.”*

### **H&A Comment:**

With this insertion of proviso, amendments is allowed to be done through the customs automated system on the basis of risk evaluation through appropriate selection criteria and also certain amendments, as may be specified by the Board, may be done by the importer or exporter on the common portal.

While it is not entirely clear, but this amendment might be *sou moto* done by the Customs risk evaluation criterion i.e., an exporter’s claim may be changed to ‘non refund claim’, RODTEP declaration may be rejected, there might be increase of the valuation of goods (load) etc.

## **9. Additional mode for service of notice through portal**

(Clause 90 of Finance Bill, 2021)

In section 153 of the Customs Act, in sub-section (1), after clause (c), the following clause shall be inserted, namely:

*“(ca) by making it available on the common portal;”*

### **H&A Comment:**

This amendment enables to serve order, summons, notice, etc. by making it available on the common portal as in like the GST law. So the importers and exporters are required

to monitor their portal regularly otherwise they may miss the attention of service of notices or orders which may be appealable within time bound manners.

## **10. Introduction of Agriculture Infrastructure and Development Cess (AIDC)**

A new levy, namely AIDC is introduced as duties of customs vide Section 115 (1) of the Finance Bill, 2021, for the purpose of financing agriculture infrastructure and other development expenditure. The AIDC shall be levied at the same rate as the rate of BCD provided in the First Schedule to the Customs Tariff Act, 1975.

The value for the purpose of AIDC shall be calculated in the same manner as is done for the purpose of BCD under Section 14 of the Customs Act i.e. the CIF value along with necessary inclusions under the Customs Valuation Rules.

**H&A Comment:** With introduction of new duty, the tax structure on import of certain goods has been changed. For certain products the effective customs duty rate have been maintained by imposing AIDC and reducing BCD, whereas for certain other products, the effective duty is increased overall by introduction of the new Cess. Overall, the AIDC is applicable on few of the products, mainly agricultural products.

The import exemption by virtue of debit in MEIS/ SEIS scrip is not extended to AIDC i.e. if the goods are leviable to AIDC, the duty would have to be remitted in cash and MEIS/ SEIS cannot be used for payment of AIDC. The import exemption shall however be allowed against advance authorization.

## **11. Allowing job work and outsourcing vis-à-vis ICGR [allowing job workers to participate in Make in India scheme]**

Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 [IGCR Rules] have been amended to provide the following facilities:

- a. to allow job-work of the materials (except gold and jewellery and other precious metals) imported under concessional rate of duty
- b. to allow 100% out-sourcing for manufacture of goods on job-work
- c. to 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 EOUs, as per Foreign Trade Policy.

## 12. Notification of Common Portal for Customs

### KEY CHANGES TO FIRST SCHEDULE OF CUSTOMS TARIFF ACT

<b>AMENDMENTS</b>					
<b>A.</b>	<b>Tariff rate changes for Basic Customs Duty [to be effective from 02.02.2021, unless otherwise specified]</b> <b>* [Clause [95 (i)] of the Finance Bill, 2021]</b>			<b>Rate of Duty</b>	
<b>S. No.</b>	<b>Heading, sub-heading tariff item</b>	<b>Commodity</b>	<b>From</b>	<b>To</b>	
		<b>Chemicals</b>			
1.	2803 00 10	Carbon Black	5%	7.5%	
		<b>Plastic items</b>			
2.	3925	Builder's ware of Plastics	10%	15%	
		<b>Gems and Jewellery Sector</b>			
3.	7104	Cut and Polished Synthetic stones, including Cut and Polished Cubic Zirconia	10%	15%	
		<b>Electrical and Electronics Sector</b>			
4.	8414 30 00	Compressor of a kind used in refrigerating equipment	12.5%	15%	
5.	8414 80 11	Compressors of a kind used in air-conditioning equipment	12.5%	15%	
6.	8504 90 90	Printed Circuit Board Assembly [PCBA] of charger or adapter  (All goods under this tariff item, other than above, will continue to attract the existing effective rate of BCD at 10%)	10%	15%	
		<b>Parts of Automobiles</b>			

7.	7007	Safety glass, consisting of toughened (tempered) or laminated glass.  (All goods under this heading, other than those used with motor vehicles, will continue to attract the existing effective rate of BCD at 10%)	10%	15%
8.	8512 90 00	Parts of Electrical lighting and signaling equipment, windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles	10%	15%
9.	8544 30 00	Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	10%	15%
10.	9104 00 00	Instrument Panel Clocks and Clocks of a similar type for vehicles, Aircraft, Spacecraft or Vessels	10%	15%
<b>B.</b>	<b>Tariff rate changes (without any change in the effective rates of Basic Customs Duty)</b>		<b>Rate of Duty</b>	
<b>S. No.</b>	<b>Heading, sub-heading tariff item</b>	<b>Commodity</b>	<b>From</b>	<b>To</b>
1.	8414 40	Air compressors mounted on a wheeled chassis for towing	7.5%	15%
2.	8414 80 (except 8414 80 11)	Gas Compressors (other than of a kind used in air- conditioning equipment), free-piston generators for gas turbine, turbo charger and other compressors	7.5%	15%
3.	8501 10 to 8501 53	Electric Motors	10%	15%
4.	8536 41 00 and 8536 49 00	Relays	10%	15%
5.	8537	Boards, panels, consoles, etc. for electric control or distribution of electricity	10%	15%
6.	9031 80 00	Other instruments, appliances and machines	7.5%	15%
7.	9032 89	Electronic automatic regulators and other controlling instruments or apparatus	10%	15%
<b>C.</b>	<b>New entries added to the First Schedule [Clause 95 (ii) and 95 (iii) of the Finance Bill, 2021]</b>			



1.	<p><b>Harmonizing the Customs Tariff Act 1975 with the HSN 2022</b></p> <p>a) Changes to the first schedule to the Customs Tariff Act are being proposed that are to come into effect from 01.01.2022. This is in accordance with HSN 2022, which proposes 351 amendments to the existing harmonized nomenclature, covering a wide range of goods moving across borders.</p> <p>b) The amendments are necessary to adapt to the current trade through the recognition of new product streams, the changing nature of commodities being traded, advent of new technologies and addressing the environmental and social issues of global concern- all with a prime focus on the larger goal of ease of doing business and trade facilitation.</p>
2.	<p>New tariff lines under the heading 2709 in the Customs Tariff Act,</p> <p>1975#: 2709 00 10 -- petroleum crude</p> <p>2709 00 20 -- other</p> <p># Will come into effect on 1.4.2021.</p> <p>* Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.</p>

### 13. OTHER PROPOSALS INVOLVING CHANGES IN BASIC CUSTOMS DUTY RATES IN RESPECTIVE NOTIFICATIONS [with effect from 2.2.2021, unless specified otherwise]

S. No	Chapter, Heading, sub-heading, tariff item	Commodity	From	To
		<b>Agricultural Products and By Products</b>		
1.	2207 20 00	Denatured Ethyl Alcohol (ethanol) for use in manufacture of excisable goods	2.5%	5%
2.	23	All goods except dog and cat food and shrimp larvae feed	Nil/ 5%/ 10%/ 15%/ 20%/ 30%	15%
		<b>Minerals</b>		
3.	2528	Natural borates and concentrates thereof	Nil/5 %	2.5%
		<b>Fuels, Chemicals and Plastics</b>		

3.	2710	Naphtha	4%	2.5%
5.	2907 23 00	Bis-phenol A	Nil	7.5%
6.	2910 30 00	Epichlorohydrin	2.5%	7.5%
7.	2933 71 00	Caprolactam	7.5%	5%
8.	3907 40 00	Polycarbonates	5%	7.5%
9.	3908	Nylon chips	7.5%	5%
10.	3920 99 99	Other plates, sheets, films, etc. of other plastics	10%	15%
		<b>Leather</b>		
11	41	Wet blue chrome tanned leather, crust leather, finished leather of all kinds, including splits and sides of the aforesaid	Nil	10%
		<b>Textiles</b>		
12.	5002	Raw Silk (not thrown)	10%	15%
13.	5004, 5005, 5006	Silk yarn, yarn spun from silk waste (whether or not put up for retail sale)	10%	15%
14.	5201	Raw Cotton	Nil	5% + 5% AIDC*
15.	5202	Cotton waste (including yarn waste or garneted stock)	Nil	10%
16.	5402, 5403, 5404, 5405 00 00, 5406, 5501 to 5510	Nylon Fibre and Yarn	7.5%	5%
		<b>Gems and Jewellery Sector</b>		
17.	7106	Silver	12.5. %	7.5%+ 2.5% AIDC*
18.	7106	Silver Dore	11%	6.1% + 2.5% AIDC*
19.	7108	Gold	12.5 %	7.5%+ 2.5% AIDC*
20.	7108	Gold Dore	11.85 %	6.9%+ 2.5% AIDC*

21.	7107 00 00, 7109 00 00, 7111 00 00	Base metals or precious metals clad with precious metals	12.5 %	10%
22.	7110	Other precious metals like Platinum, Palladium, etc.	12.5 %	10%
23.	7112	Waste and scrap of precious metals or metals clad with precious metals	12.5 %	10%
24.	7112	Spent catalyst or ash containing precious metals	11.85 %	9.17 %
25.	7113	Gold or Silver Findings	20%	10%
26.	7118	Coin	12.5 %	10%
		<b>Metals</b>		
27.	7204	Iron and steel scrap, including stainless steel scrap [up to 31.03.2022]	2.5%	Nil
28.	7206 and 7207	Primary/Semi-finished products of non-alloy steel	10%	7.5%
29.	7208, 7209, 7210, 7211, 7212, 7225 (except 7225 11 00) and 7226 (except 7226 11 00)	Flat products of non-alloy and alloy steel	10% /12.5 %	7.5%
30.	7213, 7214, 7215, 7216, 7217, 7221, 7222, 7223, 7227 and 7228	Long product of non-alloy, stainless and alloy steel	10%	7.5%
31.	7225	Raw materials for use in manufacture of CRGO steel [up to 31.03.2023]	2.5%	Nil
32.	7404	Copper Scrap	5%	2.5%
33.	7318	Screw, bolts, nuts, etc. of iron and steel	10%	15%
		<b>Capital Goods</b>		
34.	8430	Tunnel boring machines	Nil	7.5%
35.	8431	Parts and components for manufacture of tunnel boring machines with actual-user condition	Nil	2.5%
		<b>IT, Electronics and Renewable</b>		

36.	8544 (other than 8544 70 and 8544 30 00)	Specified insulated wires and cables	7.5%	10%
37.	39, 74 and 85	Former, bases, bobbins, sb rackets; CP wires; P.B.T.; Phenol resin moulding powder; Lamination/ El silicon steel strips for use in manufacture of transformers (entry at S.No. 198 of 25/1999- Customs)	Nil	Applicable rate
38.	Any Chapter	Inputs or parts for manufacture of Printed Circuit Board Assembly (PCBA) of cellular mobile phone (w.e.f. 1.4.2021)	Nil	2.5%
39.	Any Chapter	Inputs or parts for manufacture of camera module of cellular mobile phone (w.e.f. 1.4.2021)	Nil	2.5%
40.	Any Chapter	Inputs or parts for manufacture of connectors of cellular mobile phone (w.e.f. 1.4.2021)	Nil	2.5%
41.	Any Chapter	Inputs or raw material for manufacture of specified parts like back cover, side keys etc. of cellular mobile phone (w.e.f. 1.4.2021)	Nil	2.5%
42.	Any Chapter	Inputs or raw material (other than PCBA and moulded plastics) for manufacture of charger or adapter of cellular mobile phones	Nil	10%
43.	8504 90 90 or 3926 90 99	Moulded plastics for manufacture of charger or adapter	10%	15%
44.	Any Chapter	Inputs or parts of Printed Circuit Board Assembly of charger or adapter of cellular mobile phones	Nil	10%
45.	Any Chapter	Inputs or parts of Moulded Plastic of charger or adapter of cellular mobile phones	Nil	10%
46.	Any Chapter	Inputs or raw materials (other than Lithium-ion cell and PCBA) of Lithium-ion battery or battery pack (w.e.f. 1.4.2021)	Nil	2.5%

47.	Any Chapter	Parts or components of PCBA of Lithium-ion battery or battery pack (w.e.f. 1.4.2021)	Nil	2.5%
48.	Any Chapter	Inputs or raw materials of following goods: - (i) Other machines capable of connecting to an automatic data processing machine or to a network (8443 32 90) (ii) Ink cartridges, with print head assembly (8443 99 51) (iii) Ink cartridges, without print head assembly (8443 99 52) (iv) Ink spray nozzle (8443 99 53) (w.e.f. 1.4.2021)	Nil	2.5%
49.	Any Chapter	Inputs and parts of LED lights or fixtures including LED Lamps	5%	10%
50.	Any Chapter	Inputs for use in the manufacture of LED driver or MCPCB (Metal Core Printed Circuit Board) for LED lights or fixtures including LED Lamps	5%	10%
51.	9405 50 40	Solar lanterns or solar lamps	5%	15%
52.	8504 40	Solar Inverters	5%	20%
53.	9503	Parts of Electronic Toys for manufacture of electronic toys	5%	15%
		<b>Aviation Sector</b>		
54.	Any Chapter	Components or parts, including engines, for manufacture of aircrafts or parts of such aircrafts, by Public Sector Units under Ministry of Defence subject to condition specified.	2.5%	0%
		<b>Medical devices</b>		
55.	9018-9022	Medical Devices imported by International Organization and Diplomatic Missions	Health Cess @ 5%	Health Cess @ Nil
		<b>Goods imported under Project Import Scheme</b>		
56.	9801	High Speed Rail Projects being brought under project imports	Applicable Rate	5%
57.	8714 91 00, 8714 92,	All goods other than Bicycle parts and components	10%	15%

	8714 93, 8714 94 00, 8714 95, 8714 96 00, 8714 99			
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\* Agriculture Infrastructure and Development Cess

## 14. Other miscellaneous changes

S. No.	Notification No.	Notification Subject
1.	42/1996 – Customs dated 23 <sup>rd</sup> July, 1996	High Speed Rail Projects are being included in list of projects to which Project Imports Scheme is applicable
2.	230/1986 – Customs dated 3 <sup>rd</sup> April, 1986	National High Speed Rail Corporation Ltd. is being nominated as the „Sponsoring Authority“ under Project Import Regulations, 1986 for approving the items required to be imported under the Project Imports Scheme for High-Speed Rail Projects

## 15. Pruning and review of customs duty concessions/exemptions:

**A. Review of concessional rates of BCD prescribed in notification No. 50/2017 – customs dated 30.6.2017:** The BCD exemption hitherto available on certain goods are being withdrawn by omitting following entries of notification No. 50/2017-Customs dated 30.6.2017.

S. No.	S. No. of Notfn	Description/ CTH
1.	209	Diphenylmethane 4, 4-diisocyanate (MDI) for use in the manufacture of spandex yarn
2.	230	Ink cartridges, ribbon assembly, ribbon gear assembly, ribbon gear carriage, for use in printers for computers
3.	229 [w.e.f 1.4.2021]	71 items like wax items, wood polish materials, prints for photo frames, velvet fabric/paper, handles/blades for cutlery, jigat, wine tools etc.
4.	311 [w.e.f 1.4.2021]	35 items like fasteners, zippers, shoulder pads, buckles, rivets, Velcro tape, toggles, stud, elastic cloth and band,

		bobbin, hooks, anglets etc.
5.	312 [w.e.f 1.4.2021]	42 items like buckles, buttons, stamping foil, sewing thread, Loop rivets, Glove Liners, shoe laces, inlay cards etc.
6.	313 [w.e.f 1.4.2021]	18 items like lace, Velcro tape, curtain hooks, Tassel, Beads, Sequins, sewing threads, poly wadding materials, quilted wadding materials etc.

**B. Prescribing the condition of observance of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR Rules, 2017) for certain conditional entries in notification No. 50/2017-Customs dated 30.06.2017, in lieu of certain exiting conditions. Besides certain other conditions for imports are being rationalized/simplified.**

- Accordingly, the condition Nos. 22, 24, 30, 38, 51, 52, 53, 54, 60, 61 and 74, in the said customs notification have been amended to prescribe condition of IGCR.
- In addition, it has been prescribed that the changed jurisdictional authority under IGCR Rules, 2017, shall also issue the end use certificate for the past period after due verification as per the rules.

**C. Customs duty exemptions, including those which have been granted through certain other stand-alone notifications, have also been reviewed by rescinding the notification:**

S. No.	Notification No.	Notificatio n Subject
1.	1/2011- Customs, dated the 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
2.	34/2017- Customs dated 30 <sup>th</sup> June, 2017	This notification provided exemption to tags or labels (whether made of paper, cloth, or plastic), or printed bags (whether made of polyethene, polypropylene, PVC, high molecular or high density polyethene) imported for fixing on articles for export or for the packaging of such articles. Similar exemption exists at S. No.257 of notification No. 50/2017-Cus. These have been merged in the said S. No.257 and notification No 34/2017-Cus has been omitted.

3.	75/2017- Customs dated 13 <sup>th</sup> September, 2017	Exemption for goods imported for organizing FIFA Under-17 World Cup, 2017.
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## **16. IMPOSITION OF AGRICULTURE INFRASTRUCTURE AND DEVELOPMENT CESS ON IMPORT OF CERTAIN ITEMS [to be effective from 02.02.2021] [Clause [115] of the Finance Bill, 2021]**

An Agriculture Infrastructure and Development Cess (AIDC) has been proposed on import of specified goods. To ensure that imposition of cess does not lead to additional burden in most of these items on the consumer, the BCD rates has been lowered. This cess shall be used to finance the improvement of agriculture infrastructure and other development expenditure. The list of items on which cess has been imposed and the applicable duty and AIDC on them would be as follows:

S. No	Heading, sub-heading tariff item	Commodity	Basic customs duty	AIDC
1.	0808 10 00	Apples	15%	35%
2.	1511 10 00	Crude Palm Oil	15%	17.5%
3.	1507 10 00	Crude Soya-bean oil	15%	20%
4.	1512 11 10	Crude Sunflower seed oil	15%	20%
5.	0713 10	Peas (Pisum sativum)	10%	40%
6.	0713 20 10	Kabuli Chana	10%	30%
7.	0713 20 20	Bengal Gram (desichana)	10%	50%
8.	0713 20 90	Chickpeas (garbanzos)	10%	50%
9.	0713 40 00	Lentils (Mosur)	10%	20%
10.	2204	All goods (Wine)	50%	100%
11.	2205	Vermouth and other wine of fresh grapes, flavoured	50%	100%



12.	2206	Other fermented beverages for example, Cider, Perry, Mead, sake, mixture of fermented beverages or fermented beverages and nonalcoholic beverages	50%	100%
13.	2208	All goods (Brandy, Bourbon whiskey, Scotch etc.)	50%	100%
14.	2701	Various types of coal	1%	1.5%
15.	2702	Lignite, whether or not agglomerated	1%	1.5%
16.	2703	Peat, whether or not agglomerated	1%	1.5%
17.	3102 10 00	Urea	Nil	5%
18.	3102 30 00	Ammonium nitrate	2.5%	5%
19.	31	Muriate of potash, for use as manure or for the production of complex fertilisers	Nil	5%
20.	3105 30 00	Diammonium phosphate, for use as manure or for the production of complex fertilisers	Nil	5%
21.	5201	Cotton (not carded or combed)	5%	5%
22.	7106	Silver (including imports by eligible passengers)	7.5%	2.5%
23.	7106	Silver Dore	6.1%	2.5%
24.	7108	Gold (including imports by eligible passengers)	7.5%	2.5%
25.	7108	Gold Dore	6.9%	2.5%

**17. OTHER CHANGES (INCLUDING CERTAIN CLARIFICATIONS/ TECHNICAL CHANGES BY AMENDING NOTIFICATION NO. 50/2017-CUSTOMS DATED 30.06.2017**

S.No.	S.No. of Notfn	Description
1.	20	a) The HS [0713 20 00] was split into [0713 20 10], [0713 20 20] and [0713 20 90] vide notification 22/2018-Cus dated 20.03.2020. However, the transposition of the same has not been done for entry 20 of notification No. 50/2017-Cus. b) It is proposed to specifically mention Kabuli Chana & Bengal gram (desichana) in the exclusions to this entry.
2.	21E	The entry is redundant (was valid only upto 31.12.2020 and is proposed to be omitted.
3.	44	The entry is redundant (was valid only upto 30.09.2017) and is proposed to be omitted.
4.	131	Acid grade fluorspar attracts 5% BCD vide serial numbers 120 and S.N. 131 of notification No. 50/2017-Customs dated 30.06.2017. Entry at S.No. being redundant is being omitted.
5.	175	“Any Chapter” mentioned in the Chapter/heading etc. of this entry is being replaced by the specific entry heading 2501.
6.	284	An explanation is being inserted in Sr. No. 284 of the notification no. 50/2017-Customs dated 30 <sup>th</sup> June 2017 so as to clarify that the said exemption entry does not cover toy balloons made of natural rubber latex as such toy balloons are classified under customs heading 9503, so as to avoid misclassification.
7.	293A & 293B	The language of exemption entries providing concessional rates on newsprint & other uncoated paper conforming to the specifications of newsprint (other than its surface roughness) is being simplified so as to remove any doubts regarding the specification of uncoated papers used for printing of newspapers on which the concessional rates apply.

8.	First Proviso	Clauses (b), (c) and (e) are being omitted as they are redundant.
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## **18. Review of levy of Social Welfare Surcharge on various items.**

- A. Notification No. 12/2018-Customs, dated 02.02.2018 prescribing effective rates of 3% on certain items, including gold and silver, is being rescinded.
- B. SWS is also being rescinded on goods falling under heading 2515 11 and 2515 12
- C. SWS is being exempted on the value of AIDC imposed on gold and silver. Accordingly, these items would attract SWS, at normal rate, only on value plus basic customs duty.

## **19. Other Miscellaneous changes pertaining to Anti-Dumping Duty (ADD)/ Countervailing Duty (CVD)/ Safeguard Measures**

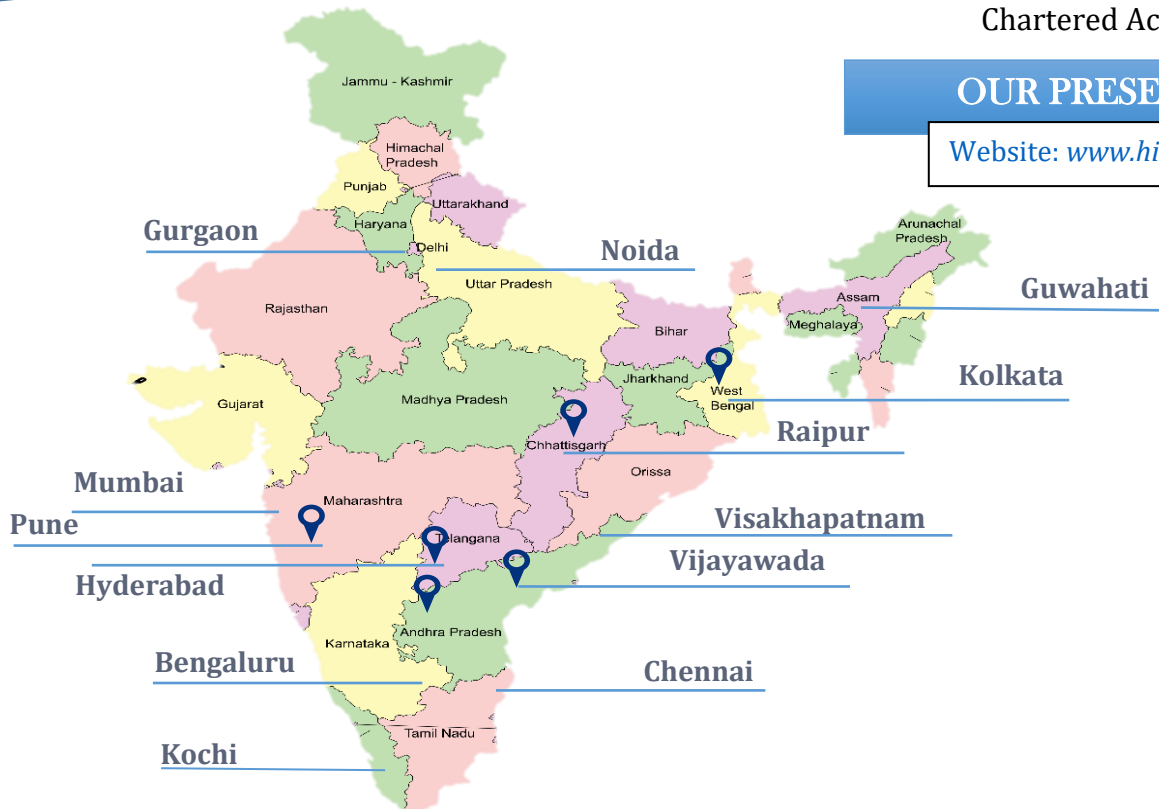
1.	Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 provide for manner and procedure for investigation into dumping of goods that cause injury to domestic industry. Changes are being made in the Rules, to provide that with effect from 01.07.2021, to provide that final findings are to be issued by the designated authority, in review cases, at least three months prior to expiry of the ADD under review. The ADD Rules are also being amended to provide for provisional assessment in cases of anti-circumvention investigation. Certain other changes are being made for bringing clarity in the scope of these rules.
2.	Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 provide for manner and procedure for causing investigation into the cases of imports of subsidized goods that cause injury to domestic industry. Changes are being made in the Rules to provide that with effect from 01.07.2021, the final findings are to be issued by the designated authority, in review cases, at least three months prior to expiry of the CVD under review. The CVD Rules are also being amended to provide for provisional assessment in cases of anti-circumvention investigation. Certain other changes are being made for bringing clarity in the scope of these rules.

3	<p>Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 (Safeguard Duty being changed to Safeguard Measures) provide for manner and procedure for causing investigation into the cases of imports in increased quantity that cause injury to domestic industry. Changes in the rules are being proposed to elaborate in detailed manner the modalities of implementation of safeguard measure, along with technical modifications consequent to the changes made earlier in section 8B of the Customs Tariff Act vide Finance Act, 2020.</p>
4.	<p>Anti-Dumping duty is being temporarily revoked for the period commencing from 2.2.2021 till 30.09.2021, on imports of the following-</p> <p>a) 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 18.10.2018;</p> <p>b) 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 25.09.2019;</p> <p>c) Flat rolled product of steel, plated or coated with alloy of Aluminum 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 23.06.2020.</p>
5.	<p>Countervailing duty is being temporarily revoked for the period commencing from 2.2.2021 till 30.09.2021, 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 otification No. 1/2017-Cus (CVD) dated 07.09.2017.</p>
6.	<p>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 9.10.2020.</p>
7.	<p>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 leviabale vide notifications no. 61/2015-Customs (ADD) dated 11th December 2015 and 52/2017-Customs (ADD) dated 24th October 2017.</p>

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**OUR PRESENCE**

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<p><b>Bengaluru (HO)</b> 1010, 2<sup>nd</sup> floor, 26 th Main, (Above Corporation Bank) 4th T Block, Jayanagar, Bengaluru - 560 041. <a href="tel:+918041210703">Tel:+918041210703</a> <a href="mailto:madhukar@hiregange.com">madhukar@hiregange.com</a></p>	<p><b>Raipur</b> 503, Babylon Capital, VIP Chowk, Raipur Tel: +917415790391 <a href="mailto:bhavesmittal@hiregange.com">bhavesmittal@hiregange.com</a></p>	<p><b>Hyderabad</b> 4th Floor, Anushka Pride, Road Number 12, Banjara Hills, Hyderabad, Telangana - 500 034. <a href="tel:+919908113787">Tel:+919908113787</a> <a href="mailto:sudhir@hiregange.com">sudhir@hiregange.com</a></p>
<p><b>Gurugram (NCR)</b> 509, Vipul Trade Centre, Sohna Road, Sector 48, Gurugram - 122 009. <a href="tel:+918510950400">Tel:+918510950400</a> <a href="mailto:ashish@hiregange.com">ashish@hiregange.com</a></p>	<p><b>Mumbai</b> No.409, Filix, Opp. Asian Paints, LBS Marg, Bhandup West, Mumbai - 400 078. <a href="tel:+919867307715">Tel:+919867307715</a> <a href="mailto:vasant.bhat@hiregange.com">vasant.bhat@hiregange.com</a></p>	<p><b>Guwahati</b> 2A, 2nd Floor, Royal Silver Tower, Ulubari, Guwahati- 781 007. <a href="tel:+917670087000">Tel:+917670087000</a> <a href="mailto:mannu@hiregange.com">mannu@hiregange.com</a></p>
<p><b>Chennai</b> Fagun Chambers, Third Floor, No.26,EthirajSalai, Egmore, Chennai - 600 008. <a href="tel:+919962508380">Tel:+919962508380</a> <a href="mailto:vikram@hiregange.com">vikram@hiregange.com</a></p>	<p><b>Noida (UP)</b> Skybox Business Centre, Office No. B2 Basement C-22, C Block, Sector 65, Noida (UP). <a href="tel:+918510950400">Tel:+918510950400</a> <a href="mailto:ashish@hiregange.com">ashish@hiregange.com</a></p>	<p><b>Kolkata</b> Unit No. 304B, 3rd Floor, Kamalalaya Centre, 156A Lenin Sarani, Dharamtalla, Kolkata - 700013. <a href="tel:+919830682188">Tel:+919830682188</a> <a href="mailto:gagan@hiregange.com">gagan@hiregange.com</a></p>
<p><b>Pune</b> Rajyog Creations Apartment, Flat No. 5, IV Floor, Anand Park, Above HDFC Bank, Aundh, Pune - 411 007. <a href="tel:+917680000205">Tel:+917680000205</a> <a href="mailto:ravikumar@hiregange.com">ravikumar@hiregange.com</a></p>	<p><b>Vishakhapatnam</b> D.No 8-1-112, Premier House, 2nd Floor, Vidyanagar, Opp.III Town Police Station, PeddaWaltair, Visakhapatnam-530017 <a href="tel:+918916009235">Tel:+918916009235</a> <a href="mailto:anil@hiregange.com">anil@hiregange.com</a></p>	<p><b>Vijayawada</b> D. No. 40-26/1-8, Sri Ram Nagar, Mohiddin Estates, Labbipet, Vijayawada - 520010 <a href="tel:+919900068920">Tel:+919900068920</a> <a href="mailto:rajeshmaddi@hiregange.com">rajeshmaddi@hiregange.com</a></p>
<p><b>Kochi</b> 62/6742C, 2nd Floor, Jos Brothers Building, Jos Jn, MG Road, Kochi - 682 015 <a href="tel:+918547853584">Tel:+ 91 8547853584.</a> <a href="mailto:arjun@hiregange.com">arjun@hiregange.com</a></p>		

