

UNION BUDGET 2018

INDIRECT TAX PROPOSALS



CUSTOMS

Amendment to definitions

[Clause 54 of Finance Bill, 2018]

- ❖ The term “Import Manifest” and “Export Manifest” to include “Arrival manifest” and “Departure Manifest”, respectively

[Clause 56 of Finance Bill, 2018]

- ❖ The term “Assessment” to be substituted to cover cases of determination of duty, tax, cess or any other sum payable under the Customs Act
- ❖ Limit of ‘Indian Customs Waters’ extended into the sea from existing ‘Contiguous zone of India’ to the ‘Exclusive Economic Zone (EEZ)’ of India

[w.e.f. enactment of Finance Bill, 2018]

Amendment to scope of Customs Act

[Clause 55 of Finance Bill, 2018]

- ❖ Scope of Section 1 of Customs Act expanded to include offence/ contravention committed thereunder by any person outside India

VA Comments:

The proposed amendment overrides the recent judgments in the case of:

- (i) Shafeek P.K. vs. Comm. of Customs, Cochin [2015 (325) ELT 199 (Tri. – Bang.)], and
- (ii) C.K. Kunhammed vs. Collector [1992 (62) ELT 146 (Tribunal)]

Amendment relating to assessment

[Clause 58 of Finance Bill, 2018]

- ❖ Scope of Section 17 wrt. verification by the proper officer is proposed to be broadened by amending Section 17(2) to include all aspects of declarations made in the bill of entry or shipping bill in addition to self-assessment
- ❖ Proviso to Section 17(2) proposed whereby risk-based selection of self-assessed bill of entry or Shipping Bill through appropriate selection criteria has been provided legal backing
- ❖ Scope of verification of self-assessment proposed to be extended by amending Section 17(5) to go beyond valuation, classification and exemption or concessions of duty availed consequent to any notification

[w.e.f. enactment of Finance Bill, 2018]

Amendment w.r.t. exemption from duty

[Clause 60 of the Finance Bill, 2018]

❖ New Sections 25A & 25B being inserted to empower Central Govt. to exempt goods:

- imported for repair/ further processing/ manufacture from payment of customs duty
- re-imported after export for repair/ further processing/ manufacture from payment of customs duty

[w.e.f. enactment of Finance Bill, 2018]

Amendment w.r.t. recovery of duty

[Clause 61 of the Finance Bill, 2018]

- ❖ Section 28(1) proposed to be inserted whereby cases not involving collusion, suppression, etc. would henceforth be dealt by way of pre-notice consultation before issuance of demand notice
- ❖ Sub-section (7A) proposed to be inserted to Section 28 to give power to the assessing officer to issue supplementary notice which shall have the same force as the original demand notice
- ❖ Sub-section (10A) proposed to be inserted whereby departmental appeal against an erroneous refund is allowed, separate demand notice for recovery of excess refund need not be issued, instead, such amount along with interest may be recovered as sum due to Govt.

....contd.

- ❖ Sub-Section (10B) proposed to be inserted whereby in cases where the charge of collusion, suppression of fact, etc. is not sustained in any proceedings, the notice issued for extended period shall be deemed to be converted into notice issued under the normal provisions which effectively would sustain the demand covered under the normal period

Provisions w.r.t. Advance Ruling

[Clause 63 of the Finance Bill, 2018]

- ❖ The existing Authority for Advance Ruling for Customs Act is proposed to be designated as “Appellate Authority” by amending Section 28E and new Authority with the name of ‘Customs Authority for Advance Rulings’ is proposed to be constituted to provide advance rulings specifically for the Customs Act by inserting Section 28EA
- ❖ Till such appointment, existing Authority shall continue to pronounce Advance Rulings

....contd.

[Clause 64 of the Finance Bill, 2018]

- ❖ Section 28F being amended to provide that on appointment of Customs Authority for Advance Rulings, the applications and proceedings pending before the erstwhile Authority shall stand transferred to Customs Authority for Advance Rulings

[Clause 66 of the Finance Bill, 2018]

- ❖ Sub-sec. (6) of Section 28-I being amended to reduce the time period from 6 months to 3 months within which the authority shall pronounce its advance ruling

....contd.

[Clause 67 of the Finance Bill, 2018]

- ❖ Section 28K proposed to be amended wherein in case any Advance Ruling becomes void by virtue of misrepresentation or suppression of facts, for the purpose of calculating time limit for issuance of notice of recovery, the period of pendency before Advance Ruling Authority shall be excluded

[Clause 68, 69 and 70 of the Finance Bill, 2018]

- ❖ New Section 28KA relating to Appeal provisions in respect of Advance Ruling is being inserted

[w.e.f. a notified date]

....contd.

- ❖ Amendments have been made to provide powers and procedures of Appellate Authority in respect of Advance Ruling

[w.e.f. enactment of Finance Bill, 2018]

VA Comments:

The scope of Advance Ruling is expanded and aligned with GST laws to provide for appeal mechanism

Provisions w.r.t. conveyances carrying imported/ exported goods

[Clause 71 of Finance Bill, 2018]

❖ Amendments made to Section 30:

- (a) to include export goods in addition to imported goods as part of the information provided in the manifest
- (a) to provide for prescribing the manner of delivery of manifest through regulations

[w.e.f. enactment of Finance Bill, 2018]

....contd.

[Clause 72 of Finance Bill, 2018]

❖ Amendments made to Section 41:

- (a) to include imported goods in addition to export goods as part of the information provided in the manifest
- (b) to provide penalty provisions for late filing of manifest
- (c) to provide for prescribing the manner of delivery of manifest through regulations

[w.e.f. enactment of Finance Bill, 2018]

Clearance of imported and export goods

[Clause 73, 74 and 75 of Finance Bill, 2018]

- ❖ Section 45 being amended to provide for clearance of goods by other ways as may be prescribed in addition to existing system of clearance by the proper officer
- ❖ Section 46 being amended to provide manner and time limit for the prior presentation of bill of entry
- ❖ Section 47 being amended to have a provision for clearance of goods by Customs Automated System in addition to existing clearance by the proper officer

[w.e.f. enactment of Finance Bill, 2018]

....contd.

[Clause 76 of Finance Bill, 2018]

- ❖ Section 50 being amended to provide manner of presentation of shipping bill or bill of export
- ❖ New sub-section (2A) inserted in Section 50 to provide for observance of the accuracy, authenticity, validity of declarations made by the exporter under this section and compliance to the prohibitions or restrictions under the Customs Act or any other law for the time being in force

[w.e.f. enactment of Finance Bill, 2018]

Payments through electronic cash ledger

[Clause 78 of Finance Bill, 2018]

- ❖ New Chapter VIIA on payments through electronic cash ledger being inserted under Customs Act relating to advance deposit which would enable payment of duties, taxes, fee, interest, and penalty through electronic cash ledger

[w.e.f. enactment of Finance Bill, 2018]

VA Comments:

The proposed amendment intends to bring parity with similar provisions contained under GST law

Clearance of goods from warehouse

[Clause 80, 81 and 82 of Finance Bill, 2018]

- ❖ Sections 60, 68 and 69 being amended to contain a provision for clearance of goods by Customs Automated System in addition to existing clearance by the proper officer

[w.e.f. enactment of Finance Bill, 2018]

Concept of Audit introduced

[Clause 88 of the Finance Bill, 2018]

- ❖ New Chapter XIIA and section 99A inserted thereby authorizing proper officer to carry out audit of assessment of imported goods or export goods or of an auditee
- ❖ The term “auditee” defined to include other than the importer or exporter, also the approved custodian of goods or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods
- ❖ The detailed procedure for conducting Audit shall be provided in separate regulations to be notified

Concept of “Controlled Delivery” introduced

[Clause 89 of the Finance Bill, 2018]

- ❖ Concept of “Controlled delivery” to be introduced by adding Section 109A whereby a proper officer or any other officer authorized by him in this behalf shall be authorized to allow any consignment of goods to pass out of, or into, the territory of India, under its supervision, for the purpose of identifying the persons involved in the commission of an offence or contravention under the Customs Act

[w.e.f. enactment of Finance Bill, 2018]

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Changes in provisions relating to seized goods

[Clause 90 of the Finance Bill, 2018]

- ❖ Proviso to Section 110 being amended to include that the person whose goods have been seized should be informed in cases where the Principal Commissioner or Commissioner has granted extension to the proper officer for issuance of show cause notice beyond the original period of 6 months and the reasons for the extension has to be recorded in writing (max. allowed extension is 6 months)
- ❖ Further, the extended period of 6 months shall not apply in case seized goods are released under provisional release order under Section 110A

[w.e.f. enactment of Finance Bill, 2018]

.....(contd.)

[Clause 92 of the Finance Bill, 2018]

- ❖ Proviso to be added to Section 124 to allow issuance of supplementary show cause notice in case of seizure of goods for which the detailed regulations shall be notified

[w.e.f. enactment of Finance Bill, 2018]

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Changes w.r.t. redemption fine in lieu of confiscation

[Clause 93 of the Finance Bill, 2018]

- ❖ Amendment in Section 125 providing for option of paying redemption fine in lieu of confiscation of goods *inter alia* providing that the option has to be availed within 120 days, except in cases where an appeal against the adjudication for confiscation itself is pending. For orders passed before enactment of Finance Act, where no appeal has been filed, there shall be an option to pay the redemption fine within 120 days from the said date of enactment
- ❖ Also, a proviso to be inserted to make the entire Section 125 inapplicable if the adjudicating proceedings are concluded owing to due payments being made by the Noticee

Provision w.r.t. remand of cases

[Clause 94 of the Finance Bill, 2018]

❖ Section 128A is being amended to allow Comm. (Appeals) to remand the matter to the adjudicating authority with directions for fresh adjudication in following cases:—

(i) where order or decision has been passed without following the principles of natural justice; or

(ii) where no order or decision has been passed after re-assessment; or

(iii) where an order against the refund claim under Section 27 is passed crediting the amount to the Consumer Welfare Fund without recording any finding on the evidence produced by the applicant

[w.e.f. enactment of Finance Bill, 2018]

Mode of service of order, decision etc.

[Clause 97 of the Finance Bill, 2018]

- ❖ Section 153 is being substituted so as to align it with the corresponding GST provisions to include Speed Post, Courier, and registered email as valid modes of delivery of order, decisions etc. and in case of non-service by such means, to also provide for affixing it at some conspicuous place at the last known place of business or residence in addition to affixing it on the notice board of the Customs House etc.

[w.e.f. enactment of Finance Bill, 2018]

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Empowering CBEC to make regulations

[Clause 95 and 98 of the Finance Bill, 2018]

- ❖ Insertion of Section 143AA to empower the CBEC to prescribe trade facilitation measures or separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods for the specified aspects
- ❖ Pursuant to various other proposed amendments, Section 157 to be amended to additionally empower CBEC to make regulations in relation to these amendments including advance ruling or appeal, finalization of provisional assessment, pre-notice consultation, supplementary notice, clearance or removal of imported or export goods, audit, etc.

[w.e.f. enactment of Finance Bill, 2018]

Cross-border arrangement for information exchange

[Clause 96 of the Finance Bill, 2018]

- ❖ Section 151B to be inserted to authorize the Central Govt. to enter into a reciprocal arrangement with the Govt. and/or officials of any other country for exchange of information for the purpose of facilitation of trade and enforcing the provisions of Customs Act including for combating and investigation of offences, etc. The information received under the said arrangement may also be used as evidence in investigations and proceedings under the Customs Act

[w.e.f. enactment of Finance Bill, 2018]

Social Welfare Surcharge as duty of customs on imported goods

Description of Goods	From	To w.e.f. 02.02.18
Levy of Social Welfare Surcharge on imported goods to finance education, Housing and social security. [Clause 108 of Finance Bill, 2018]	--	10% aggregate duties of customs
Abolition of Education Cess and Secondary and Higher Education Cess on imported goods [Clause 106 of finance Bill, 2018]	3% of aggregate duties of customs [2% + 1%]	Nil
Motor spirit commonly known as petrol and high speed diesel oil	--	3% aggregate of duties of customs
Silver(including silver plated with gold or platinum, unwrought or in semi-manufactured form, or in powder form.	--	3% aggregate of duties of customs
Gold (including gold plated with platinum), unwrought or in semi-manufactured form, or in powder form	--	3% aggregate of duties of customs
Specified goods hitherto exempt from Education Cess and Secondary and Higher Education Cess on imported goods.	--	Nil

Levy of Road & Infrastructure Cess

Description of Goods	From	To w.e.f. 02.02.2018
Levy of Road and Infrastructure Cess on imported motor spirit commonly known as petrol and high speed diesel oil [clause 109 of Finance Bill, 2018]	--	Rs. 8 per litre
Exemption from additional duty of customs leviable under section 3(1) of the Customs Tariff Act, 1975 in lieu of the proposed road and Infrastructure cess on domestically produced motor spirit commonly known as petrol and high speed diesel oil.	--	Nil
Abolition of Additional Duty of Customs [Road Cess] on imported motor spirit commonly known as petrol and high speed diesel oil.	Rs. 6 per litre	Nil
Additional duty of customs under sections 3(1) of the Customs Tariff Act, 1975 in lieu of basic excise duty.		
(i) Motor spirit commonly known as petrol	Rs. 6.48 per litre	Rs. 4.48 per litre
(ii) High speed diesel oil	Rs. 8.33 per litre	Rs. 6.33 per litre

Amendments under Customs Tariff Act

[Clause 100 of Finance Bill, 2018]

❖ Section 3 being amended to:

- (a) to include reference to sub-section (8A) in sub-section (7)
- (b) insert a new sub-section (8A) to provide for value of goods when they are sold within the warehousing period for calculation of integrated tax
- (c) include reference to sub-section (10A) in sub-section (9)
- (d) to insert new sub-section (10A) to provide for value of goods when they are sold within the warehousing period for calculation of goods and services tax compensation cess

[w.e.f. enactment of Finance Bill, 2017]

SERVICE TAX

Retrospective exemptions from service tax

[Clause 103 of the Finance Bill, 2018]

- ❖ Life insurance services provided to Coast Guard personnel by the Naval Group Insurance Fund proposed to be exempt w.r.e.f 10th Sep, 2004 to 30th June, 2017

[Clause 104 of the Finance Bill, 2018]

- ❖ Services provided or agreed to be provided by GSTN to Central/ State Govt. or UT administration proposed to be exempted w.r.e.f 28th March, 2013 up to 30th June, 2017

[Clause 105 of the Finance Bill, 2018]

- ❖ Government's share of profit petroleum on services by Govt. by way of grant of license or lease to explore / mine petroleum crude or natural gas or both (w.r.e.f. 1st April, 2016 to 30th June, 2017)

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