Union Budget 2021

Key tax proposals- Feb 2021

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Union Budget 2021
Foreword

Budget 2021 was no ordinary budget, having followed a year full of catastrophic challenges and uncertainty. It seems like yesterday when we were talking about the previous budget in February 2020, oblivious to the mayhem breeding in beneath our feet. After an absolutely tumultuous ride over the last few months, we now stand even stronger as we welcome the pathway for getting back into action.

Smt. Nirmala Sitharaman, Finance Minister, presented the third budget under Modi government 2.0 in Parliament, with a view toward building our road to recovery.

AtmaNirbhar Bharat, or the need to become self-reliant, has been an overarching vision that took shape shortly after our initial lockdown. Accordingly, this was also the theme of this year's budget, which was holistically weaved around six central pillars:

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

The proposals were largely policy oriented, which stressed upon rejuvenating and strengthening both sectors and institutional frameworks, over the short and long run. There was a strong emphasis on capital expenditure and undertaking digital and cost-efficient measures across a host of value-driven and administrative functions.

COVID-19 has taught us all some big lessons when it comes to managing healthcare systems. While India had undertaken a very creative and intelligible approach as it converted various places into effective treatment-centric hospitals in just days, it had also gotten a reality check for the years to come. It is thereby not surprising that the budget outlay for health and wellbeing jumped up by 137% from last year. Schemes and initiatives such as PM AtmaNirbhar Swasth Bharat Yojana, Mission Poshan 2.0, Jal Jeevan Mission and Urban Swachh Bharat Mission 2.0 exemplify the need to create both proactive and reactive measures toward sustained wellbeing.

Apart from health, a wide range of programs under other pillars are underway in order to promote both life and livelihood in the coming years. Infrastructural development is very much in play, with the budget emphasizing a greater thrust on asset monetization to finance new construction. Meanwhile, dissemination of the promising National Education Policy (NEP), streamlined higher education and strategic research collaborations will foster India to build upon a talented workforce and encourage innovation in many different fields.

From a taxation angle, while there has been no change in slab rates, the government has introduced a slew of hikes in custom duty to encourage Make in India and create a viable playing field for MSMEs.

The fiscal deficit in RE 2020-21 is pegged at 9.5% of GDP, while it is estimated to stand at 6.8% in BE 2021-2022. Fiscal consolidation is underway with the aim to reduce the deficit level below 4.5% of GDP by 2025-2026.

In totality, it is certain to say that this budget, which touched upon core areas of the economy and mandated a model for "repair, reorientation and redevelopment" was much needed at this point of time. There is a strong sense of optimism in the air as we leave the worst behind us. India has the potential to become one of the fastest economies to recover post the pandemic and this budget showcases a blueprint on how we will start to do exactly that.

Mr. Bharat Dhawan
Managing Partner, Mazars in India

1. Direct tax proposals

1.1 Tax rates

Tax rates, Surcharge and Cess

- There is no change in the existing rates of income tax and surcharge for Individual, HUF, Associations of Person, Body of Individuals, Artificial Judicial Person, Domestic Company and Foreign Company.
- "Health and Education Cess" shall continue to be levied at the rate of 4 percent of income tax including surcharge, wherever applicable.
- Proposal to extend the benefit of reduced income tax rate of 25 percent (assessment year 2022-23) for domestic companies having annual turnover of up to INR 400 Crore (for previous year 2019-20).

1.2 Personal tax

Certain category of senior citizens relaxed from filing return of income-tax

- In order to provide relief to senior citizens and to reduce compliance for them, who are of the age of 75 year or above, it is proposed to insert a new section to provide relaxation from filing the return of income, if they have pension income and no other income.
- However, in addition to such pension income, they may have interest income from the same bank in which pension income is received; they shall be required to furnish a declaration to the specified bank.
- This amendment will take effect from 1st April, 2021.

Extension of date of sanction of loan for affordable residential house property - Section 80EEA

- The existing provision of section 80EEA of the Income Tax Act (hereinafter referred as Act) provides a deduction of upto INR 1,50,000 in respect of interest on loan taken for a residential house property from any financial institution subject to the condition that loan has been sanctioned during the period beginning on 1st April, 2019 and ending on 31st March, 2021.
- The time limit for sanctioning of loan for affordable housing for availing deduction of INR 1,50,000 in respect of interest on loan from any financial institution is proposed to be extended from 31st March, 2021 to 31st March, 2022.

This amendment will take effect from 1st April, 2022 and will accordingly apply to the assessment year 2022-23 and subsequent assessment years.

Taxation of proceeds of high premium unit linked insurance policy (ULIP)

- Under the existing provisions of the Income Tax Act, Section 10(10D) of the Act provides for the exemption for the sum received under a life insurance policy, including the sum allocated by way of bonus on such policy in respect of which the premium payable for any of the years during the terms of the policy does not exceed ten percent of the actual capital sum assured.
- There is no cap on the amount of annual premium being paid by any person during the term of the policy and HNIs are claiming exemption under this clause by investing in ULIP with hefty premium. Such exemption on the maturity amount defeats the legislative intent of providing benefit to small and genuine taxpayers.
- Accordingly, it is proposed that:
  - the exemption under section 10(10D) of the Act shall not be allowed with respect to any ULIP issued on or after the 1st February, 2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds INR 2,50,000.
  - If premium is payable by a person for more than one ULIPs, issued on or after the 1st February, 2021, exemption under section 10(10D) of the Act shall be available only with respect to aggregate premium, whereof does not exceed the amount of INR 2,50,000.
  - The aforementioned provisions shall not apply to any sum received on the death of a person
  - The non-exempt ULIP shall be treated as capital asset under section 2(14) of the Act and shall be taxable as per concessional capital gains taxation regime as available to the mutual fund.

These amendments will take effect from assessment year 2021-22 and subsequent assessment years.

Threshold limit for applicability of Tax audit- Section 44AB

- To reduce the compliance, it is proposed to increase the threshold limit of tax audit for a person carrying on business from INR 5 crores to INR 10 crores, in cases where the cash receipts and payments during the year does not exceed 5percent each of the total receipts and tottal payments.

This amendment will take effect from 1st April, 2021

Exemption for Leave Travel Concession (LTC)

- Under existing provisions, exemption is provided in respect of value of travel concession received by an employee or his family members from employer in connection with his proceeding on leave to any place in India.
- Due to ongoing COVID scenario, it is proposed to provide tax exemption to cash allowance in lieu of LTC subject to incurring of specified expenditure during specified period.
- The conditions in this regard shall be prescribed in the Income tax rules in due course and shall be as under along with other points:
  - The employee exercises an option for the deemed LTC fare in lieu of applicable LTC in the block year 2018-21.
  - "Specified period" means the period commencing from 12th day of October, 2020 and ending on 31st day of March, 2021.
  - "Specified expenditure" means expenditure incurred by an individual or his family during the specified period on goods or services, which are liable to GST at an aggregate rate of twelve per cent or above and goods or services are procured from GST registered vendors/ service providers.
  - The amount of exemption shall not exceed INR 36,000 per person or one-third of specified expenditure, whichever is less.
  - The payment to GST registered vendor/ service provider is made by banking channel or through such other electronic mode as prescribed and tax invoice is obtained.
  - If the amount received by, or due to an individual for the LTC is more than what is allowable under the above discussed provisions, the exemption would be available only to the extent admissible under above listed provisions.

This amendment will take effect from 1st April, 2021 and will, apply in relation to the assessment year 2021-2022 only.

1.3 Corporate tax

Goodwill of a business or profession will not be considered as a depreciable asset

- Hon'ble Supreme Court, in the case Smiff Securities Limited [(2012)348 ITR 302 (SC)], has held that the Goodwill of a business or profession is a depreciable asset. The actual calculation of depreciation on goodwill is required to be carried out in accordance with various applicable provisions of the Act.
- In some situations (like that of business reorganization), there could be no depreciation on account of actual cost being zero and the written down value of that assets in the hand of predecessor/amalgamating company being zero, whereas in some other cases (like that of acquisition of goodwill by purchase), there could be valid claim of depreciation on goodwill.
- It is seen that Goodwill, in general, is not a depreciable asset and in fact depending upon how the business runs, goodwill may see appreciation or in the alternative, no depreciation to its value. Therefore, there may not be a justification of depreciation on goodwill like depreciation in case of other intangible assets or plant & machinery.
- In view thereof, it has been decided to propose that goodwill of a business or profession will not be considered as a depreciable asset and there would not be any depreciation on goodwill of a business or profession in any situation.
- In a case, where goodwill is purchased, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act, subject to the condition that in case depreciation was obtained by the taxpayer in relation to such goodwill prior to the assessment year 2021-22, then the depreciation so claimed by the taxpayer shall be reduced from the amount of the purchase price of the goodwill.

This amendment will take effect from assessment year 2021-22.

Payment by employer of employee contribution to a fund on or before due date

- Under the existing provisions, section 36(1)(va) of the Act provides for deduction of any sum received by the assessee from any of his employees as contribution to any provident fund or superannuation fund or any fund set up under the provisions of ESI Act or any other fund for the welfare of such employees, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.
- Section 43B of the Act specifies the list of deductions that are admissible under the Act, only upon their actual payment. According to it, if any sum towards such fund is actually paid by the assessee on or before the due date for furnishing the return of the income, assessee would be entitled to deduction under section 43B.
- This provision does not cover employee contribution referred to in section 36(1)(va). Section 43B covers only employer's contribution and does not cover employee's contribution. It may be noted that employee's contribution towards welfare funds is a mechanism to ensure the compliance by the employers of the labour welfare laws. Delay in deposit of the contribution of employee's towards various welfare funds by employers result in permanent loss of interest/income for the employees.
- Accordingly, in order to provide certainty, it is proposed to:
  i. amend section 36(1)(va) to clarify that the provision of section 43B does not apply and deemed to never have been applied for the purposes of determining the due date for employee's contribution; and
  ii. amend section 43B to clarify that the provisions of the said section do not apply and deemed to never have been applied to a sum received by the assessee as employee's contribution.

These amendments will take effect from 1st April, 2021 and will accordingly apply to the assessment year 2021-22 and subsequent assessment years.

Slump Sale – Section 50B

- As per the existing provisions, section 50B of the Act, contains special provision for computation of capital gains in case of slump sale. Section 2(42C) of the Act defines, 'slump sale' to mean the transfer of one or more undertakings as a result of sale for lump sum consideration without value being assigned to individual assets and liabilities in such cases.
- It has been interpreted by some courts that other means of transfer, listed in section 2(47) of the Act, in relation to capital asset like exchange, relinquishment etc., are excluded.
- Hon'ble Supreme Court in CIT vs. R.R. Ramakrishna Pillai [(1967) 66 ITR 725 SC] held that if a transfer of an asset is in lieu of another asset (non-monetary), it can be said to be monetized in a situation, where the consideration for the asset transferred is ascertained first and is then discharged by way of non-monetary assets. In this situation it would be a case of transfer by way of sale and would thus be covered within existing provisions of section 50C of the Act.
- Thus, a transfer which 'in effect and substance' is by way of sale is also currently covered in the definition of slump sale under section 50C of the Act. However, it is still seen that tax avoidance schemes are drawn to defeat the intent of this provision.
- In order to make the intention clear, it is proposed to amend the scope of the definition of the term, slump sale by amending the provision of section 2(42C) of the Act so that all types of transfers are included within its scope.

Capital Gain exemption – Section 54GB

- The existing provision of section 54GB of the Act provides for exemption of capital gain, which arises from transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee. The assessee is required to utilise the net consideration for subscription in the equity shares of an eligible start-up, before the due date of furnishing of return of income. The eligible start-up is required to utilise this amount for purchase of new asset within one year from the date of subscription in equity shares by the assessee.

- To boost investment in the eligible start-up through sale proceeds of residential property, it is proposed to amend the provisions of section 54GB of the Act to extend the outer date of transfer of residential property from 31st March, 2021 to 31st March, 2022.

These amendments will take effect from 1st April, 2021.

Increase in safe harbour limit from 10 percent to 20 percent, for home buyers and real estate developers selling residential units

- Proposal to increase the safe harbour limit of 10 percent to 20 percent for the difference between value adopted or assessed or assessable by the authority for payment of stamp duty and consideration received or accruing as a result of transfer under section 43CA of the Act.
- In order to boost the demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a lower rate to home buyers, it is proposed to increase the threshold, if the following conditions are satisfied:-
  - The transfer of residential unit takes place during the period from 12th November, 2020 to 30th June, 2021
  - The transfer is by way of first time allotment of the residential unit to any person
  - The consideration received or accruing as a result of such transfer does not exceed two crore rupee
- Further it is proposed to provide the consequential relief to buyers of these residential units by way of amendment in section 56(2)(x) of the Act. Accordingly, for these transactions, circle rate shall be deemed as sale/ purchase consideration only, if the variation between the agreement value and the circle rate is more than 20 percent.

These amendments will take effect from 1st April, 2021.

Rationalization of provisions for start-ups – Section 80-IBA

- Under the existing provisions of section 80-IBA of the Act, where the gross total income includes profit and gains from business of developing and building affordable housing project, deduction shall be allowed amounting to 100 percent of profits and gains derived from such business subject to certain conditions. One of the conditions is that the project is approved by competent authority after 1st June, 2016 but on or before 31st March, 2021.
- It is proposed to amend section 80-IBA, to incentivize a taxpayer, who is engaged in building affordable housing, by extending the period of approval of the project by the competent authority from 31st March, 2021 to 31st March, 2022 for claiming deduction of all the profits and gains derived from the business of developing and building affordable housing projects and affordable rental housing project.
- This amendment will take effect from assessment year 2022-23 and subsequent assessment years.

Extension of date of incorporation for eligible Start-ups – Section 80-IAC

- The existing provisions of section 80-IAC of the Act, provides the deduction of 100 percent of the profits and gains derived from an eligible business by an eligible start-up, where the total turnover does not exceed INR 100 crore and it shall be allowed for a period of three consecutive assessment years out of ten years since incorporation.
- To rationalize the provisions relating to start-ups, it has been proposed to amend provision of section 80-IAC of the Act, to extend the outer date of incorporation to 1st April, 2022 from of 1st April, 2021.

These amendments will take effect from 1st April, 2021

Rationalising the provisions of Minimum Alternate Tax (MAT)

- As per existing provisions, in case of a company, the income tax payable on the total income as computed under the Income Tax Act is less than 15 percent of its book profit, then such book profit shall be deemed to be the total income of the assessee and the tax payable on such total income shall be the amount of income tax.
- Book Profit is defined in the explanation 1 to section 115JB of the Act, as book profit means the net profit as shown in the profit & loss account for the relevant previous year and as increased and decreased by some prescribed items. Additions to the net profit includes income tax paid or payable, transfer made to any reserve, dividend proposed or paid, provisions etc. Similarly there are deletions as well.
- Further, computation of book profit under section 115JB of the Act does not provide for any adjustment on account of additional income of past year(s) included in books of account of current year on account of secondary adjustment under section 92CE of the Act or on account of an Advance Pricing Agreement (APA).
- Hence it is proposed that where past year income is included in books of account during the previous year, on account of APA or a secondary adjustment, the AO shall on an application made to him in this behalf by the taxpayer, recompute the book profits of the past years and tax payable, if any, during the previous year.
- The provision of section 154 of the Act shall apply so far as possible and the period of four years specified in section 154(7) shall be reckoned from the end of the financial year in which the said application is received by the Assessing Officer.

This amendment will take effect from 1st April, 2021.

1.4 Tax at source

TDS on purchase of goods - Section 194Q

- It is proposed to provide for TDS by person responsible for paying any sum to any resident for purchase of goods @ 0.1 percent.
- TDS rate shall be five per cent for the cases where PAN has not been provided.
- Tax is only required to be deducted by a buyer, whose total sales, gross receipts or turnover from the business carried on by him exceed INR 10 crore during the financial year immediately preceding the financial year, in which the purchase of goods is carried out.
- Further, tax is required to be deducted by such person, if the purchase of goods by him from the seller is of the value or aggregate of such value exceeding INR 50 lakh in the previous year.
- On a transaction, in case TDS or TCS is required to be carried out under any other provision, then it would not be subjected to TDS under this section.

These amendments will take effect from 1st July, 2021.

Higher rates of TDS/TCS for non-filer of Income Tax Return – 206AB and 206CCA

- It is proposed to insert a new section 206AB in the Act as a special provision providing for higher rate for TDS for the non-filers of income-tax return. These provisions would apply on any sum or income or amount paid, or payable or credited, by a person (deductee) to a specified person.
- The proposed TDS rate is higher of the followings:-
  - twice the rate specified in the relevant provision of the Act; or
  - twice the rate or rates in force; or
  - the rate of five per cent
- This section shall not apply where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act.
- Similarly it is proposed to insert a section 206CCA in the Act, as a special provision for providing for higher rate of TCS for non-filers of income-tax return. Proposed section 206CCA of the Act would apply on any sum or amount received by a person (collectee) from a specified person.
- The proposed TCS rate is higher of the followings:-
  - twice the rate specified in the relevant provision of the Act; or
  - the rate of five percent

- The specified person is a person, who has not filed the returns of income for both of the two assessment years relevant to the two previous years, which are immediately before the previous year in which tax is required to be deducted or collected, as the case may be. Further the time limit for filing tax return under section 139(1) of the Act has expired for both these assessment years. There is another condition that aggregate of TDS/TCS in his case is INR 50,000 or more in each of these two previous years.
- Specified person shall not include a non-resident, who does not have a permanent establishment in India

This amendment will take effect from 1st July 2021.

1.5 Tax assessments

Rationalising due dates for filing return of income

The due dates for filing return of income has been extended as under:-

Description	Existing Due Dates	Proposed Due Dates
Partner of a firm, which is required to furnish report from an accountant under section 92E of the Act	30th September of the Assessment Year (for Non Audit Cases) 31st October of the Assessment Year (for Audit Cases)	30th November of the Assessment Year
Belated Return under section 139(4) and Revised Return under section 139(5) of the Act	31st March of the Assessment Year or before the completion of Assessment, whichever is earlier	31st December of the Assessment Year or before the completion of Assessment, whichever is earlier
Defective Return under section 139(9) of the Act	Within 15 days or time as mentioned in the notice	Proposed to empower the Board to relax the rule relating to defective return for a class of taxpayers, which shall be notified.

Faceless proceedings before the Income-tax Appellate Tribunal (ITAT)

- Currently, new faceless assessment scheme, faceless appeal scheme and faceless penalty scheme have already been introduced. Also, the Central Government has been empowered to notify similar schemes in respect of many other processes under the Act, that require a physical interface with the taxpayers.
- In order to provide transparent tax appellate mechanism, it is proposed to the make the Income Tax Appellate Tribunal faceless and jurisdiction-less. A National Faceless Income-tax Appellate Tribunal Centre shall be established and all the communication between the Tribunal and the appellant shall be made electronically. Wherever personal hearing is needed, it shall be done through video-conferencing. Direction in such regard are to be issued on or before 31st March, 2023.

Income escaping assessment and search assessments

- It is proposed to place a completely new procedure of assessment or reassessment or re-computation of income escaping assessment and the assessment of search related cases.
- Assessments or reassessments or re-computation in cases where search is initiated under section 132 of the Act or requisition is made under 132A of the Act, after 31st March 2021, shall be under the new procedure.
- Further, In order to reduce the litigation, the time-limit for re-opening of assessment is being reduced to 3 years from the existing 6 years from the end of the relevant assessment year. Re-opening up to 10 years is proposed to be allowed only if there is evidence of undisclosed income of INR 50 lakh or more for a year. Further, it is proposed to completely remove discretion in re-opening and henceforth re-opening shall be made only in cases flagged by system on the basis of data analytics, objection of C&AG and in search/survey cases.

1.6 Other proposals

- Proposal to amend the provision of presumptive taxation for professionals under section 44ADA of the Act, to clarify that the provisions will not be applicable to Limited Liability Partnership.
- Proposal to discontinue Income-tax Settlement Commission (ITSC) on or after 1st February 2021. The Central Government shall constitute one or more Interim Board of settlement for pending cases.
- It is proposed to constitute a Dispute Resolution Committee for small taxpayers, where assessee having taxable income up to INR 50 lakh and disputed income up to INR 10 lakh, shall be eligible to approach the Committee in faceless manner.

No Equalisation Levy on royalty or Fees for technical services & Exemption in respect of income chargeable to Equalisation Levy

Under existing provisions, Equalisation levy is to be levied at the rate of two percent of the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated, by it.

It has been proposed to clarify that equalization levy shall not be levied on consideration received or receivable for specified services or for e-commerce supply which is taxable as Royalty or Fees for Technical Services.

It is also proposed to clarify regarding applicability of equalisation levy on physical/offline supply of goods and services.

It has been proposed that exemption under section 10(50) of the Act will apply for the e-commerce supply or services made or provided or facilitated on or after 1st April, 2020 on which equalization levy is levied. Further, no exemption will apply for Royalty or Fees for Technical Services, which are taxable under the Income Tax Act read with Double Taxation Avoidance Agreement.

These amendments will take effect retrospectively from 1st April, 2020.

Charitable Trust and Institutions

Corpus Contribution to be exempt only, if invested

Under the existing provisions, Corpus donations received by charitable trusts, institutions, funds etc. are exempt from taxation. Further, voluntary contributions made with a specific direction, that they shall form part of the corpus are also exempt.

It is proposed that voluntary contributions made with a specific direction that it shall form part of the corpus shall be eligible for exemption only if it is invested/deposited in modes specified under Section 11(5) of the Act maintained specifically for such corpus. Further, the amount spent from such corpus shall not be considered as an application against the mandatory 85 percent application of non-corpus income.

Amount applied out of loans not to be considered as an application of Income

Under the existing provisions, when charitable trusts, institutions, funds etc. take loans or borrowings and make application for charitable or religious purposes out of the proceeds of loans and borrowings. Eventually when such loans or borrowings are repaid, they are again claimed as application.

As this results in unintended double deduction. It has been proposed that utilization of borrowed money shall not be considered as an application of income for charitable or religious purposes. However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as an application in the previous year in which it is repaid.

Set-off of deficit not to be allowed to Charitable Institutions

It has been proposed that the charitable trusts shall not be permitted to claim any carry forward of losses. Therefore, no set-off/deduction/allowance of any excess application of any preceding year shall be allowed while computing income required to be applied or accumulated during the previous year by such institutions.

2. Indirect tax proposals

2.1 Goods and Services tax

Amendments in the Central Goods and Services Tax Act, 2017

- Definition of "Supply" as mentioned in Central Goods and Services Tax Act is proposed to be expanded by insertion of clause (aa) in section 7 retrospectively i.e., from the 1st day of July 2017:-
  - » 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.
- In reference to the above provision, an explanation is proposed to be inserted to clarify that any 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.
- Consequent to the above insertion, omission is proposed of paragraph 7 of Schedule II to the Central Goods and Services Tax Act which provided for treatment of supply of goods by any unincorporated association or body of persons to a member, as goods.
- In sub-section (2) of section 16 of Central Goods and Services Tax Act after clause (a), clause (aa) is proposed to be inserted, which provides for the condition for availing input tax credit :-
  - » the details of the invoice or debit note (which is in possession of recipient) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37.
- Sub-section (5) of section 35 of Central Goods and Services Tax Act is proposed to be omitted as to remove the mandatory requirement of getting annual accounts audited.
- Section 44 of the Central Goods and Services Tax Act has been proposed to be amended in continuation to the above proposal inserting self-certification annual returns. It is also proposed that Assessee may furnish reconciliation of value declared in GST return with audited financial statement along with such annual return on self-certification basis.
- Proviso to sub-section (1) of section 50 of the Central Goods and Services Tax Act is proposed to be amended retrospectively with effect from 1st July 2017, wherein interest is to be charged on net cash liability except in case where return is furnished after commencement any proceedings under section 73 and section 74.
- Proceedings of determination of demand under section 74 of the Central Goods and Services Tax Act in case of fraud etc. is proposed to be made independent of the proceeding for detention, seizure, release of goods, conveyances in transit, confiscation of goods or conveyance and levy of penalty.
- An explanation is proposed to be inserted in sub-section (12) of section 75 of the Central Goods and Services Tax Act wherein the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37 of the Central Goods and Services Tax Act, but not included in the return furnished under section 39 of the Central Goods and Services Tax Act.
- In sub-section (1) of section 129 of the Central Goods and Services Tax Act clause (a) and clause (b) have been proposed to be substituted to modify imposition of penalty in relation to seizure of goods at the time of transport of goods or goods in transit:

Particulars	Existing	Proposed
In case of owner of goods comes forward for payment of penalty	100% of the tax payable on such goods	200% of the tax payable on such goods
In case of owner of goods does not comes forward for payment of penalty	50% of the value of the goods reduced by the tax amount paid thereon	50% of the value of the goods reduced by the tax amount paid thereon or 200% of the tax payable on such goods, whichever is higher.

- In the case of seizure of goods, the appellant can file appeal, only in case appellant has paid amount equal to 25% of the penalty.
- As per sub-section (3) of section 129 of the Central Goods and Services Tax Act , there is no time limit for serving notice and order in respect of detention or seizure of goods. A time limit of 7 days for serving a notice and 7 days for passing an order from the date of service of such notice for the purpose of payment of penalty, is proposed.
- Amendment is proposed in sub-section (4) of section 129 of the Central Goods and Services Tax Act to grant the proper officer power to determine tax and interest without giving opportunity of being heard under, in case of detention or seizure of goods or conveyances.
- In continuation of above provisions, the time limit for the payment of penalty in case of goods or conveyance detained or seized in sub-section (6) of section 129 of the Central Goods and Services Tax Act is proposed to be amended as under:-

Particulars	Existing	Proposed
Penalty as confirmed in sub-section (3) of section 129	To be paid within fourteen days of such detention	To be paid within 15 days from the receipt of the order passed by proper officer

- It is further proposed that in case of failure on payment of penalty by assessee, proper officer would have power to sell or dispose off otherwise, such goods for recovering the tax and penalty.
- As per section 130 of the Central Goods and Services Tax Act, penalty in case of confiscation of goods or conveyance is proposed to be equal to 100% of the tax payable on such goods.
- Section 151 of the Central Goods and Services Tax Act is proposed to be amended to state that 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 manner, as may be specified therein.
- Consequent amendment is proposed to be made in section 152 of the Central Goods and Services Tax Act for use of information sought under section 151 with consent of the concerned person.

Amendments in the Integrated Goods and Services Tax Act, 2017

- Proposals for amendment in section 16 of Integrated Goods and Services Tax Act:-
  - W.r.t. clause (b) of sub-section (1), supply of goods or services or both "for authorised operations" to a Special Economic Zone developer or a Special Economic Zone unit shall only be treated as Zero-rated supply.
  - W.r.t. sub-section (3), in case of supply of goods without payment of tax, if assessee does not realize foreign remittances within prescribed limit as per Foreign Exchange Management Act, 1999, assessee shall deposit the refund amount along with interest applicable thereon after expiry of 30 days of such prescribed time limit.
  - Further, Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify: -
    1. a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;
    2. 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

2.2 Customs

Amendments in the Customs Act, 1962

Rationalise the Custom law

- Proposal is to insert a sub-section (4A) in section 25 of the Customs Act, wherein any exemption granted subject to any condition under sub-section (1), shall unless otherwise specified or varied or rescinded, be valid upto 31st day of March falling immediately after two years from the date of such grant or variation.
- Further, all existing conditional exemptions in force as on the date on which the Finance Bill 2021 receives the assent of the President unless having a prescribed end date, shall come to an end on 31st March, 2023 (if not specifically extended/ rescinded earlier), on review.
- A new section 28BB is proposed to be introduced in the Customs Act, wherein 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 of the Customs Act shall be completed by issuing of such notice, within a period of two years, further extendable by one year by the principal commissioner of Customs, from the date of initiation of audit, search, seizure or summons.
- Sub-section (3) of section 46 of the Customs Act is proposed to be amended to provide that bill of entry shall be filed before end of the day preceding the day (including holidays) of arrival of goods and further, a new proviso is proposed to be inserted wherein the Board may prescribe different time limits for presentation of bill of entry in specified cases, which shall not be later than the end of the day of such arrival.
- Proposal is to insert sub-section (ja) in section 113 of the Customs Act, to confiscate goods entered for exportation under claim of remission or refund to make wrongful claim. Further, a new section 114AC of the Customs Act is proposed to be introduced in the Customs Act to charge penalty in case where a person has obtained any invoice by fraud, collusion, etc., to utilize input tax credit on basis of such invoice for discharging any duty or tax on goods that are entered for exportation under the claim of refund.

Introduction of common electronic portal

- Proposal is to allow amendment of bill of entry or shipping bill through Customs automated system on basis of risk evaluation criteria and allow certain amendments, as specified by the Board which may be done by the importer or exporter on the common portal.
- Proposal is to insert new section 154C in the Customs Act for enabling a new common portal for facilitation of registration, filing of bill of entry, shipping bills, payment of duty, any other form prescribed and carrying out of such functions, as may be specified.
- It is also proposed that service of order, summons, notices, etc. will also be available on the common portal.

Review of Customs Duty Exemption

- Proposal of withdrawal of basic custom duty exemption available on certain goods by way of omitting the entries of exemption notified in Notification 50/2017, such as:-
  - Ink cartridge, ribbon assembly, ribbon gear assembly, etc.;
  - Wax items, wood polish materials, prints for photo frames, velvet fabric/paper, wine tools, etc.;
  - Fasteners, zippers, shoulder pads, buckles, stud, bobbin, hooks, , etc.;
  - Velcro tapes, curtain hooks, quilted wadding materials, etc.;
- Certain stand-alone exemptions have also been reviewed by rescinding the notification, such as:-
  - Items of machinery, instruments, appliances, auxiliary equipment for initial setting up of solar power generation project/ facility
  - Tags or labels or printed bags, imported for fixing on articles for export or for the packaging of such articles;

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

Trade Facilitation

The rules are proposed to be amended to extend following facilities:-

- subject to any condition under sub-section (1), shall unless otherwise specified or varied or rescinded, be To allow job-work of the materials imported under concessional rate of duty (except gold and jewellery and other precious metals)
- To allow complete outsourcing for manufacture of goods on job-work
- To allow clearance of imported capital goods which have been used for specified purpose, on payment of differential duty along with interest. The value of goods that shall be subject to duty would be the depreciated value which shall be determined basis the depreciation norms applied to EOUs, as per the Foreign Trade Policy.
- Further, consequent amendments are proposed in the conditional entries of Notification 50/2017- Custom (exemption) to prescribe conditions of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.

Proposed changes in Rates in Customs Tariff Act, 1975

	Amendments in Basic Customs Duty Rates in Respective Notifications	Rate of Duty	
S No.	Commodity	From	To
1	Safety glass, consisting of toughened (tempered) or laminated glass	10%	15%
2	Parts of electrical lighting and signaling equipment, windscreen wipers used for cycles or motor vehicles	10%	15%
3	Compressors of a kind used in refrigerating equipment and air conditioning equipment	12.5%	15%
4	Electric Motors	10%	15%
5	Cotton	0	5%+5% AIDC
6	Cotton waste	NIL	10%
7	Raw Silk (not thrown) and silk yarn /yarn spun from silk waste	10%	15%
8	Denatured ethyl alcohol (ethanol) for manufacture of excisable goods	2.5%	5%
9	Prawn Feed	5%	15%
10	Fish feed in pellet form	5%	15%
11	Flours, meals and pellets of fish, crustaceans, molluscs or other aquatic invertebrates	5%	15%
12	Maize Bran	NIL	15%
13	De-oiled rice bran cake	NIL	15%
14	Carbon Black	5%	7.5%
15	Bis-phenol A	NIL	7.5%
16	Epichlorohydrin	2.5%	7.5%

	Amendments in Basic Customs Duty Rates in Respective Notifications	Rate of Duty	
S No.	Commodity	From	To
17	Builder's ware of plastic, not elsewhere specified or included	10%	15%
18	Polycarbonates	5%	7.5%
19	Wet blue chrome tanned leather, crust leather, finished leather of all kinds, including their splits and slides	NIL	10%
20	Cut and Polished Cubic Zirconia	7.5%	15%
21	Synthetic Cut and Polished Stones	7.5%	15%
22	Tunnel Boring Machines	NIL	7.5%
23	Parts and components for manufacture of Tunnel Boring Machines	NIL	2.5%
24	Specified auto parts like ignition wiring sets, safety glass, parts of signaling equipment, etc.	7.5%/10%	15%
25	Screws, Nuts, etc.	10%	15%
26	Silver	12.55%	7.5%+2.5% AIDC
27	Gold	12.5%	7.5%+2.5% AIDC
28	Iron and steel scrap, including stainless steel scrap (up to 31.03.20222)	2.5%	NIL
29	Copper Scrap	5%	2.5%
30	Tunnel boring machines	NIL	7.5%
31	Parts and components for manufacturing of tunnel boring machines with actual-user condition	NIL	2.5%
32	Inputs or parts for manufacture of camera module & connectors of cellular mobile phone	NIL	2.5%
33	Inputs or raw material for manufacture of specified parts like back cover, side keys etc. of cellular mobile phone	NIL	2.5%
34	Moulded plastics for manufacture of charger or adapter	10%	15%
35	High Speed Rail Projects being brought under project imports	Applicable rate	5%
36	Inputs and parts of LED lights or fixtures including LED lamps	5%	10%
37	Nylon Chips	7.5%	5%
38	Nylon fibre and yarn	7.5%	5%
39	Components or parts, including engines, for manufacture of aircrafts by Public Sector Units of Ministry of Defence	2.5%	0%

Imposition of Agriculture Infrastructure and development Cess w.e.f. 2nd February 2021

- Government has proposed to levy "Agriculture Infrastructure and Development Cess" on import of certain goods from 2nd February 2021, as below:

Items	Proposed Cess (Customs)
Gold, Silver and dore bars	2.5%
Alcoholic beverages (falling under chapter 22)	100%
Crude palm oil	17.5%
Crude soyabean and sunflower oil	20%
Apples	35%
Coal, lignite and peat	1.5%
Specified fertilizers (Urea etc)	5%
Peas	40%
Kabuli Chana	30%
Bengal Gram/Chick peas	50%
Lentil (Mosur)	20%
Cotton (not carded or combed)	5%

2.3 Excise duty

Imposition of Agriculture Infrastructure and development Cess w.e.f. 2nd February 2021

- This new Cess is proposed to be imposed as additional duty of excise on petrol and High-speed diesel.
- Consequent to this imposition, the Basic Excise Duty and Special Additional Excise Duty on Petrol and High-speed diesel is proposed to be reduced so that consumer does not have to bear additional burden on account of imposition of Agriculture Infrastructure and development Cess. The revised duty structure on petrol and HSD shall be as follows.

S No.	Item	BED (Rs/Ltr)	SAED (Rs/Ltr)	AIDC (Rs/Ltr)
1	Petrol (unbranded)	1.4	11	2.5
2	Petrol (branded)	2.6	11	2.5
3	High speed diesel (unbranded)	1.8	8	4
4	High speed diesel (branded)	4.2	8	4

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