

India Budget ... *a synopsis*

2021 RESILIENCE TO RENAISSANCE



Business Reorganization



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Mergers and Acquisitions (M&A) - Fixing the fancy!

Goodwill

In a major move, the Government seems to have come down heavy on certain M&A activities that have over the past decade or so found a lot of favour with Industries. One of them being depreciation on Goodwill arising on account of M&A wherein mergers were claimed to be tax neutral in all aspects (including taxability in the hands of shareholders as well as carry forward of losses, if any) except claim of depreciation on goodwill of the amalgamating entities.

In effect, the Government has decided to provide for a specific exclusion to "Goodwill" from categories of assets eligible for depreciation based on the understanding that Goodwill is generally an asset that appreciates and not otherwise. The amendment would apply not only to goodwill generated during the course of amalgamation but also to acquired goodwill wherein the buyer has purchased the business (including goodwill) and actual consideration is paid for the same. While the memorandum makes out a case of non-grant of depreciation on goodwill in case of amalgamation, the Finance Bill, 2021 (the Finance Bill) also provides that in case Goodwill already forms part of Block of Asset of a

Taxpayer and depreciation has been claimed thereon, computation mechanism for arriving at the Written Down Value and Short Term Capital Gains shall be separately prescribed.

Slump Exchange

Apart from "Goodwill", the Government has clarified its intention and nullified judgments wherein transactions of slump "exchange" were held to be non-taxable in absence of "sale". It has now been proposed to amend the definition of "slump sale" to mean "transfer of one or more undertakings, by any means" as opposed to "transfer of one or more undertakings as a result of the sale" thereby covering fancy transactions of "slump exchange". Further, the term "transfer" has been provided the meaning provided in section 2(47).

Partnerships

In context of partnerships, there was a school of thought that on dissolution or reconstitution, distribution of assets representing capital of the partner did not result in capital gains even in situations wherein the value was enhanced pursuant to revaluation of any asset or due to self-generated goodwill or any other self-generated asset. Further, based on judicial precedents, there was also an argument that when a partner receives money or

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other asset, taxability should not arise. In order to rationalise both the positions, the Finance Bill now proposes to replace the erstwhile section 45(4) and insert two provisions viz. (a) taxability in cases where the partner receives a capital asset pursuant to dissolution or reconstitution of the Specified Entity (Firm, AOP or Body of Individuals)(section 45(4)); and (b) taxability in cases where the partner receives money / other asset in excess of his capital balance (ignoring revaluation, if any) at the time of dissolution or reconstitution of the Specified Entity (section 45(4A)).

Separate computation mechanisms have now been provided to determine the amount of capital gains chargeable to tax in the hands of the Specified Entity.

Further, an amendment has been made to section 48 of the Act whereby in case of transfer of a capital asset by the Specified Entity subsequently, in addition to the cost of acquisition / improvement and expenditure incurred wholly and exclusively in connection with transfer, the Specified Entity will also get a deduction of the amount already included in the total income of such Specified Entity u/s. 45(4A) above which is attributable to capital asset being transferred, calculated in prescribed manner.

International Taxation



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Defining “Liable to Tax”

Finance Act 2020 introduced new residency rules for persons who do not fulfil the basic requirement of residency as per section 6(1) by way of introduction of section 6(1A) whereby citizens of India having a prescribed income and not liable to tax in any other country are now considered resident in India even if they are otherwise non-residents. This created an uncertainty for Indian citizens working abroad, especially in the Gulf who were otherwise not liable to pay any tax in their country of residence. The phrase has now been defined to mean that there is a liability of tax on a person under any law for the time being in force in any country, and includes a case where subsequent to imposition of tax liability, an exemption has been provided. This should come as a sigh of relief for Indian citizens working in countries where tax is not levied pursuant to an exemption notification.

Having defined ‘liable to tax’ in the domestic law, the said phrase would also be very important in interpretation of various tax treaties which also use the said phrase but do not define them. Entitlement to tax treaty in few cases significantly depend on the said phrase and therefore the said definition would also be critically relevant on cases where benefit of tax treaty is claimed.

Equalisation Levy

Equalisation levy was introduced vide Finance Act 2016 and further amended by Finance Act 2020. In order to provide clarity as regards royalty / fees for technical services vs. specified services / e-commerce supply or service, insertion of an Explanation has been proposed in section 163 of Finance Act 2016 to clarify that consideration for services or for e-commerce supply or services shall not include consideration which are taxable as royalty / fees for technical services in India under the Act read with DTAA.

Further, definition of the terms “online sale of goods” and “online provision of services” have been further clarified to include one or more of the following activities carried out online.

- a. Acceptance of offer for sale;
- b. Placing the purchase order;
- c. Acceptance of purchase order;
- d. Payment of consideration; or
- e. Supply of goods or provision of services, partly or wholly

Thus, even if any single element of the transaction is carried out online, the same would be considered as online sale of goods or provision of services and the non-resident person would be considered as e-commerce operator subject to Equalisation Levy.

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Further, Equalisation Levy would be applicable on consideration for sale of goods (irrespective of whether e-commerce operator owns the goods) and provision of services (irrespective of whether service is provided or facilitated by it).

Further, in order to streamline the provisions under the Act with that of Equalisation Levy, it has been proposed to amend section 10(50) to make it applicable for e-commerce supply or services made or provided or facilitated on or after April 01, 2020, and to clarify that exemption under section 10(50) shall not apply to royalty / fees for technical services and to also define e-commerce supply or services in line with the definition under section 164 of Finance Act 2016.

Minimum Alternate Tax (MAT)

Following two changes have been proposed to MAT provisions:

1. In case of foreign companies, income in the nature of dividend shall be excluded (similar to royalty / fees for technical services) and corresponding expenditure shall be added back while computing Book Profit in case the tax payable on such dividend is less than the rate provided under the Act / DTAA.
2. Adjustments on account of Advance Pricing Agreement (APA) and / or Secondary Adjustment –

In order to streamline taxability of income being offered on account of APA or Secondary Adjustment with corresponding year/s to which it relates, it has now been provided that on an application being made to the Assessing Officer, the Book Profits of past years and current year shall be recomputed in a manner similar to rectification of order.

Withholding tax from dividends paid to FII

Under the current provisions of section 196D, tax is to be withheld @ 20% in respect of dividends being paid to FIIs with no recourse to DTAA provisions as the section does not refer to “rates in force”. In order to provide DTAA benefits to such transactions, it has been proposed to insert a proviso allowing recourse to DTAA rates in situations where the payee furnishes a valid Tax Residency Certificate.

Units located in International Financial Services Centre (IFSC)

Government has been continuously focussing on IFSC and providing for relief to units located in IFSC over the years. In order to provide a further boost for setting up units in IFSC, the following incentives have been rolled out:

1. Conditions pertaining to “No Business Connection” under section 9A may be relaxed for Specified

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- Investment Funds or its eligible fund manager if the fund manager is located in the IFSC and commences operations on or before March 31, 2024
2. The definition of "specified fund" has now been expanded to include investment division of Offshore Banking Unit ("OBU") with Category-III AIF registration upon fulfilment of certain conditions including commencement of commercial operations on or before March 31, 2024
 3. Exemption has now been provided in case of any income accrued or arisen to, or received to investment division of OBU to the extent attributable to it
 4. Exemption provided on income that accrues or arises to a non-resident as a result of transfer of non-deliverable forward contracts entered into with an OBU of IFSC which commences operations on or before March 31, 2024
 5. Exemption has been provided in respect of income of a non-resident by way of royalty on account of lease of an aircraft paid by a unit of IFSC if the unit is eligible for deduction under section 80LA for a particular year and has commenced operation on or before March 31, 2024
 6. "Relocation" of Original Fund registered outside India to IFSC has been made tax-neutral to incentivise such relocation. Consequently, neither the Original Fund nor shareholders holding share / unit / interest in the Original Fund would be subject to tax on such relocation.
 7. Further, where the capital gains were not chargeable on transfer of share of a company resident in India if the relocation had not taken place, such exemption has been grandfathered by providing similar exemption to a resultant fund
 8. Section 80LA is being amended to provide for relaxed criteria for tax deduction viz. removing of the requirement of obtaining permission under any other law (if registered under IFSC Authority Act, 2019)
 9. Section 80LA has been amended to provide for deduction to OBU of IFSC in respect of gain on transfer of an asset being aircraft or aircraft engine leased to domestic company before transfer where the OBU commenced operation on or before March 31, 2024

Personal Taxation



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Income from high premium Unit Linked Insurance Policy (ULIP)

The Finance Bill proposes to tax any sum received including bonus thereof from ULIP with huge premiums. Any sum received from an insurance policy was otherwise exempt as per the provisions of section 10(10D) of the Act which enabled the high net-worth individuals to invest in ULIP and claim the exemption. In order to restrict the benefit only to small policies, several amendments have been proposed wherein any sum received by a person from ULIP having annual premium of more than INR 2,50,000 or where premium is payable for more than one ULIP and the aggregate amount of premium payable exceeds INR 2,50,000 then such sum shall be chargeable as capital gain tax in the hands of the individuals and shall not be exempt u/s 10(10D) of the Act. The proposed amendment shall be applicable for the policies issued on or after February 1, 2021.

Taxing Interest income from Provident Fund

In order to restrict the tax exemption on interest income from provident funds, it has been proposed by the Finance Bill to tax the interest income arising from contribution made by the assessee in excess of INR 250,000 in a previous year to any provident fund approved by the government. The above restriction shall be applicable only for the contribution made on or after April 1, 2021.

Leave Travel Concessions

Earlier in October 2020, as a part of the relief measures amid COVID, the central government had issued a press note wherein extended tax exemption was provided on any cash paid in lieu of leave travel concession subject to fulfilment of certain conditions. In line with the same, necessary amendment has been proposed in the Finance Bill wherein payment of cash allowance in lieu of leave travel concession or assistance received by or due to an individual shall be exempt on fulfilment of certain conditions as may be prescribed. In the press note it was clarified that cash paid in lieu of travel concession with a maximum limit of INR 36,000 per person shall be tax exempt if the individuals or their family spend on goods and services which are liable to GST at 12% or above. It is to be noted that this exemption shall be valid only for a short period of October 12, 2020 to March 31, 2021.

Interest on Housing Loan

In Finance Act, 2020, the benefit of claiming deduction for interest paid on affordable housing loan upto INR 150,000 u/s 80EEA was extended till March 31, 2020. The Bill further proposes to extend the said deduction by one year i.e. interest on the loan facility sanctioned till March 31, 2022. This is aimed at furthering the much needed boost to the real estate sector amid the pandemic.

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Deduction in respect of employee's contribution to various funds

Pursuant to various rulings, there was a prevalent view that deduction in respect of any sum received by a Taxpayer from employees would be disallowed only if the same is not deposited with Government authorities on or before the due date of filing return of income under section 43B even though there was a specific provision in section 36(1)(va) providing for an allowance only in cases when the sum was deposited on or before the due dates provided in the specified laws. In order to provide clarity, it has been proposed to amend sections 36(1)(va) and 43B to provide that only section 36(1)(va) would apply to cases pertaining to employee's contributions to PF and similar funds and the same would not be governed by provisions of section 43B.

Startup Taxation

In order to be eligible for deduction in respect of 100% of profits under section 80-IAC, the requirement of incorporation date has been relaxed by a further period of one year and a start-up incorporated before April 01, 2022 (as against April 01, 2021 provided earlier) shall now be eligible for the deduction.

Similarly, exemption from capital gains under section 54GB is currently available in respect of residential property transferred on or before March 31, 2021 if the

consideration is utilised for subscription of equity shares of a start-up. The said exemption has now been extended to property transferred on or before March 31, 2022.

Transaction in Immovable Property

Vide Finance Act 2020, the variation between stamp duty value and consideration on sale of property as allowed u/s 50C had been increased from 5% to 10%. Corresponding amendment was also made in section 43CA as well as section 56(2). In order to boost demand in the real-estate sector and to enable real estate developers to liquidate the unsold inventory, safe harbour limits for section 43CA and 56(2) have now been increased to 20% if the transfer of residential unit takes place between November 12, 2020 and June 30, 2021 subject to twin conditions of the transfer being by way of first time allotment and the consideration not exceeding INR 2 crores.

TDS on Purchase of Goods

In order to widen the withholding tax net, it has now been proposed to insert a new section 194Q to apply withholding tax @ 0.1% on transactions of purchase of goods. The provision applies to buyers whose total sales, turnover or gross receipts exceed Rs. 10 crore during the financial year immediately preceding the financial year in which purchase of goods is carried out.

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Further, it shall apply only if the purchase of goods by him from the seller is of value exceeding INR 50 lakh. These provisions shall however not apply when any other withholding tax or tax collection provision applies to such a transaction. It is important to note that if on a particular transaction, sections 194Q and 206(1H) apply, the new withholding tax provisions as provided in section 194Q shall override and apply.

In case the recipient does not furnish PAN, tax shall be withheld at a higher rate of 5% under section 206AA of the Act (as opposed to 20% generally applicable).

Higher withholding tax on account of non-filing of tax returns

A new section 206AB has been proposed to be inserted whereby tax shall now be required to be withheld at higher rates calculated at twice the normal rates (either specified in the Act or rates in force) in case where the recipient (not being a non-resident having no Permanent Establishment in India) has not filed returns of income for two years immediately preceding the previous year in which tax is required to be withheld and for which time limit under section 139(1) has expired. Further, such provision shall apply only in case the aggregate of tax deducted at source and tax collected at source is INR 50,000 or more in each of such two years. In case provisions of section 206AA are also applicable

to such a Taxpayer, higher of the rates as prescribed under section 206AB and 206AA shall apply. Similar amendment has also been proposed to provisions pertaining to Tax Collection at Source (TCS). The new provision is not applicable to withholding in few cases including withholding from salaries.

Other Important Direct Tax Changes



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Tax Administration

Filing & Compliances

The Finance Bill further proposes to reduce the time limit of filing belated and revised original return by three months. Earlier, the taxpayers were allowed to file belated or revised return by the end of the relevant assessment year, however, pursuant to this amendment, the due dates for filing this return has been reduced to 31st December of the assessment year.

Tax Audit

Finance Act 2020 provided that in case of entities carries on business, whose cash receipts or cash payment was less than or equal to 5% of total receipts or payments respectively, threshold of INR 5 crore had been prescribed instead of INR 1 crore for the purpose of requirement of tax audit u/s 44AB. In order to further incentivise non-cash transactions to promote digital economy and to reduce compliance burden, it is now proposed to increase the limit to INR 10 crore.

Presumptive Taxation for Professionals

Currently, provisions of section 44ADA are applicable to taxpayers, being resident of India, whereby 50% of total gross receipts on account of such profession or such higher income as may be claimed to have been earned by the Taxpayer shall be deemed to be profits

chargeable under the head "Profits and Gains from Business or Profession". In order to clarify its intent of not covering LLP within the purview of the said provision, the Government has proposed an amendment to clearly provide that the section shall apply only in case of individuals, HUF and Partnership Firm (not being an LLP).

Reduction in time limits for completion of assessment

In continuance with phase-wise reduction in time limit of assessments u/s 143 of the Act, the Finance Bill further proposes to reduce the time limit of completing the assessment from existing twelve months' time to nine months for the assessment years 2021-22 and subsequent years.

Consequently, it is also proposed to reduce the time limit for issuance of notice u/s 143(2) of the Act from six months to three months from the end of the financial year in which the return was furnished.

Income escaping assessment

The Finance Bill proposes for a complete revamp of the existing system pertaining to Search, Reopening, etc. Following are the main features of the new process:

- a. Before any assessment or reassessment under section 147 is carried out, the Assessing Officer has

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to issue a notice to the Taxpayer and that too when there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in case of the Assessee

- b. Further, issuance of notice requires prior approval from specified authority
- c. The Assessing Officer should conduct inquiries and provide an opportunity of being heard to the Taxpayer post which he should decide whether the case is fit for reopening / reassessment

The phrase "information which suggests that the income chargeable to tax has escaped assessment" has been defined to mean information which has been flagged in the case of the assessee in accordance with the risk management strategy formulated by CBDT and also any final objection raised by C&AG to the effect that assessment in case of the assessee for the relevant assessment year has not been made in accordance with the provisions of the Act.

The most important proposal is regarding time limit whereby no notice shall be issued (except for exceptional cases) if three years have elapsed from the end of the relevant assessment year. Assessing Officer can issue notice beyond three years (but not beyond ten years) only if he has evidence that shows income escaping assessment amounting to INR 50 lakh or more

and that the same is represented in form of asset.

Provisions pertaining to Search cases shall continue to apply only in respect of search initiated under section 132 of the Act or books of account, other documents or any assets requisitioned under section 132A of the Act on or before March 31, 2021. For every subsequent action under the Section 132 or 132A, normal assessment / reassessment proceedings would be applicable with certain procedural relaxation.

Faceless Appeals

In order to extend the reforms in the form of faceless appeals, it is proposed that the Central Government shall notify a scheme for the purpose of faceless appeals at the Income Tax Appellate Tribunal (ITAT) level. This would eliminate the interface between ITAT and parties to the appeal and by introducing an appellate system with dynamic jurisdiction.

Constitution of Dispute Resolution Committee

For reducing litigation and to give an impetus to the dispute resolution for small taxpayers, a Dispute Resolution Committee ('Committee') is proposed to be constituted. A taxpayer having taxable income up to INR 50 lakhs rupees and disputed income up to INR 10 lakhs of rupees shall be eligible to approach the Committee. For ensuring efficiency, transparency and

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accountability, the procedure of the Committee will be conducted in a faceless manner.

Discontinuance of Settlement Commission and Authority for Advance Rulings (AAR)

For timely redressal of matters, it has been proposed that AAR shall cease to operate and one or more Board for Advance Rulings shall be constituted by Central Government, with members being officers not below the rank of Chief Commissioners. Further, Advance Rulings shall be appealable, either by the Department or the Taxpayer.

Similarly, Income-tax Settlement Commission (ITSC) shall cease to operate on or after February 1, 2021 and one or more interim Boards shall be constituted for settlement of pending applications.

Computation of Advance tax on Dividend Income

Pursuant to change in the taxation of dividend income in the hands of shareholders and not in the hands of the distributing companies, dividend incomes are no longer exempt in the hands of shareholders. Accordingly, the shareholders are now required to offer dividend income to the total income chargeable to tax and compute tax accordingly. Further, in order to comply with the provisions of Advance Tax, shareholders are required to compute the advance tax liability on such dividend

income also otherwise there shall be interest liability. Since accurate estimation of dividend income is not possible in the initial quarters, it is proposed to allow the payment of advance tax on declaration of dividend income.

Charitable Organizations

In order to stop misuse of provisions of section 11(1)(d) and Explanation to third proviso to section 10(23C) of the Act regarding corpus donation & treatment of loan proceeds by registered charitable trust and institutions, the Finance Bill proposes to make following amendments:

- The amount received as corpus donation shall be required to remain invested in any of mode of deposits prescribed u/s 11(5) of the Act separately for the purpose of corpus
- Expenditure incurred for charitable purpose out of receipt in the nature of corpus donations received & claimed as exempt by trust u/s 11(1)(d) or Explanation to 3rd proviso to 10(23C) of the Act shall not be treated as 'application of income' for the purpose of section 11(1) or section 10(23C) of the Act. However, the amount invested or deposited back in any of mode of investment prescribed u/s 11(5) of the Act shall be considered as application of income in the year in which it is deposited back to

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the extent of original deposit of investment made.

- Amount spent from funds received as loan or borrowings shall not be treated as application of income for the purpose of section 11 & section 10(23C) of the Act. However, once such loan is repaid out of income any previous year, the same shall be considered as application of income to the extent of the amount repaid.
- The Finance Bill also proposes to make clarification by making suitable amendments that the excess of application over income of any earlier year shall not be allowed for set off against income of any subsequent year.

Goods and Services Tax



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Changes to CGST Act

Section 16 of the CGST Act is proposed to be amended to include a condition which would allow ITC to a recipient only if the supplier furnishes the details of outward supplies.

Amendment to Section 50 of the CGST Act was carried out in the last budget to provide for payment of interest only on the net GST liability paid in cash in case of delayed payment of tax. The said amendment was brought in the last year but was not clearly made retrospective. The said ambiguity is now proposed to be removed and the said amendment made retrospectively applicable from July 1, 2017 (Section 50(1) of CGST Act).

Activities or transactions by a club or an association to its members or vice-a-versa for a consideration is proposed to be specifically included in the scope of supply under Section 7 of the CGST Act. The relevant paragraph 7 of Schedule II of the CGST Act has also been omitted. This amendment has been made effective retrospectively from July 1, 2017. There have been recent judgements of the hon'ble Supreme Court under the erstwhile service tax and sales tax holding that transactions between clubs or associations and their members should not be considered as supplies as per the doctrine of mutuality. The said amendment seems to overcome the said judgements.

Certification of reconciliation statement in form GSTR 9C by specified persons is proposed to be removed. The Annual Return will now include a self-certified reconciliation of the turnover with the financial statements. This issue was discussed in the 39th meeting of the GST Council wherein issues faced by taxpayers due to the requirement of filing of annual return were discussed. This proposal seems to be in line to ease the compliance burdens on the taxpayers.

Section 129 provides that where a person fails to pay tax and penalty as specified in the said Section, the proceedings of confiscation shall be initiated under Section 130. Section 129 is proposed to be delinked from Section 130 and the consequences recovery of tax not paid will now be contained under Section 129 itself.

The tax liability declared in GSTR 1 has been included in the definition of self-assessed tax. Accordingly, tax liability declared in GSTR 1 but not included in GSTR 3B can be recovered under Section 79.

Changes to IGST Act

Supplies made to SEZ developers or SEZ units would be eligible for zero rating only where the supplies are for authorized operations of the SEZ developers or SEZ units.

Where a person making zero rated supplies under a

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bond or an LUT has claimed a refund of unutilized input tax credit and the export proceeds for such supplies are not realized within the timelines specified under FEMA, such person shall be liable to deposit such refund received along with interest. The Section now gives sanctity to Rule 96B of the CGST Rules, which provides for recovery of refund in such cases.

The option to make zero rated supplies with payment of tax is proposed to be restricted only to notified class of taxpayers or notified class of goods or services.

Customs Duty



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Expiry of conditional exemptions

An amendment is proposed to Section 25 i.e., power to grant exemption from duty of the Customs Act to prescribe validity of all conditional exemptions till 31st March falling immediately two years after the date of exemption notification unless otherwise specified or varied or rescinded.

It is further proposed to restrict the validity all the existing conditional exemptions till March 31, 2023 unless otherwise specified or varied or rescinded.

Time limit for completion of certain actions

The time limit for completion of any inquiry or investigation initiated is proposed to be fixed to 2 years which can be extended by the Principal Commissioner or Commissioner of Customs for a further period of one year on sufficient cause. The period during which stay has been granted by an order of court or tribunal shall not be considered to compute the time-limit.

The above provision would not be applicable to any inquiry or investigation initiated before the date on which the Finance Bill receives the assent of the President.

Filing of Bill of Entry

An amendment is proposed to Section 46 of the Customs Act requiring all the taxpayers to file Bill of Entry one day before arrival of goods at the customs station even where such day is a holiday. Currently, taxpayers can file bill of entry till the next day on which goods arrives at customs station excluding holidays.

The Board shall have to power to extend such time limit which shall not be later than the day on which goods arrives at customs station.

Penal provisions

In case where any goods entered for exportation under wrongful a claim of any remission or refund of duty, provision proposed to be inserted to confiscate such goods.

Where an exporter has claimed refund of unutilized input tax credit under GST on the basis of fraudulent invoice or willful misstatement or suppression of facts, a penalty not exceeding 5 times of the refund claimed shall be imposed. This is in addition to the penalty under the GST law for the same contravention.

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Proceedings / Processes through Customs Common Portal

It is proposed that issuance of summons, notice, service of order, filing of Bill of Entry, Shipping Bills, registrations, amendments etc. shall be done through the Customs Portal. It seems that the ICEGATE portal being used for Customs compliances shall be referred to as the Common portal under the law.

Introduction of Agriculture Infrastructure and Development Cess (AIDC)

The Finance Minister has proposed to introduce AIDC on goods imported into India at a rate not exceeding the rate of Basic Customs Duty (BCD), in addition to the other customs duties being levied currently.

Central Government shall, after due appropriation by the Parliament, utilize such Cess for the purpose of financing agriculture infrastructure and other development expenditure.

AIDC ranges from 1.5% to 100% depending on the nature of goods being imported. The AIDC has been imposed on goods such as apples, crude oil, alcohol, coal, lignite, peat, ammonium nitrate, urea etc. It is to be noted that there is a corresponding reduction in BCD rates for goods on which AIDC has been imposed.

AIDC shall not apply in case the specified goods are imported under advance authorization or under any exemption notification as specified under the notification imposing AIDC.

Increase in rates of Customs duty

Electrical & Electronic section - Duty increased to 15%

Hike in the duty from 12.5% to 15% on the Compressors equipment used in Refrigerating & in air-conditioning equipment.

Rise in the duty from 10% to 15% on Printed Circuit Board Assembly (PCBA) of charger or adapter, board, panel, electrical motors, relays, electronic automatic regulators and other controlling instruments or apparatus.

Automobiles - Duty increased from 10% to 15%

On safety glass, consisting of toughened (tempered) or laminated glass

Parts of Electrical lighting and signaling equipment, windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicle

Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships

Customs Duty



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Instrument Panel Clocks and Clocks of a similar type for vehicles, Aircraft, Spacecraft or Vessels

Capital Goods

Increase in duty from Nil to 7.5% & 2.5% on Tunnel boring machines and Parts & their components for manufacture of tunnel boring machines, respectively.

IT & Renewable Energy

- Duty increased from Nil to 2.5% on
- Inputs or parts for manufacture of PCBA of cellular mobile phone,
- Inputs or raw material for manufacture of specified parts like back cover, side keys etc. of cellular mobile phone
- Inputs or raw materials (other than Lithium-ion cell and PCBA) of Lithium-ion battery or battery pack
- Parts or components of PCBA of Lithium-ion battery or battery pack

Decrease in rates of Customs duty

Metal

- Duty reduced from 2.5% to Nil on Iron and steel scrap, including stainless steel scrap
- Duty on Primary/Semi-finished products of non-

alloy steel reduced from 10% to 7.5%

- Duty on Copper scarp to be levied from 5% to 2.5%

Gems and Jewelry Sector

- Duty reduced from 12.5% to 7.5% +2.5% + AIDC on Gold & Silver
- Duty reduced from 12.5% to 12% on Gold & Silver finding
- On Gold & Silver coins, duty is proposed to be reduced from 9% to 12%

Aviation Sector

Duty decreased from 2.5% to 0% on the components or parts, including engines, for manufacture of aircrafts or parts of such aircrafts, by Public Sector Units under Ministry of Defense subject to condition specified.

Partnership & Company Law



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Limited Liability Partnership (LLP)

As a part of economic reforms announced by the Finance Minister, the decriminalization of the procedural and technical compoundable offences under Companies Act 2013, has been completed.

The LLP Act 2008 also provides for compounding of offences. The decriminalizing of such offences will now be announced by the Finance Minister. Decriminalizing of offences under the LLP Act will help the entrepreneurs to regularize the offences with a low compliance cost.

Small Companies

The definition of "Small Company" as defined under Section 2(85) of Companies Act, 2013 has been proposed to be revised as under:

Criteria	Existing Limits [iNR]	Proposed Limits [iNR]
Turnover	Fifty Lakhs	Two Crore
Paid up Share Capital	Two crore	Twenty crore

The primary intention of revising the threshold is to provide ease of doing business to a large class of businessmen and also providing ease of doing business due to minimal compliances required for such companies. It is envisaged that this relaxation will benefit more than two lakh companies in easing their compliance requirements.

One Person Companies [OPC]

With an intention to provide benefit to start ups and Innovators, it is proposed to withdraw the restriction on paid up capital and turnover for One Person Company. OPC needs to convert itself into a Private Limited Company or a Public Company, as soon as its Paid up capital exceeds INR 50 Lakh and average annual turnover exceeds INR 2 Crores. It is proposed that such conversion from OPC to a Private/Public Company will not be mandatory irrespective of its paid up capital or turnover.

As of now, only an individual who is Indian Citizen and resident in India (for a minimum period of 182 days) shall be eligible to incorporate One Person Company (OPC). There has been restriction for a Non-resident Indian [NRI] to incorporate an OPC in India. It is now proposed to permit a NRI to incorporate OPC, provided he stays in India for a period of 120 days instead of 180 days.

Pending Matters

Finance Minister has proposed to set up E -courts, strengthen NCLT process and introduce alternate methods of debt resolution and special framework for MSMEs to ensure faster resolution of cases. This will help the business community at large in carrying out their businesses.

Partnership & Company Law



India Budget
2021 RESILIENCE TO
RENAISSANCE

Compliance

Finance Minister has also proposed to utilize the data available with the regulators by launching updated version 3.0 and data analytics and artificial intelligence. The revised version will help the stakeholders for complying with the requirements without physical appearance.

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