



# A2Z TAXCORP LLP

Tax and Law Practitioners

## Key Highlights of Union Budget 2021

### Changes under the Customs and Excise



Union Budget 2021 was presented in Parliament on Monday, February 1<sup>st</sup>, 2021. Presenting the **first ever digital Union Budget**, Union Minister of Finance and Corporate Affairs Smt. Nirmala Sitharaman stated that India's fight against COVID-19 continues into 2021 and that this moment in history, when the political, economic, and strategic relations in the post-COVID world are changing, is the **dawn of a new era – one in which India is well-poised to truly be the land of promise and hope.**

### **6 pillars of the Union Budget 2021-22:**

The Budget proposals for this financial year rest on following six 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

**This document summarises the changes made/ proposed under the Customs and Excise – Section wise in comparative manner for easy digest.**

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## CUSTOMS

Unless otherwise stated, all changes in rate of Customs duty take effect from the midnight of 1st February/ 2nd February 2021. A declaration has been made under the Provisional Collection of Taxes Act, 1931 in respect of clauses 95(i) [Amendment of First Schedule to the Customs Tariff Act, 1975], 115 [Agriculture Infrastructure and Development Cess on imported goods and 116 [Agriculture Infrastructure and Development Cess on excisable goods] of the Finance Bill, 2021 so that changes proposed therein takes effect from the midnight of 1<sup>st</sup> February/2<sup>nd</sup> February 2021. The remaining legislative changes would come into effect only upon the enactment of the Finance Bill, 2021.

### Proposed Amendments in the Customs Act, 1962

**Synopsis:** Certain significant changes have been made in the Customs Act, 1962 (“**the Customs Act**”). Mostly, these are for enhanced trade facilitation. A definite period of two year, extendable by one year is being prescribed for completion of investigation. Also, it is being prescribed that conditional exemption shall be having validity of two years unless specifically provided otherwise or varied or rescinded earlier (the notification would end on 31<sup>st</sup> March falling immediately after two years of issue of exemption).

IGCR Rules have been amended to allow job work on imported goods and also to allow disposal of goods at payment of duty on depreciated value. A few changes are made for improving compliance.

Current provisions	Proposed provisions	Effect of changes made
<b>Section – 2 (Definitions)</b>		
.....	New clause inserted after clause (7A):  <i>“(7B) “common portal” means the Common Customs Electronic Portal referred to in section 154C;”.</i>	In Section 2, a new clause (7B) is being inserted <u>defining “common portal”</u> (Common Customs Electronic Portal)
<b>Section - 5 (Powers of officers of customs)</b>		
<i>“5(3) Notwithstanding anything contained in this section, a Commissioner (Appeals) shall not exercise the powers and discharge the</i>	<i>“5(3) Notwithstanding anything contained in this section, a Commissioner (Appeals) shall not exercise the powers and discharge</i>	Sub-section (3) to Section 5 of the Customs Act is being amended to <u>empower Commissioner (Appeals) to carry out functions specified</u>

<p><i>duties conferred or imposed on an officer of customs other than those specified in Chapter XV and section 108”</i></p>	<p><i>the duties conferred or imposed on an officer of customs other than those specified in Chapter XV, section 108 and sub-section (1D) of section 110”</i></p>	<p><u>under newly inserted sub-section (1D) of Section 110</u> [Seizure of goods, documents and things], apart from Chapter XV [Appeals and Revision] and Section 108 [Power to summon persons to give evidence and produce documents] contained earlier.</p>
<p><b>Section - 25 (Power to grant exemption from duty)</b></p>		
<p>.....</p>	<p><b>New sub-section inserted after sub-section (4):</b></p> <p><b><i>“(4A) Where any exemption is granted subject to any condition under sub-section (1), such exemption shall, unless otherwise specified or varied or rescinded, be valid upto 31<sup>st</sup> day of March falling immediately after two years from the date of such grant or variation:</i></b></p> <p><b><i>Provided that in respect of any such exemption in force as on the date on which the Finance Bill, 2021 receives the assent of the President, the said period of two years shall be reckoned from the 1st day February, 2021.”</i></b></p>	<p>Section 25 of the Customs Act is being amended to prescribe that <u>all conditional exemptions</u>, unless otherwise specified or varied or rescinded, given under the Customs Act shall <u>come to an end on 31<sup>st</sup> March falling immediately two years</u> after the date of such grant or variation.</p> <p>Further, all <u>existing conditional exemptions</u> 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 <u>end on 31<sup>st</sup> March 2023</u> (if not specifically extended/ rescinded earlier) on review.</p>
<p><b>Section 28BB – Time limit for completion of certain actions.</b></p>		

<p>.....</p>	<p><b>New Section inserted after Section 28BA:</b></p> <p><i>“28BB. (1) Any inquiry or investigation under this Act, culminating in the issuance of a notice under sub-section (1) or sub-section (4) of section 28 shall be completed by issuing such notice, within a period of two years from the date of initiation of audit, search, seizure or summons, as the case may be:</i></p> <p><i>Provided that the Principal Commissioner of Customs or the Commissioner of Customs may, on sufficient cause being shown and for reasons to be recorded in writing, extend the said period to a further period of one year.</i></p> <p><i>(2) For computing the period under sub-section (1), the period during which stay was granted by an order of a court or tribunal, or the period for seeking information from an overseas authority through a legal process, shall be excluded.</i></p> <p><i>Explanation.—For the removal of doubts, it is hereby declared that nothing contained in this section shall apply to any such proceeding initiated before the date on which the Finance Bill, 2021 receives</i></p>	<p>A new Section 28BB is being introduced prescribing a <b><u>two-year time limit</u></b>, further extendable by one year by the Commissioner, for <u>completion of any proceedings</u> under the Customs Act which would culminate in issuance of a notice under Section 28 <i>ibid</i> [i.e. recovery of duties not levied or short-levied or erroneously refunded].</p>
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	<p><i>the assent of the President.”.</i></p>	
<p><b>Section 46 - Entry of goods on importation</b></p>		
<p><i>(3) The importer shall present the bill of entry under sub-section (1) <u>before the end of the next day following the day (excluding holidays)</u> on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:</i></p> <p><i>Provided that a bill of entry may be presented at any time not exceeding thirty days prior to the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:</i></p> <p><i>Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges</i></p>	<p><i>(3) The importer shall present the bill of entry under sub-section (1) <u>before the end of the day (including holidays) preceding the day</u> on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:</i></p> <p><i>Provided that the Board may, in such cases as it may deem fit, prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival:</i></p> <p><i>Provided further that a bill of entry may be presented at any time not exceeding thirty days prior to the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:</i></p> <p><i>Provided also that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for</i></p>	<p>Sub section (3) of Section 46 is being amended so as to:</p> <p>a) mandate <u>filing of bill of entry before the end of the day preceding the day (including holidays) of arrival of goods.</u></p> <p>b) A new proviso is being introduced therein, to enable the Board to <u>notify the time-period for presenting bill of entry in certain cases</u> as it may deem fit.</p>

for late presentation of the bill of entry as may be prescribed.	late presentation of the bill of entry as may be prescribed.	
<b>Section – 110 (Seizure of goods, documents and things)</b>		
.....	<p><b>New sub-section inserted after sub-section (1C):</b></p> <p><i>“(1D) Where the goods seized under sub-section (1) is gold in any form as notified under sub-section (1A), then, the proper officer shall, instead of making an application under sub-section (1B) to the Magistrate, make such application to the Commissioner (Appeals) having jurisdiction, who shall, as soon as may be, allow the application and thereafter, the proper officer shall dispose of such goods in such manner as the Central Government may determine.”.</i></p>	<p>Section 110 of the Customs Act is being amended so as to <b>revise the procedure for pre-trial disposal of seized gold</b>, in any form as notified. Commissioner (Appeals) having jurisdiction, to certify the correctness of inventory of the seized goods and carry out other procedures as prescribed, before the disposal of the gold in a manner as may be determined by the Central Government. Other consequential amendments to give effect to this provision are also being carried out.</p>
<b>Section - 113 (Confiscation of goods attempted to be improperly exported, etc)</b>		
.....	<p><b>New clause inserted after clause (j):</b></p> <p><i>“(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;”</i></p>	<p>New clause (ja) is being added to Section 113 to provide for the <b>confiscation of any goods entered for exportation under claim of remission or refund of any duty or tax or levy</b>, so as to make a wrongful claim in contravention of the provisions of the Customs</p>

		Act or any other law for the time being in force.
<b>Section – 114AC (Penalty for Fraudulent utilisation of input tax credit for claiming refund)</b>		
.....	<p><b>New Section inserted after Section 114AB:</b></p> <p><i>“114AC. Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed.</i></p> <p><i>Explanation.—For the purposes of this section, the expression “input tax credit” shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017.”</i></p>	<p>A new Section 114AC is being inserted in the Customs Act to <b>prescribe penalty</b> in specific case where any person has obtained any <u>invoice by fraud, collusion, wilful misstatement or suppression of facts to utilize Input Tax Credit</u> on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation <u>under claim of refund of any duty or tax.</u></p>
<b>Section – 139 (Presumption as to documents in certain cases)</b>		
<p><i>“Explanation. - For the purposes of this section, "document" includes inventories, photographs and lists certified by a Magistrate under sub-section (1C) of section 110”</i></p>	<p><i>“Explanation. - For the purposes of this section, "document" includes inventories, photographs and lists certified by a Magistrate under sub-section (1C), or Commissioner (Appeals) under sub-section (1D), of section 110.”</i></p>	<p>Explanation to Section 139 of the Customs Act is being amended so as to <u>include inventories, photographs and lists certified by the Commissioner (Appeals)</u> under the new sub-section (1D) to the documents within the meaning of that section</p>



		to <u>give evidentiary value to such documents.</u>
<b>Section – 149 (Amendment of documents)</b>		
<p><i>“Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended in such form and manner, within such time, subject to such restrictions and conditions, as may be prescribed:</i></p> <p><i>Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.”</i></p>	<p><i>“Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended in such form and manner, within such time, subject to such restrictions and conditions, as may be prescribed:</i></p> <p><i>Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.</i></p> <p><i>Provided further that such authorisation or amendment may also be done electronically through the customs automated system on the basis of risk evaluation through</i></p>	<p>Section 149 is being amended so as to:</p> <p>a) introduce a <b>second proviso</b> which would allow amendments to be done through the customs automated system on the basis of risk evaluation through appropriate selection criteria.</p> <p>b) introduce a <b>third proviso</b> so that certain amendments, as may be specified by the Board, may be done by the importer or exporter on the common portal.</p>

	<p><i>appropriate selection criteria:</i></p> <p><i>Provided also that such amendments, as may be specified by the Board, may be done by the importer or exporter on the common portal."</i></p>	
<b>Section – 153 (Service of order, decision, etc)</b>		
<p><i>"(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:- .....</i></p> <p><i>(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;"</i></p>	<p><i>"(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:-.....</i></p> <p><i>(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;</i></p> <p><i>(ca) by making it available on the common portal;"</i></p>	<p>Section 153 is being amended so as to insert a new clause (ca) under sub section (1) thereof so as to <b><u>enable service of order, summons, notice, etc. by making it available on the common portal.</u></b></p>
<b>Section – 154C (Common Customs Electronic Portal)</b>		
<p>.....</p>	<p><b>New Section inserted after Section 154B:</b></p> <p><i>"154C. The Board may notify a common portal, to be called the Common Customs Electronic Portal, for facilitating registration, filing of bills of entry, shipping bills, other documents and forms prescribed under this Act or</i></p>	<p>Chapter XVII is being amended so as to insert a new Section 154C for <b><u>notification of a common portal</u></b> for facilitating registration, filing of bills of entry, shipping bills, any other document or form prescribed under the</p>

	<i>under any other law for the time being in force or the rules or regulations made thereunder, payment of duty and for such other purposes, as the Board may, by notification, specify.”.</i>	Customs Act or under any other law for the time being in force or the rules and regulations made thereunder, payment of duty and for carrying out such other functions and for such purposes as may be specified.
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### Proposed Amendments in the Customs Tariff Act, 1975

**Synopsis:** Certain changes have also been made in the Customs Tariff Act, 1975 (“**the Customs Tariff Act**”) and Rules made thereunder in the provisions relating to trade remedial measures (ADD/CVD and Safeguard Measures). Besides other changes, these changes introduce the provisions for anti-absorption investigation in ADD/CVD, bringing in uniformity in the provisions. Certain changes have also been made in the corresponding Rules.

Current provisions	Proposed provisions	Effect of the changes made
<b>Section – 8B (Power of Central Government to apply safeguard measures)</b>		
“(6) Notwithstanding anything contained in the foregoing sub-sections, a notification issued under sub-section (1) or any safeguard measures applied under sub-sections (2), (3), (4) and (5), shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a special economic zone, unless-	“(6) Notwithstanding anything contained in the foregoing sub-sections, a notification issued under sub-section (1) or any safeguard measures applied under sub-sections (2), (3), (4) and (5), shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a special economic zone, unless-	Section 8B of the Customs Tariff Act is being amended to incorporate certain technical changes and include the meaning of SEZ.
(i) it is specifically made applicable in such notification or to such undertaking or unit;	(i) it is specifically made applicable in such notification or to such undertaking or <b>unit or</b> ;	
(ii) such article is either cleared as such into the domestic tariff area or used in the	(ii) such article is either cleared as such into the domestic tariff area or used	

<p><i>manufacture of any goods that are cleared into the domestic tariff area, in which case, safeguard measures shall be applied on the portion of the article so cleared or used, as was applicable when it was imported into India.</i></p> <p><i>Explanation.—For the purposes of this section, the expressions “hundred per cent. export-oriented undertaking”, and “special economic zone” shall have the same meaning as assigned to them in Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944. (1 of 1944.)”</i></p>	<p><i>in the manufacture of any goods that are cleared into the domestic tariff area, in which case, safeguard measures shall be applied on the portion of the article so cleared or used, as was applicable when it was imported into India.</i></p> <p><i>Explanation.—For the purposes of this sub-section,—</i></p> <p><i>(a) the expression “hundred per cent. Export oriented undertaking” shall have the same meaning as assigned to it in clause (i) of Explanation 2 to sub section (1) of section 3 of the Central Excise Act, 1944;</i></p> <p><i>(b) the expression “special economic zone” shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005.”</i></p>	
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**Section – 9 (Countervailing duty on subsidized articles)**

<p><i>(1A) Where the Central Government, on such inquiry as it considers necessary, is of the opinion that circumvention of countervailing duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article on which such duty has been imposed or by import of such article in an unassembled or</i></p>	<p><i>(1A) Where the Central Government, on such inquiry as it considers necessary, is of the opinion that circumvention of countervailing duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article on which such duty has been imposed or by</i></p>	<p>Section 9 and 9A of the Customs Tariff Act and respective Rules are being amended to make <b><u>following amendments in the provision relating to ADD, CVD, safeguard measures:</u></b></p> <ul style="list-style-type: none"> <li>• imposition of duty from the date of initiation of</li> </ul>
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<p><i>disassembled form or by changing the country of its origin or export or in any other manner, whereby the countervailing duty so imposed is rendered ineffective, it may extend the countervailing duty to such other article also.</i></p>	<p><i>import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the countervailing duty so imposed is rendered ineffective, it may extend the countervailing duty to such other article also from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.</i></p> <p><i>(1B) Where the Central Government, on such inquiry as it considers necessary, is of the opinion that absorption of countervailing duty imposed under sub-section (1) has taken place whereby the countervailing duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.</i></p> <p><i>Explanation.—For the purposes of this sub-section, “absorption of countervailing duty” is said to have taken place,—</i></p>	<p>anti-circumvention investigation;</p> <ul style="list-style-type: none"> <li>● <u>anti-absorption provisions</u> to counter situation where, by reduction of export prices or otherwise, the ADD/CVD levied is sought to be absorbed, diluting the intended impact of such ADD/CVD.</li> <li>● imposition of these duties <u>on review for period upto 5 years</u> at a time;</li> <li>● uniform provisions for imposition ADD/CVD on account of inputs (attracting ADD or CVD) used by EOUs and SEZs for manufacture of goods that are cleared to Domestic Tariff Area;</li> <li>● whenever any particular ADD or CVD is temporarily revoked, such <u>temporary revocation shall not exceed one year at a time.</u></li> <li>● final findings are to be issued in ADD/CVD, in investigation in review proceedings, by the designated authority, at least three months prior to expiry of the ADD under review (with effect from the 1<sup>st</sup> Jul, 2021);</li> </ul>
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<p>(2) The Central Government may.....</p> <p>.....</p>	<p><i>a) if there is a decrease in the export price of an article without any commensurate change in the resale price in India of such article imported from the exporting country or territory; or</i></p> <p><i>b) under such other circumstances as may be provided by rules.</i></p> <p>(2) The Central Government may.....</p> <p><i>‘(2A) Notwithstanding anything contained in sub-sections (1) and (2), a notification issued under sub-section (1) or any countervailing duty imposed under sub-section (2) shall not apply to article imported by a hundred per cent. export-oriented undertaking or a unit in a special economic zone, unless, —</i></p> <p><i>(i) it is specifically made applicable in such notification or to such undertaking or unit; or</i></p> <p><i>(ii) such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, countervailing duty shall be imposed on that portion of the article so cleared or used, as was</i></p>	<ul style="list-style-type: none"> <li>• <u>provisional assessment</u> in anti-circumvention investigation and make some other technical changes in ADD/CVD Rules;</li> <li>• <u>manner of application of safeguard measure</u>, including tariff-rate quota in the Safeguard Duty (name changed to Safeguard Measures) Rules.</li> </ul>
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<p>(6) The countervailing duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition :</p> <p>Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall</p>	<p><i>applicable when it was imported into India.</i></p> <p><i>Explanation.—For the purposes of this sub-section,—</i></p> <p><i>a) the expression “hundred per cent. export-oriented undertaking” shall have the same meaning as assigned to it in clause (i) of Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944;</i></p> <p><i>b) the expression “special economic zone” shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005.’;</i></p> <p>(6) The countervailing duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition :</p> <p>Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such imposition for a further period <b>upto five years</b> and such further period shall</p>	
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<p>commence from the date of order of such extension :</p> <p>Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.</p>	<p>commence from the date of order of such extension :</p> <p>Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.</p> <p><i>Provided also that if the said duty is revoked temporarily, the period of such revocation shall not exceed one year at a time.</i></p>	
<p><b>Section – 9A (Anti-dumping duty on dumped articles)</b></p>		
<p>(1A) Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article subject to such anti-dumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article</p>	<p>(1A) Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article subject to such anti-dumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered</p>	<p>Kindly read as above</p>



<p>originating in or exported from such country, as the case may be.</p> <p>.....</p>	<p>ineffective, it may extend the anti-dumping duty to such article or an article originating in or exported from such country, as the case may be <i>from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.</i></p> <p><i>(1B) Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that absorption of anti-dumping duty imposed under sub-section (1) has taken place whereby the anti-dumping duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.</i></p> <p><i>Explanation.—For the purposes of this sub-section, “absorption of anti-dumping duty” is said to have taken place,—</i></p> <p><i>(a) if there is a decrease in the export price of an article without any commensurate change in the cost of production</i></p>	
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<p>(2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under sub-section (1) or any anti-dumping duty imposed under sub-section (2), shall not apply to articles imported by a hundred per cent, export-oriented undertaking unless,-</p> <p>(i) specifically made applicable in such notifications or such impositions, as the case may be; or</p> <p>(ii) the article imported is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, and in such cases anti-dumping duty shall be levied on that portion of the article so cleared or so used as was</p>	<p>of such article or export price of such article to countries other than India or resale price in India of such article imported from the exporting country or territory; or</p> <p>(b) under such other circumstances as may be provided by rules.’;</p> <p>.....</p> <p>(2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under subsection (1) or any anti-dumping duty imposed under subsection (2) shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a special economic zone, unless,—</p> <p>(i) it is specifically made applicable in such notification or to such undertaking or unit; or</p> <p>(ii) such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, antidumping duty shall be imposed on that portion of the article so cleared or used, as was</p>	
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<p><i>leviable when it was imported into India</i></p> <p><i>Explanation.-For the purposes of this sub-section, the expression "hundred per cent export-oriented undertaking" shall have the meaning assigned to it in Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944; (1 of 1944)]</i></p> <p>.....</p> <p><i>(5) The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition :</i></p> <p><i>Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and</i></p>	<p><i>applicable when it was imported into India.</i></p> <p><i>Explanation.—For the purposes of this section,—</i></p> <p><i>(a) the expression "hundred per cent. export-oriented undertaking" shall have the same meaning as assigned to it in clause (i) of Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944;</i></p> <p><i>(b) the expression "special economic zone" shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005.';</i></p> <p>.....</p> <p><i>(5) The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition :</i></p> <p><i>Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period upto five years and</i></p>	
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<p><i>such further period shall commence from the date of order of such extension :</i></p> <p><i>Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.</i></p>	<p><i>such further period shall commence from the date of order of such extension :</i></p> <p><i>Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.</i></p> <p><i>Provided also that if the said duty is revoked temporarily, the period of such revocation shall not exceed one year at a time.</i></p>	
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### **Amendments in First Schedule of the Customs Tariff Act, 1975**

#### **AMENDMENTS IN FIRST SCHEDULE OF THE CUSTOMS TARIFF ACT, 1975**

In the Customs Tariff Act 1975, the First Schedule shall—

- (a) be amended in the manner specified in the Second Schedule; and
- (b) with effect from the 1<sup>st</sup> April, 2021, be also amended in the manner specified in the Third Schedule; and
- (c) with effect from the 1<sup>st</sup> January, 2022, be also amended in the manner specified in the Fourth Schedule.

### **Amendments in the Customs Rules**

**Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 [“IGCR Rules”]** are being amended to provide the following facilities:

- to **allow job-work** of the materials (except gold and jewellery and other precious metals) imported under concessional rate of duty
- to **allow 100% out-sourcing** for manufacture of goods on job-work

- to allow imported capital goods that have been used for the specified purpose to be cleared on payment of differential duty, along with interest, on the depreciated value. The depreciation norms would be the same as applied to EOUs, as per Foreign Trade Policy.

### Gist of Various Customs Notifications

Following are the gist of the notifications which makes amendment in Customs Tariff and Non-Tariff, with effect from midnight of Feb 01/Feb 02, 2021.

Customs: Tariff Notifications		
S. No.	Notification No.	Description
1.	<a href="#">02/2021-Customs, dated February 1, 2021</a>	Seeks to further amend Notification No. 50/2017-Customs dated 30 <sup>th</sup> June 2017 so as to prescribe <b>effective rate of Basic Customs Duty (BCD)</b> .
2.	<a href="#">03/2021-Customs, dated February 1, 2021</a>	Seeks to further amend Notification No. 57/2017-Customs, dated the 30 <sup>th</sup> June 2017 so as to <b>prescribe effective BCD rate on IT/Electronics items</b> .
3.	<a href="#">04/2021-Customs, dated February 1, 2021</a>	Seeks to further amend Notification No. 25/99-Customs dated 28 <sup>th</sup> February 1999 so as to <b>withdraw BCD exemption on the specified parts of transformers</b> .
4.	<a href="#">05/2021-Customs, dated February 1, 2021</a>	Seeks to further amend Notification No. 24/2005-Customs dated 1 <sup>st</sup> March 2005 so as to <b>clarify the scope of exemption under entry at S. No. 13S of the said notification</b> .
5.	<a href="#">06/2021-Customs, dated February 1, 2021</a>	Seeks to further amend Notification No. 08/2020-Customs dated 2 <sup>nd</sup> February 2020 so as to <b>exempt the medical devices imported by international organizations and diplomatic missions, from the levy of Health Cess</b> .
6.	<a href="#">07/2021-Customs, dated February 1, 2021</a>	Seeks to rescind Notification Nos. 1/2011-Customs, dated 6 <sup>th</sup> January 2011, 34/2017-Customs dated 30 <sup>th</sup> June 2017 and 75/2017-Customs dated 13 <sup>th</sup> September 2017.
7.	<a href="#">08/2021-Customs, dated February 1, 2021</a>	Seeks to further amend Notification No. 153/94-Customs dated 13 <sup>th</sup> July 1994 so as to <b>include temporary imports of costumes and props for film making, in the goods exempted by the said notification</b> .

8.	<a href="#">09/2021-Customs, dated February 1, 2021</a>	Seeks to further amend Notification No. 42/1996-Customs dated 23 <sup>rd</sup> July, 1996 so as to <b>make suitable amendments to the list of specified projects under heading 9801 of the First Schedule to the Customs Tariff Act.</b>
9.	<a href="#">10/2021-Customs, dated February 1, 2021</a>	Seeks to amend Notification No. 230/86-Customs dated 3 <sup>rd</sup> April, 1986 so as to <b>notify National High Speed Rail Corporation Ltd. as Sponsoring Authority for High-Speed Rail projects.</b>
10.	<a href="#">11/2021-Customs, dated February 1, 2021</a>	Seeks to prescribe <b>effective rate of Agriculture Infrastructure and Development Cess for specified goods (discussed separately).</b>
11.	<a href="#">12/2021-Customs, dated February 1, 2021</a>	Seeks to rescind Notification No. 12/2018-Customs dated <b>02.02.2018 [exempt specified goods from the of levy of Social Welfare Surcharge in excess of 3%].</b>
12.	<a href="#">13/2021-Customs, dated February 1, 2021</a>	Seeks to <b>exempt Social Welfare Surcharge leviable on Agriculture Infrastructure and Development Cess on Gold and Silver.</b>
13.	<a href="#">14/2021-Customs, dated February 1, 2021</a>	Seeks to <b>exempt Social Welfare Surcharge leviable on Crude or roughly trimmed or Blocks Marble or travertine.</b>
14.	<a href="#">15/2021-Customs, dated February 1, 2021</a>	Seeks to further amend Notification No. 82/2017-Customs dated 27 <sup>th</sup> October, 2017 [prescribes effective rate of duty under chapters 50 to 63 on textile products].

Customs: Non-Tariff Notifications		
1.	<a href="#">09/2021-Customs (N.T.) dated February 1, 2021</a>	Seeks to further amend Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (discussed separately).
2.	<a href="#">10/2021-Customs (N.T.) dated February 1, 2021</a>	Seeks to further amend Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 to introduce anti-circumvention provisions in these rules and

		make certain other miscellaneous changes.
3.	<a href="#">11/2021-Customs (N.T.) dated February 1, 2021</a>	Seeks to further amend <b>Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995</b> to enable provisional assessment in anti-circumvention investigation and make certain other miscellaneous changes.
4.	<a href="#">12/2021-Customs (N.T.) dated February 1, 2021</a>	Seeks to further amend <b>Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997</b> to provide for the manner of application of safeguard measures including tariff-rate quota and make certain other miscellaneous changes.

#### Customs: Anti-Dumping Duty

1.	<a href="#">05/2021-Customs (ADD), dated February 1, 2021</a>	Seeks to amend Notification No. 54/2018 – Customs (ADD) dated 18 <sup>th</sup> October 2018 so as <b>to temporarily revoke the operation of the said notification for the period from 2<sup>nd</sup> February 2021 to 30<sup>th</sup> September 2021.</b>
2.	<a href="#">06/2021-Customs (ADD), dated February 1, 2021</a>	Seeks to amend Notification No. 38/2019 – Customs (ADD) dated 25 <sup>th</sup> September 2019 so as <b>to temporarily revoke the operation of the said notification for the period from 2<sup>nd</sup> February 2021 to 30<sup>th</sup> September 2021.</b>
3.	<a href="#">07/2021-Customs (ADD), dated February 1, 2021</a>	Seeks to amend Notification No. 16/2020 – Customs (ADD) dated 23 <sup>rd</sup> June 2020 so as <b>to temporarily revoke the operation of the said notification for the period from 2<sup>nd</sup> February 2021 to 30<sup>th</sup> September 2021.</b>

#### Customs: Countervailing Duty

1.	<a href="#">01/2021-Customs (CVD), dated February 1, 2021</a>	Seeks to <b>rescind Notification No. 02/2020 – Customs (CVD) dated 9<sup>th</sup> October 2020.</b>
2.	<a href="#">02/2021-Customs (CVD), dated February 1, 2021</a>	Seeks to amend Notification No. 01/2017 – Customs (CVD) dated 7 <sup>th</sup> September 2017 so as <b>to temporarily revoke the operation of the said notification for the period from 2<sup>nd</sup> February 2021 to 30<sup>th</sup> September 2021.</b>

	<a href="#">1, 2021</a>	notification for the period from 2 <sup>nd</sup> February 2021 to 30 <sup>th</sup> September, 2021.
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## Agriculture Infrastructure and Development Cess (“AIDC”)

**Synopsis:** This new cess is being imposed on imports of certain items at specified rate. Simultaneously, basic customs duty is being reduced on the items being brought under new cess. This new cess is also being imposed as additional duty of excise on petrol and diesel. At the same time, Basis Excise Duty and Special Additional Duty of Excise are being reduced.

**These changes would become effective on 02.02.2021, 00:00 hours owing to the declaration made under Provisional Collection of Taxes Act, 1931.**

### **I. Customs**

- 1) AIDC, as duty of customs has been proposed under Clause 115 of the Finance Bill, 2021. Enabling provisions has been made for levy of this cess on all imported goods at the rate not exceeding the rate specified in the First Schedule to the Customs Tariff Act, 1975. However, it would be **levied only on specified goods as detailed below**. All other items are being exempted from this Cess.

Further, the **BCD rates have been simultaneously lowered** on items on which cess is being imposed. The list of items on which cess has been imposed and the applicable duty and AIDC on them with effect from 02.02.2021, is as follows:

S. No	Heading, sub-heading tariff item	Commodity	Basic Customs Duty	AIDC
1.	0808 10 00	Apples	15% / 35%*	35%
2.	1511 10 00	Crude Palm Oil	15%	17.5%
3.	1507 10 00	Crude Soya-bean oil	15%	20%
4.	1512 11 10	Crude Sunflower seed oil	15%	20%
5.	0713 10	Peas (Pisum sativum)	10%	40%
6.	0713 20 10	Kabuli Chana	10%	30%



7.	0713 20 20	Bengal Gram (desichana)	10%	50%
8.	0713 20 90	Chick Peas (garbanzos)	10%	50%
9.	0713 40 00	Lentils (Mosur)	10% / 30%*	20%
10.	2204	All goods (Wine)	50%	100%
11.	2205	Vermouth and other wine of fresh grapes, flavoured	50%	100%
12.	2206	Other fermented beverages for example, Cider, Perry, Mead, sake, mixture of fermented beverages or fermented beverages and non-alcoholic beverages	50%	100%
13.	2208	All goods (Brandy, Bourbon whiskey, Scotch etc.)	50%	100%
14.	2701	Various types of coal	1%	1.5%
15.	2702	Lignite, whether or not agglomerated	1%	1.5%
16.	2703	Peat, whether or not agglomerated	1%	1.5%
17.	3102 10 00	Urea	Nil	5%
18.	3102 30 00	Ammonium nitrate	2.5%	5%
19.	31	Muriate of potash, for use as manure or for the production of complex fertilisers	Nil	5%
20.	3105 30 00	Diammonium phosphate, for use as manure or for the production of complex fertilisers	Nil	5%
21.	5201	Cotton (not carded or combed)	5%	5%
22.	7106	Silver (including imports by eligible passengers)	7.5%	2.5%
23.	7106	Silver Dore	6.1%	2.5%
24.	7108	Gold (including imports by eligible passengers)	7.5%	2.5%

25.	7108	Gold Dore	6.9%	2.5%
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\* All goods originating in or exported from the United States of America.

- 2) For the purpose of calculating the AIDC, the import value of such goods shall be calculated in the same manner as the value of goods is calculated under the provisions of Section 14 of the Customs Act, 1962.
- 3) **Social Welfare Surcharge (SWS) would be levied on AIDC.** However, **exemption** from SWS on AIDC has been given to gold and silver.
- 4) Further, goods imported under Customs duty exemptions available under FTA and EOU as well as under advance authorization schemes are being **exempted** from AIDC.

## II. Excise

AIDC of **Rs 2.5 per litre has been imposed on petrol** and **Rs 4 per litre on diesel** as an additional duty of excise is proposed under Clause 116 of the Finance Bill, 2021. Accordingly, Basic Excise Duty and the Special Additional Excise Duty have been calibrated so that there would be no additional burden on the consumer.

The table below summarizes the change in various duties applicable to Petrol and Diesel:

Commodity	Duty rates applicable with effect from 02.02.2021 (Rs. per litre)				
	BED	SAED	RIC	AIDC	Total
<b>Petrol (unbranded)</b>	1.40	11	18	2.5	32.90
<b>Petrol (branded)</b>	2.60	11	18	2.5	34.10
<b>Diesel (unbranded)</b>	1.80	8	18	4.0	31.80
<b>Diesel (branded)</b>	4.20	8	18	4.0	34.10

BED: Basic Excise Duty; SAED: Special Additional Excise Duty; RIC: Road and Infrastructure Cess; AIDC: Agriculture Infrastructure and Development Cess.

## CENTRAL EXCISE

### Changes in Central Excise - Budget 2021

Following are the gist of the notifications which makes amendment in the Excise Tariff with effect from February 02, 2021, unless otherwise specified.

Excise: Tariff Notifications		
S. No.	Notification No.	Description
1.	<a href="#">01/2021-Central Excise, dated February 1, 2021</a>	Seeks to amend Notification No. 11/2017-Central Excise dated 30.06.2017, to <b>prescribe effective rate of Basic Excise Duty and to add the reference of Agriculture Infrastructure and Development Cess (AIDC) in the appropriate duty of excise.</b>
2.	<a href="#">02/2021-Central Excise, dated February 1, 2021</a>	Seeks to amend Notification No. 05/2019-Central Excise dated 06.07.2019, to <b>prescribe effective rate of Special Additional Excise Duty for Petrol and Diesel.</b>
3.	<a href="#">03/2021-Central Excise, dated February 1, 2021</a>	Seeks to <b>exempt AIDC on blended fuels.</b>
4.	<a href="#">04/2021-Central Excise, dated February 1, 2021</a>	Seeks to amend Notification No. 28/2002-Central Excise dated 13.05.2002, to <b>exempt M-15 and E-20 fuels from Special Additional Excise Duty and to add the reference of AIDC in the appropriate duty of excise.</b>
5.	<a href="#">05/2021-Central Excise, dated February 1, 2021</a>	Seeks to <b>exempt M-15 fuel from Road and Infrastructure Cess.</b>
6.	<a href="#">06/2021-Central Excise, dated February 1, 2021</a>	Seeks to <b>exempt E-20 fuel from Road and Infrastructure Cess.</b>
7.	<a href="#">07/2021-Central Excise, dated February 1, 2021</a>	Seeks to amend Notification Nos. 10/2018-Central Excise, 11/2018-Central Excise, 12/2018-Central Excise and 13/2018-Central Excise, all dated 02.02.2018, to <b>add the reference of AIDC in the appropriate duty of excise.</b>

Note:

- (a) "Basic Excise Duty" means the excise duty set forth in the Fourth Schedule to the Central Excise Act, 1944.
- (b) "Road and Infrastructure Cess" means the additional duty of central excise levied under section 112 of the Finance Act, 2018.
- (c) "Special Additional Excise Duty" means a duty of excise levied under section 147 of the Finance Act, 2002.
- (d) NCCD means "National Calamity Contingent Duty" levied under Finance Act, 2001, as a duty of Excise on specified goods at rates specified in the seventh schedule to Finance Act, 2001.

### **Amendments in Fourth Schedule to the Central Excise Act, 1944**

#### **AMENDMENTS IN FOURTH SCHEDULE TO THE CENTRAL EXCISE ACT, 1944**

In the Central Excise Act, 1944, the Fourth Schedule shall—

- (a) with effect from the 1<sup>st</sup> April 2021, be amended in the manner specified in the Fifth Schedule; and
- (b) with effect from the 1<sup>st</sup> January 2022, be also amended in the manner specified in the Sixth Schedule.

#### **Revised date of effect to amendments made in Fourth Schedule vide Notification issued under Section 3C of the Central Excise Act, 1944**

Notwithstanding anything contained in paragraph 2 of the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R 978 (E), dated the 31<sup>st</sup> December, 2019, issued in exercise of the powers conferred under Section 3C of the Central Excise Act, 1944, the amendments made in Chapter 27 of the Fourth Schedule thereto by the said notification shall be deemed to have, and always to have had effect, for all purposes, on and from the 1<sup>st</sup> day of January, 2020.

➔ Amendment in Fourth Schedule made by Notification No. 08/2019-CE (T) dated 31.12.2019 shall be made effective w.e.f. 01.01.2020, retrospectively.

### **Amendments in Schedule VII of the Finance Act 2001 (NCCD Schedule)**

New tariff items [2404 11 00] and [2404 19 00] inserted in accordance with upcoming HS 2022 Nomenclature and prescribe NCCD of 25% on these tariff items with effect from 01.01.2022.

**Note: For imposition of Agriculture Infrastructure and Development Cess (AIDC) as an additional duty of excise proposed on Petrol and High speed diesel, refer discussion above.**

### **From the Authors Desk**

*Hailed as the most crucial Budget of India in recent years, the Union Budget 2021-22 has come in the backdrop of the largest GDP contraction that India has suffered post-Independence due to the COVID-19 pandemic. In a significant departure from the tradition, this year's Budget was not printed and was only made available in a digital format. This Budget focused on higher spending, healthcare expenditure with Rs. 35,000 crore on Covid-19 vaccine development, infrastructure development and public sector bank privatisation. But ironically, the experts' speculations seem to have turned true as Nirmala Sitharaman's first budget of the decade didn't have much hype for the common man.*

*Presenting the Union Budget for 2021-22, FM said that the Budget proposals for this financial year rest on six pillars — health and well-being, physical, financial capital and infrastructure, inclusive development for aspirational India, reinvigorating human capital, innovation and R&D and minimum government and maximum governance. Significant announcements included a slew of hikes in Customs duty to benefit 'Make in India', proposal to disinvest two more PSBs and a general insurance company, and numerous infrastructure pledges to poll-bound States. FM, in her speech, announced a push to the textile industry, a new cess on agriculture development – Rs 2.5 per litre on petrol and Rs 4 per litre on diesel. Insurance Act amendment is also proposed to increase FDI limit from 49 to 74% with safeguards, while, the LIC IPO will be introduced in 2021.*

*In significant changes to the taxation process, FM announced the scrapping of income tax return for senior citizens having pension and interest income only, new rules for removal of double taxation for NRIs, and a reduction in the time period of tax assessments among other measures. Start-ups will get an extension in their tax holiday for an additional year. FM also announced that the advance tax liability on dividend income shall arise after declaration or payment of dividend. On GST front, the FM said that record GST collections have been made in the last few months. She said several measures have been taken to further simplify the GST. The capacity of GSTN system has been enhanced. Deep analytics and artificial intelligence have been deployed to identify tax evaders and fake billers, launching special drives against them. The Finance Minister assured the House that every possible measure shall be taken to smoothen the GST further and remove anomalies such as the inverted duty structure.*

*Benchmark stock indices Nifty and Sensex gave a thumbs up to government's 'expansionary budget' as FM Sitharaman chose the path of additional borrowing instead of taxing the super-rich or raising taxes on high-income individuals. Market response to the budget reflects growth optimism.*

*But this Budget may not bring cheer to pandemic-hit aam aadmi. The common man was eyeing some income tax benefits from this budget as Covid-19 has burnt their pockets in over a year. While no changes were made to the personal income tax, only senior citizens were offered benefit. Under the proposal, those above the age of 75 will no longer have to file IT returns. Moreover, a Covid-19 cess that was much speculated to be enforced to revive the economy in post-coronavirus world did not find mention in the Union Budget 2021-22.*

***In nutshell, though this budget may be considered as growth oriented and visionary one amidst the situation when India is slowly emerging from the Covid-19 crisis and the economy is gradually returning to normal, but the present situation of the economy and taxation system was requiring lot more for the aam aadmi. People had been anticipating tax incentives to increase spending and reinvigorate household consumption demand, and other benefits to grapple with the woes of the Covid-19 pandemic. Also, it is time that we strive to maintain stability of provisions and systems under GST, as frequent changes cause disruptions in business operations as well as increasing confusions in trade. Though, Centre and States are quite receptive to resolve GST issues, but certain level of steadiness is also required.***

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**ABOUT US:**

A2Z TAXCORP LLP is a boutique Indirect Tax firm having professionals from Multi disciplines which includes Goods and Services Tax (GST), Central Excise, Custom, Service Tax, VAT, DGFT, Foreign Trade Policy, SEZ, EOU, Export – Import Laws, Free Trade Policy etc.

Thanks & Best Regards,

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