



UNION BUDGET 2018 – 19

INDIRECT TAX PROPOSALS

S KHAITAN & ASSOCIATES

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AUTHOR'S NOTE

Union Budget 2018 was expected to be for the general welfare of the common man as it was the last budget before the general elections of 2019. In line with this, the primary focus of the budget was on investment in Agriculture, Health and Social Sector, Digital Payments, Infrastructure and Employment Generation.

The Budget has given a big thrust to Medium, Small and Micro Enterprises (MSMEs) to boost employment and economic growth. A sum of Rs. 3794 crore has been provided for giving credit support, capital and interest subsidy and for innovations.

On the employment front, the Hon'ble Finance minister has cited an independent study which shows that 70 lakh formal jobs will be created this year.

There have been certain revolutionary changes in Direct taxes. The proposal which has created a furore throughout the nation is the levy of long term capital gain at the rate of 10% on listed shares and securities on which STT is paid. Further, in order to balance out the disparity between the business and salaried class, an additional deduction of 40% will be provided to salaried class. Further, the benefit of lower corporate tax of 25% has been extended to businesses with turnover upto Rs. 250 crores.

On the indirect taxes front, no major amendments were made in the GST law as this can only be made upon the recommendations of the GST Council. However, the long standing name of the Board 'Central Board of Excise and Customs' has been replaced with 'Central Board of Indirect Taxes and Customs'. Most of the indirect taxes amendments have been carried out in the Customs Act and the Customs Tariff Act. From the perspective of the common man, a few items have undergone major rate changes. It is proposed to increase customs duty on mobile phones from 15 percent to 20 percent, on some of their parts and accessories to 15 percent and on certain parts of televisions to 15 percent.

We have made an endeavour to collate all the budget proposals relating to Indirect taxes together. On one hand, we have provided the highlights of the Indirect tax proposals and on the other, we have referenced the detailed analysis of each of these proposals.

We sincerely hope to provide you with the most reader friendly approach of these amendments. However, if there are any suggestions, questions or comments relating to this material, feel free to get in touch with us.

Thanks & Regards,

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1. **Reference to import manifest and export manifest, wherever they occur in the Customs Act, to include Arrival Manifest and Departure Manifest respectively.**

Source

Clause 54 of the Finance Bill, 2018

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

Throughout the Customs Act, 1962 (hereinafter referred to as the Customs Act), for the words “import manifest” and “export manifest”, wherever they occur, the words “arrival manifest or import manifest” and “departure manifest or export manifest” shall, respectively, be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.

Effect of the Amendment

1. The term ‘import manifest’ has been expanded to state ‘arrival manifest or import manifest’
2. The term ‘export manifest’ has been expanded to state ‘departure manifest or export manifest’

2. **Expansion of the scope of the Customs Act**

Source

Clause 55 of the Finance Bill, 2018

Affected Provision

Section 1(2) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

1(2). It extends to the whole of India.

Provision after amendment

1(2). It extends to the whole of India “and, save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person”

Amendment

1. The above provision marked in green has been inserted

Effect of the Amendment

It is proposed to expand the scope of the Customs Act to any offence or contravention committed thereunder outside India by any person.

3. Modification in the definition of assessment**Source**

Clause 56 of the Finance Bill, 2018

Affected Provision

Section 2(2) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

2(2). "assessment" includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;

Provision after amendment

2(2). “assessment” means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to—

(a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;

(b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;

(c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;

(d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;

(e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;

f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods,

and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;’;

Amendment

The above provision marked in red has been substituted with the provision marked in green

Effect of the Amendment

Definition of assessment has been amended to specifically include matters in reference to classification, valuation, exemption notification, goods specifications, origin etc.

4. Modification in the name of CBEC to CBITC

Source

Clause 56 of the Finance Bill, 2018

Affected Provision

Section 2(6) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

2(6). "Board" means the **Central Board of Excise and Customs** constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)

Provision after amendment

"Board" means the Central Board of Indirect Taxes and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)

Amendment

The part in red ‘Central Board of Excise and Customs’ has been substituted with Central Board of Indirect taxes and Customs.

Effect of the Amendment

In the definition of Board, the name 'Central Board of Excise and Customs' has been replaced with 'Central Board of Indirect Taxes and Customs'

5. Definition of Indian Customs Water expanded to Exclusive Economic Zone

Source

Clause 56 of the Finance Bill, 2018

Affected Provision

Section 2(28) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

2(28) "Indian Customs Waters" means the waters extending into the sea up to the limit of **contiguous zone of India under section 5** of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, (80 of 1976)] and includes any bay, gulf, harbour, creek or tidal river;

Amendment

The portion marked in red has been substituted and the following has been included;

2(28) "Indian Customs Waters" means the waters extending into the sea up to the limit of **exclusive economic zone under section 7** of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, (80 of 1976)] and includes any bay, gulf, harbour, creek or tidal river;

Effect of amendment

Indian Customs Waters has now been extended the limit of 'Indian Customs Waters' into the sea from the existing 'Contiguous zone of India' to the 'Exclusive Economic Zone (EEZ)' of India

6. Meaning of the term 'Notification' given

Source

Clause 56 of the Finance Bill, 2018

Affected Provision

Section 28(30AA) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

The following clause marked in green has been inserted;

2(30AA) “notification” means notification published in the Official Gazette and the expression “notify” with its cognate meaning and grammatical variation shall be construed accordingly;’.

Effect of the Amendment

It is provided that notification’ would mean a ‘notification published in the Official Gazette’ and the word 'notify' would be construed accordingly

7. Prohibition or restriction or obligation relating to import or export of goods to be notified**Source**

Clause 57 of the Finance Bill, 2018

Affected Provision

Section 11 of the Customs Act, 1962

Effective Date

From a date to be notified

Provision before amendment

11 (1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section;

(2) It may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

Provision after amendment

11 (1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section;

(2) It may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

(3) Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.

Amendment

1) Sub section (3) given above has been inserted

Effect of the Amendment

It has been provided that prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification thereunder shall be executed only if such prohibition or restriction or obligation is notified under the provisions of Customs Act subject to such exceptions, modifications or adaptations as the Central Government may deem fit.

8. Amendments in the provisions of Assessment of Duty

Source

Clause 58 of the Finance Bill, 2018

Affected Provision

Section 17(2) of the Customs Act, 1962

Section 17(3) of the Customs Act, 1962

Section 17(5) of the Customs Act, 1962

Section 17(6) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

17(2). The proper officer may verify the **self-assessment of such goods** and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

17(3). For **verification of self-assessment** under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information

17(5). Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter ~~regarding valuation of goods, classification, exemption or concessions of duty availed consequent to any notification issued therefor under this Act~~ and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re- assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

17(6). ~~Where re-assessment has not been done or a speaking order has not been passed on re-assessment, the proper officer may audit the assessment of duty of the imported goods or export goods at his office or at the premises of the importer or exporter, as may be expedient, in such manner as may be prescribed.~~

Provision after amendment

17(2). The proper officer may verify the entries made under section 46 or section 50 and the self-assessment of goods referred to in subsection (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.

17(3). For the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information

17(5). Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re- assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

Amendment

- 1) The portion marked in red has been substituted with the portions marked in green in Section 17(2) and 17(3).
- 2) Proviso marked in green has been included in Section 17(2).
- 3) The part struck off in Section 17(5) has been omitted.
- 4) The part marked in red in 17(6) has been substituted with the green colour marked in 17(6).

Effect of the Amendment

1. As part of the assessment proceedings, the proper officer has been given the additional power to verify the entry of goods for importation and exportation.
2. It is proposed to provide legal backing for the risk-based selection of self-assessed Bill of Entry or Shipping Bill through appropriate selection criteria
3. The scope of re-assessment has been extended by omitting the specific reference to valuation, classification and exemption or concessions of duty availed consequent to any notification issued under the Act
4. Since, audit has been inserted as a new chapter, reference to audit under this sub-section has been deleted.

9. Amendments to provisional assessment of duty**Source**

Clause 59 of the Finance Bill, 2018

Affected Provision

Section 18(1) of the Customs Act, 1962

Section 18(3) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

18(1). Notwithstanding anything contained in this Act but without prejudice to the provisions of section 46, -

(a) where the importer or exporter is unable to make self-assessment under sub-section (1) of section 17 and makes a request in writing to the proper officer for assessment; or

(b) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test; or

(c) where the importer or exporter has produced all the necessary documents and furnished full information, but the proper officer deems it necessary to make further enquiry; or

(d) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry, the proper officer may direct that the duty leviable on such goods be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty as may be finally assessed or re-assessed as the case may be, and the duty provisionally assessed

18(3). The importer or exporter shall be liable to pay interest, on any amount payable to the Central Government, consequent to the final assessment order 19[or re-assessment order] under sub-section (2), at the rate fixed by the Central Government under section 28AB from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.]

Provision after amendment

18(1). Notwithstanding anything contained in this Act but without prejudice to the provisions of section 46 and section 50, -

(a) where the importer or exporter is unable to make self-assessment under sub-section (1) of section 17 and makes a request in writing to the proper officer for assessment; or

(b) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test; or

(c) where the importer or exporter has produced all the necessary documents and furnished full information, but the proper officer deems it necessary to make further enquiry; or

(d) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry,

the proper officer may direct that the duty leviable on such goods be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty as may be finally assessed or re-assessed as the case may be, and the duty provisionally assessed

“(1A) Where, pursuant to the provisional assessment under sub-section (1), if any document or information is required by the proper officer for final assessment, the importer or exporter, as the case may be, shall submit such document or information within such time, and the proper officer shall finalise the provisional assessment within such time and in such manner, as may be prescribed.”

18(3). The importer or exporter shall be liable to pay interest, on any amount payable to the Central Government, consequent to the final assessment order 19[or re-assessment order] under sub-section (2), at the rate fixed by the Central Government under section 28AA from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.]

Amendment

- 1) The portion marked in red has been substituted by the portion marked in green.
- 2) Clause 18(1A) has been newly inserted.
- 3) The effect of section 28AA will take place retrospectively with effect from the 8th day of April 2011.

Effect of the Amendment

1. Provisions are amended to cover export consignments under provisional assessment of duty
2. The Board has been empowered to issue regulation for providing time limit for the importer or exporter to submit the documents and information for the finalization of provisional assessment
3. Incorrect reference to Section 28AB (which does not exist) has now been correctly substituted with Section 28AA

10. Inward and outward processing of goods.

Source

Clause 60 of the Finance Bill, 2018

Affected Provision

Section 25A of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

The following provision has been inserted after Section 25

25A. Where the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification, exempt such of the goods which are imported for the purposes of repair, further processing or manufacture, as may be specified therein, from the whole or any part of duty of customs leviable thereon, subject to the following conditions, namely: —

- (a) the goods shall be re-exported after such repair, further processing or manufacture, as the case may be, within a period of one year from the date on which the order for clearance of the imported goods is made;
- (b) the imported goods are identifiable in the export goods; and
- (c) such other conditions as may be specified in that notification.

25B. Notwithstanding anything contained in section 20, where the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification, exempt such of the goods which are re-imported after being exported for the purposes of repair, further processing or manufacture, as may be specified therein, from the whole or any part of duty of customs leviable thereon, subject to the following conditions, namely:—

- (a) the goods shall be re-imported into India after such repair, further processing or manufacture, as the case may be, within a period of one year from the date on which the order permitting clearance for export is made;
- (b) the exported goods are identifiable in the re-imported goods; and
- (c) such other conditions as may be specified in that notification.”.

Effect of the Amendment

1. Legal backing is provided to empower the Central Government to exempt goods imported for repair, further processing or manufacture from payment of whole or any part of duty of customs leviable thereon subject to certain conditions
2. Legal backing is provided to empower the Central Government to exempt goods imported for repair, further processing or manufacture from payment of whole or any part of duty of customs leviable thereon subject to certain conditions

11. Manner of pre-notice consultation

Source

Clause 61 of the Finance Bill, 2018

Affected Provision

Section 28(1) clause (a) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018.

Provision before amendment

28(1). Where any duty has not been levied or not paid or short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts, -

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

Amendment

The portion marked in green has been newly inserted

28(1). Where any duty has not been levied or not paid or short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts, -

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;

Effect of the Amendment

1. A proviso for pre-notice consultation in cases not involving collusion, wilful mis-statement, suppression before issue of demand notice has been inserted.
2. The manner of pre-notice consultation will be provided in the regulations.

12. Issuance of supplementary show cause notice

Source

Clause 61 of the Finance Bill, 2018

Affected Provision

Section 28 (7A) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018.

Amendment

The portion marked in green below has been newly inserted:

28 (7A) Save as otherwise provided in clause (a) of sub-section (1) or in sub-section (4), the proper officer may issue a supplementary notice under such circumstances

and in such manner as may be prescribed, and the provisions of this section shall apply to such supplementary notice as if it was issued under the said sub-section (1) or sub-section (4).”;

Effect of the Amendment

Provisions for issue of supplementary show cause notice in circumstances and in such manner as may be prescribed through regulations within the existing time period have been inserted.

13. Time period for adjudication of demand notices revised

Source

Clause 61 of the Finance Bill, 2018

Affected Provision

Section 28(9) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018.

Provision before amendment

28(9). The proper officer shall determine the amount of duty or interest under sub-section (8), -

(a) within six months from the date of notice, ~~where it is possible to do so~~, in respect of cases falling under clause (a) of sub-section (1);

(b) within one year from the date of notice, ~~where it is possible to do so~~, in respect of cases falling under sub-section (4).

Provision after amendment

28(9). The proper officer shall determine the amount of duty or interest under sub-section (8), -

(a) within six months from the date of notice, in respect of cases falling under clause (a) of sub-section (1);

(b) within one year from the date of notice, in respect of cases falling under sub-section (4).

Provided that where the proper officer fails to so determine within the specified period, any officer senior in rank to the proper officer may, having regard to the

circumstances under which the proper officer was prevented from determining the amount of duty or interest under sub-section (8), extend the period specified in clause (a) to a further period of six months and the period specified in clause (b) to a further period of one year:

Provided further that where the proper officer fails to determine within such extended period, such proceeding shall be deemed to have concluded as if no notice had been issued.

Amendment

- 1) The portion marked in red has been omitted.
- 2) The portion marked in green is the new proviso which has been inserted.

Effect of the Amendment

1. A definite time frame of six months and one year for adjudication of demand notices depending upon whether charges of collusion, wilful misstatement, suppression have been invoked.
2. These time periods shall be extendable by the officer senior to adjudicating authority for a further period of six months and one year respectively.
3. It is provided that if the demand notice is not adjudicated within the extended period, it would be deemed as if no demand had been issued.

14. Time period for adjudication of demand notices revised

Source

Clause 61 of the Finance Bill, 2018

Affected Provision

Section 28(9A) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

The following provision has been inserted after Section 28(9)

“(9A) Notwithstanding anything contained in sub-section (9), where the proper officer is unable to determine the amount of duty or interest under sub-section (8) for the reason that—

- (a) an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or
- (b) an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or

(c) the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or
 (d) the Settlement Commission has admitted an application made by the person concerned,
 the proper officer shall inform the person concerned the reason for non-determination of the amount of duty or interest under sub-section (8) and in such case, the time specified in subsection (9) shall apply not from the date of notice, but from the date when such reason ceases to exist.”

Effect of the Amendment

It is provided that on certain grounds the time limit of six months or one year shall remain suspended and that the proper officer shall inform the person concerned the reasons for non-determination of duty or interest under sub-section (8) and in such cases the time specified in sub-section (9) shall apply not from the date of notice, but from the date when such reasons cease to exist.

These grounds are:

1. Appeal in similar matter pending before High Court or Supreme Court of Appellate Tribunal
2. Interim stay order issued by Appellate Tribunal or High Court or Supreme Court
3. Specific direction by Board to keep the matter pending
4. Admission of application by the Settlement Commission

15. Interest on excess refund provided

Source

Clause 61 of the Finance Bill, 2018

Affected Provision

Section 28(10A) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

The following provision has been inserted after Section 28(10):

(10A) Notwithstanding anything contained in this Act, where an order for refund under sub-section (2) of section 27 is modified in any appeal and the amount of refund so determined is less than the amount refunded under said sub-section, the excess amount so refunded shall be recovered along with interest thereon at the rate fixed by the Central Government under section 28AA, from the date of refund up to the date of recovery, as a sum due to the Government.

Effect of the Amendment

It is provided that where an order for refund is modified in appeal and the amount of refund so determined is less than the amount refunded, the excess amount so refunded shall be recovered along with interest thereon at the applicable rate, from the date of refund up to the date of recovery, as a sum due to the Government.

16. Notice issued under charges of collusion, wilful misstatement etc. not held to be so**Source**

Clause 61 of the Finance Bill, 2018

Affected Provision

Section 28(10B) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

The following provision has been inserted after Section 28(10)

(10B) A notice issued under sub-section (4) shall be deemed to have been issued under subsection (1), if such notice demanding duty is held not sustainable in any proceeding under this Act, including at any stage of appeal, for the reason that the charges of collusion or any wilful mis-statement or suppression of facts to evade duty has not been established against the person to whom such notice was issued and the amount of duty and the interest thereon shall be computed accordingly.

Effect of the Amendment

It is held that if a demand notice is issued stating that there is an intent to evade payment of duty and the said allegation is not established against the said person, then the said notice will be deemed to have been issued without any intent to evade payment of duty.

17. Notice issued before the date of Finance Bill to be governed as per earlier provisions**Source**

Clause 61 of the Finance Bill, 2018

Affected Provision

Section 28 of the Customs Act

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

The following provision has been inserted after Explanation 3

Explanation 4.— For the removal of doubts, it is hereby declared that in cases where notice has been issued for non-levy, not paid, short-levy or short-paid or erroneous refund after the 14th day of May, 2015, but before the date on which the Finance Bill, 2018 receives the assent of the President, they shall continue to be governed by the provisions of section 28 as it stood immediately before the date on which such assent is received.”.

Effect of the Amendments

An explanation is inserted that a notice issued for non-levy, non-payment, short-levy or short payment of duty or erroneous refund after 14th May, 2015 but before the date on which the Finance Bill, 2018 receives the assent of the President, shall continue to be governed by the provisions of section 28 as it stood immediately before the date on which such assent is received

18. Removal of the definition of the term ‘activity’**Source**

Clause 62 of the Finance Bill, 2018

Affected Provision

Section 28E clause (a) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

28E (a). activity means import or export and includes any new business of import or export proposed to be undertaken by the existing importer or exporter, as the case may be;

Amendment

The following provision marked in red has been omitted.

~~28E (a). activity means import or export and includes any new business of import or export proposed to be undertaken by the existing importer or exporter, as the case may be;~~

| Effect of the Amendment |
|--|
| Definition of the term 'activity' has been removed as it is not required anymore |

19. Modification of the definition of advance ruling**Source**

Clause 62 of the Finance Bill, 2018

Affected Provision

Section 28E clause (b) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

28E (b). "advance ruling" means the determination, by the Authority, of a question of law or fact specified in the application regarding the liability to pay duty in relation to an activity which is proposed to be undertaken, by the applicant

Provision after amendment

28E (b) "advance ruling" means a written decision on any of the questions referred to in section 28H raised by the applicant in his application in respect of any goods prior to its importation or exportation;

Amendment

1) The provision marked in red has been substituted by the provision marked in green.

Effect of the Amendment

The existing definition of advance ruling has been substituted to cover subjects beyond mere determination of duty

20. Definition of Appellate Authority included**Source**

Clause 62 of the Finance Bill, 2018

Affected Provision

Section 28E(ba) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

The following portion marked in green has been inserted after clause b of Section 28E

“(ba) “Appellate Authority” means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961;

Effect of the Amendment

The definition of appellate authority has been inserted to mean Authority for Advance Rulings constituted under Section 245O of the Income Tax, 1961

21. Insertion of the Definition of applicant in respect of Advance Ruling**Source**

Clause 62 of the Finance Bill, 2018

Affected Provision

Section 28E clause (c) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

28E (c). "applicant" means -

- (i) (a) a non-resident setting up a joint venture in India in collaboration with a non-resident or resident; or
- (b) a resident setting up a joint venture in India in collaboration with a non-resident; or
- (c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company, who or which, as the case may be, proposes to undertake any business activity in India;
- (ii) a joint venture in India; or
- (iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf, and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 28H;]

Provision after amendment

28E (c). “applicant” means any person, —

- (i) holding a valid Importer-exporter Code Number granted under section 7 of the Foreign Trade (Development and Regulation) Act, 1992; or
- (ii) exporting any goods to India; or
- (iii) with a justifiable cause to the satisfaction of the Authority,

Amendment

The provision marked in red has been substituted by the provision marked in green above.

Effect of the Amendment

The persons eligible to make application have been stated to be a person:

1. Holding a valid Importer-Exporter Code
2. Exporting any goods to India
3. With a justifiable cause to the satisfaction of the Authority

22. Meaning and Constitution of Authority under Advance Ruling

Source

Clause 62 of the Finance Bill, 2018

Affected Provision

Section 28E clause (e) of the Customs Act, 1962

Section 28E clause (f) of the Customs Act, 1962

Section 28E clause (g) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

28E (e). "Authority" means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961;

28E (f). "Chairperson" means the Chairperson of the Authority;

28E (g). "Member" means a Member of the Authority and includes the Chairperson;

Provision after amendment

28E (e). "Authority" means the Customs Authority for Advance Rulings appointed under section 28EA;

28E (f). "Chairperson" means the Chairperson of the Appellate Authority;

28E (g). "Member" means a Member of the Appellate Authority and includes the Chairperson;

Amendment

The provision marked in red has been substituted by the provision marked in green.

Effect of the Amendment

1. The definition of Authority has been given to mean Customs Authority for Advance Ruling
2. Chairperson and Member are now considered to be that of Appellate Authority

23. Customs Authority for Advance Rulings**Source**

Clause 63 of the Finance Bill, 2018

Affected Provision

Section 28EA of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

The following provision has been inserted after Section 28E

“28EA. (1) The Board may, for the purposes of giving advance rulings under this Act, by notification, appoint an officer of the rank of Principal Commissioner of Customs or

Commissioner of Customs to function as a Customs Authority for Advance Rulings: Provided that till the date of appointment of the Customs Authority for Advance Rulings, the existing Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall continue to be the Authority for giving advance rulings for the purposes of this Act.

(2) The offices of the Authority may be established in New Delhi and at such other places, as the Board may deem fit.

(3) Subject to the provisions of this Act, the Authority shall exercise the powers and authority conferred on it by or under this Act.”.

Effect of the Amendment

1. This empowers the Board to appoint officers of the rank of Principal Commissioner of Customs or Commissioner of Customs as Customs Authority for Advance Rulings by way of notification.
2. Till such appointment by the Board, existing Authority shall continue to pronounce Advance Rulings.

24. Substitution of Authority for advance ruling with Appellate Authority

Source

Clause 64 of the Finance Bill, 2018

Affected Provision

Section 28F of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

- 1) Subject to the provisions of this Act, the authority for advance ruling constituted under section 245-O of the income tax act, 1961 shall be **the authority for advance ruling for the purposes of this Act and the said authority** shall exercise the jurisdiction, powers and authority conferred on it by or under this Act:

Provide that the members from the Indian Revenue Service (Customs and central Excise), who is qualified to be the member of the Board, shall be the revenue member of the **Authority** for the purposes of this Act.

Provision after amendment

- 1) Subject to the provisions of this Act, the authority for advance ruling constituted under section 245-O of the income tax act, 1961 shall be the Appellate Authority for deciding appeal under this chapter and the said Appellate Authority shall exercise the jurisdiction, powers and authority conferred on it by or under this Act:

Provide that the members from the Indian Revenue Service (Customs and central Excise), who is qualified to be the member of the Board, shall be the revenue member of the Appellate Authority for the purposes of this Act.

Amendment

- 1) In the opening paragraph, for the words “the authority for advance ruling for the purposes of this Act and the said authority” the words “the Appellate Authority for deciding appeal under this chapter and the said Appellate Authority” shall be substituted.
- 2) In the proviso, for the word “Authority”, the word “Appellate Authority” shall be substituted.

Effect of the Amendment

- 1) It has been provided that on appointment of Customs Authority for Advance Rulings, the applications and proceedings pending before the erstwhile authority shall stand transferred to Customs Authority for Advance Rulings.
- 2) Instead of the authority for advance ruling present earlier, the Appellate Authority has been given the power and authority for exercising power
- 3) Member of the Indian Revenue Service qualified to be Member of the Board will now form the member of the Appellate Authority

25. Matters for which advance ruling may be sought

Source

Clause 65 of the Finance Bill, 2018

Affected Provision

Section 28H of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

28H (2) The question on which the advance ruling is sought shall be in respect of, (d) Applicability of notification issued in respect of duties under this Act, the Custom Tariff Act, 1975 (51 of 1975) and any duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act.

Provisions after amendment

28H (2) The question on which the advance ruling is sought shall be in respect of,

(d) Applicability of notifications issued in respect of tax or duties under this Act or the Customs Tariff Act, 1975 or any tax or duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act or the Customs Tariff Act.

(f) any other matter as the Central Government may, by notification, specify

(5) The applicant may be represented by any person resident in India who is authorised in this behalf.

Explanation-For the purposes of this sub-section “resident” shall have the same meaning as assigned to it in clause (42) of section 2 of the Income-tax Act, 1961.’.

Amendment

1. The above provision marked in red has been substituted with the provision marked in green
2. Clause (f) above has been inserted
3. Sub section (5) given above has been inserted
4. Explanation given above has been inserted

Effect of the amendment

Section 28H is being amended so as to, -

- (a) Seeking of advance ruling which earlier included applicability of notification in respect of duties only will now include taxes
- (b) Central Government has been empowered to notify any other matter on which advance ruling can be sought by an applicant;
- (c) It is now provided that an applicant may be represented by a duly authorized person who is a resident in India;
- (d) An explanation is added stating that the definition of resident shall be same as provided in clause (42) of section 2 of Income Tax Act, 1961

26. Reduction of period for pronouncement of Advance Ruling

Source

Clause 66 of the Finance Bill, 2018

Affected Provision

Section 28I of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

28I (6) The Authority shall pronounce its advance ruling in writing within **six months** of the receipt of application.

Provision after amendment

The Authority shall pronounce its advance ruling in writing within **three months** of the receipt of application

Amendment

The period written above as six months has now been substituted with three months.

Effect of the amendment

This amendments purports to reduce the time from six months to three months within which the authority shall pronounce its advance ruling.

27. Exclusion of the Period between the pronouncement of the Advance ruling order and the declaration of Advance Ruling as void

Source

Clause 67 of the Finance Bill, 2018

Affected Provision

Section 28K of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

28K (1) Where the Authority finds, on a representation made to it by the Principal Commissioner of Customs or Commissioner of Customs or otherwise, that an advance

ruling pronounced by it under sub-section (6) of section 28-I has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

Provision after amendment

28K (1) Where the Authority finds, on a representation made to it by the Principal Commissioner of Customs or Commissioner of Customs or otherwise, that an advance ruling pronounced by it under sub-section (6) of section 28-I has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Act shall apply (~~after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section~~) to the applicant as if such advance ruling had never been made.

“Provided that in computing the period of two years referred to in clause (a) of sub-section (1) of section 28, or five years referred to in sub-section (4) thereof, for service of notice for recovery of any duty not levied, short-levied, not paid or short-paid on account of the advance ruling, the period beginning with the date of such advance ruling and ending with the date of the order under this sub-section shall be excluded.”

Amendment

1. In the above sub section words given in the bracket has been omitted
2. Proviso marked in green has been included in 28K (1).

Effects of the amendment

- 1) Even for the period between the pronouncement of the Advance ruling order and the declaration of Advance Ruling as void, the Advance ruling decision will not be applicable.
- 2) For calculating the period of limitation of 2 years and 5 years (as the case may be) for the issue of show cause notice, the period between the pronouncement of the Advance ruling order and the declaration of Advance Ruling as void shall not be counted.

28. Appeal in Advance Ruling

Source

Clause 68 of the Finance Bill, 2018

Affected Provision

Section 28KA of the Customs Act, 1962.

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment:

Following provision marked green has been newly inserted as 28KA:

1. Any officer authorised by the Board, by notification, or the applicant may file an appeal to the Appellate Authority against any ruling or order passed by the Authority, within sixty days from the date of the communication of such ruling or order, in such form and manner as may be prescribed:

Provided that where the Appellate Authority is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period so specified, it may allow a further period of thirty days for filing such appeal.

2. The provisions of section 28-I and 28J shall, mutatis mutandis, apply to the appeal under this section.”

Effects of the amendment

- 1) Appeal provision in respect of Advance Ruling has been inserted
- 2) It provides for appeal by an officer duly authorized by Board by notification, or by an applicant against the ruling or an order passed by Customs Authority for Advance Rulings to the Appellate Authority constituted under Section 245-O of the Income Tax Act;
- 3) It provides that the provisions for procedure on receipt of application and applicability of advance ruling shall apply mutatis mutandis
- 4) This provides that this section shall come into force only when customs authority for advance ruling is appointed under section 28EA.

29. Power of Authority extended to Appellate Authority**Source**

Clause 69 of the Finance Bill, 2018

Affected Provision

Section 28L of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

28L (1) The **Authority** shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908

28L (2) The **Authority** shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the **Authority** shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code

Provision after Amendment

28L (1) The **Authority or Appellate Authority** shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908

28L (2) The **Authority or Appellate Authority** shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the **Authority or Appellate Authority** shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code

Amendment

The word **Authority** in red has been substituted with **Authority or Appellate Authority** in green.

Effects of the amendment

Powers of the Authority for Advance Ruling earlier have now been extended to the Appellate Authority to be constituted as well.

30. Procedure to be followed by Authority for Advance Ruling**Source**

Clause 70 of the Finance Bill, 2018

Affected Provision

Section 28M of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act

Provision after amendment

(1) The Authority shall follow such procedure as may be prescribed.

(2) The Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers and authority under this Act.”

Amendment

The provision in red is substituted with the provision in green.

Effects of the amendments

- 1) It is provided that the procedure to be followed by the Authority shall be as prescribed
- 2) It is provided that the Appellate Authority shall subject to the provisions of this chapter have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act

31. Delivery of import manifest or import export**Source**

Clause 71 of the Finance Bill, 2018

Affected Provision

Section 28F of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

- (1) The person-in-charge of -
 - (i) a vessel; or
 - (ii) an aircraft; or

(iii) a vehicle,

carrying imported goods or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer an import manifest by presenting electronically prior to the arrival of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in the **prescribed form** and if the import manifest or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees:

Provision after amendment

(1) The person-in-charge of -

- (i) a vessel; or
- (ii) an aircraft; or
- (iii) a vehicle,

carrying imported goods or **exported goods** or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer an import manifest by presenting electronically prior to the arrival of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in the **such form and manner as may be prescribed** and if the import manifest or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees:

Amendment

1. In the above provision the words “or exported goods” has been inserted
2. Such form and manner as may be prescribed has been substituted with **prescribed form**.

Effects of the amendments

- 1) This section is amended to include export goods in addition to the imported goods as part of the information provided in the manifest
- 2) It provides for prescribing the manner of delivery of manifest through regulations

32. Delivery of export manifest or export report

Source

Clause 72 of the Finance Bill, 2018

Affected Provision

Section 41 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

41(1) The person-in-charge of a conveyance carrying export goods shall, before departure of the conveyance from a customs station, deliver to the proper officer in the case of a vessel or aircraft, an export manifest by presenting electronically, and in the case of a vehicle, an export report, in **the prescribed form**:

Provision after amendment

41(1) The person-in-charge of a conveyance carrying export goods or imported goods shall, before departure of the conveyance from a customs station, deliver to the proper officer in the case of a vessel or aircraft, an export manifest by presenting electronically, and in the case of a vehicle, an export report, in such form and manner as may be prescribed and in case, the person-in-charge fails to deliver the departure manifest or export manifest or the export report or any part thereof within such time, and the proper officer is satisfied that there is no sufficient cause for such delay, such person-in-charge shall be liable to pay penalty not exceeding fifty thousand rupees:

Amendment

1. In the above provision the words “or imported goods” has been inserted
2. The words the prescribed form is being substituted with “such form and manner as may be prescribed and in case, the person-in-charge fails to deliver the departure manifest or export manifest or the export report or any part thereof within such time, and the proper officer is satisfied that there is no sufficient cause for such delay, such person-in-charge shall be liable to pay penalty not exceeding fifty thousand rupee”

Effects of the amendments

- 1) This provisions has been amended to include imported goods in addition to export goods as part of the information provided in the manifest
- 2) It provides penalty provisions for late filing of manifest
- 3) It provides for prescribing the manner of delivery of manifest through regulations

33. Manner of clearance of Imported Goods

Source

Clause 73 of the Finance Bill 2018

Affected Provision

Section 45, in sub-section (2), in clause (b) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

45(2)(b) Shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer

Provision after amendment

45(2)(b) Shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer, or in such manner as may be prescribed.

Amendment

After the words “proper officer”, the words “or in such manner as may prescribed” have been inserted.

Effect of the Amendment

This results in clearance of goods by other ways which may be prescribed in addition to existing system of clearance by the proper officer.

34. Time, documents and manner of presentation of bill of entry and its verification with reference to Customs Automated System

Source

Clause 74 of the Finance Bill, 2018

Affected Provision

Section 46, in sub-section (1), (3) and (4) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

46(1). The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting [electronically] to the proper officer a bill of entry for home consumption or warehousing **in the prescribed form:**

Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner:

46(3). The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) 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:

Provided that a bill of entry may be presented **within thirty days** of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

46(4). The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, **relating to the imported goods.**

Provision after amendment

46(1). The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting [electronically] **on the customs automated system** to the proper officer a bill of entry for home consumption or warehousing **in such form and manner as may be prescribed.**

Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically **on the customs automated system**, allow an entry to be presented in any other manner:

46(3). The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) 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:

Provided that a bill of entry may be presented **at any time not exceeding thirty days prior to** of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

46(4). The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of

such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

4(A). The importer who presents a bill of entry shall ensure the following, namely: — (a) the accuracy and completeness of the information given therein; (b) the authenticity and validity of any document supporting it; and (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.”.

Amendment

- 1) After the word “Electronically”, the words “on the customs automated system” have been inserted.
- 2) The words “in the prescribed form”, have been substituted by the words “in such form and manner as may be prescribed”.
- 3) The words “within thirty days of” have been substituted by the words “at any time not exceeding thirty days prior to”.
- 4) The new sub-section 4(A) has been inserted.

Effect of the Amendment

1. Reference to Customs Automated system has been included during the presentation of bill of entry
2. Allowance to provide for other documents as may be prescribed in addition to invoice has been enabled during the presentation of bill of entry
3. Rationalization of the period for presentation of the bill of entry has been made to state that bill of entry should be presented at any time not exceeding thirty days prior to the arrival of the vessel or aircraft through which the goods have been imported in India
4. It has been provided that the importer needs to observe the accuracy, authenticity, validity of the declarations made by him and compliance to the prohibitions or restrictions under this act or any other law for the time being in force.

35. Clearance of goods for Home Consumption

Source

Clause 75 of the Finance Bill, 2018

Affected Provision

Section 47 (1) of the Customs Act, 1962

Effective date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

47(1). Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption:

Provision after amendment

47(1). Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption:

Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria”

Amendment

The proviso to Section 47(1) as marked above has been inserted

Effect of the Amendment

Provision for clearance of goods by Customs Automated System in addition to existing clearance by the proper officer has also been inserted

36. Customs Automated System & manner of presentation of bill of export or shipping bill**Source**

Clause 76 of the Finance Bill, 2018

Affected Provision

Section 50, Sub-section (1) of the Customs Act, 1962

Effective date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

50(1) The exporter of any goods shall make entry thereof by presenting [electronically] to the proper officer in the case of goods to be exported in a vessel or aircraft, a

shipping bill, and in the case of goods to be exported by land, a bill of export **in the prescribed form**.

Provision after amendment

50(1) The exporter of any goods shall make entry thereof by presenting [electronically] on the **custom automated system** to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as may be prescribed.

Amendment

- 1) As per section 50(1) After the word “Electronically”, the words “on the customs automated system” have been inserted.
- 2) As per section 50(1) The words “in the prescribed form”, have been substituted by the words “in such form and manner as may be prescribed”.

Effect of the Amendment

1. Reference to Customs Automated system has been included during the presentation of bill of entry
2. Manner of presentation of shipping bill or bill of export has been provided
3. It has been provided that the exporter needs to observe the accuracy, authenticity, validity of the declarations made by him and compliance to the prohibitions or restrictions under this act or any other law for the time being in force.

37. Clearance of goods for Exportation

Source

Clause 77 of the Finance Bill, 2018

Affected Provision

Section 51 (1) of the Customs Act, 1962

Effective date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

51(1) Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation:

Provision after amendment

51(1) Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation:

Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria: Provided further that.

Amendment

1) In section 51 (1), the portion marked in red has been inserted:

Effect of the Amendment

Provisions for clearance of goods by Customs Automated system in addition to existing clearance by the proper officer have been inserted

38. Payment through Electronic Cash Ledger in Customs**Source**

Clause 78 of the Finance Bill, 2018

Affected Provision

Section 51A of the Customs Act, 1962

Effective date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

51A. (1) Every deposit made towards duty, interest, penalty, fee or any other sum payable by a person under the provisions of this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force or the rules and regulations made thereunder, using authorized mode of payment shall, subject to such conditions and restrictions, be credited to the electronic cash ledger of such person, to be maintained in such manner, as may be prescribed.

(2) The amount available in the electronic cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum payable under the provisions of this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force or the rules and regulations made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(3) The balance in the electronic cash ledger, after payment of duty, interest, penalty, fee or any other amount payable, may be refunded in such manner as may be prescribed.

(4) Notwithstanding anything contained in this section, if the Board is satisfied that it is necessary or expedient so to do, it may, by notification, exempt the deposits made by such class of persons or with respect to such categories of goods, as may be specified in the notification, from all or any of the provisions of this section.”

Effect of amendment

1. Similar to GST, payment made under Customs law will be credited to electronic cash ledger.
2. Amount in electronic cash ledger will be used for payment of taxes, duties etc
3. Any excess balance in this ledger may be refunded
4. Deposits by certain class of persons for certain categories of goods may be exempted

39. Manner of presenting a bill of transshipment and declaration of transshipment

Source

Clause 79 of the Finance Bill, 2018

Affected Provision

Section 54, Sub-section (1) of the Customs Act, 1962

Effective date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

54(1) Where any goods imported into a customs station are intended for transshipment, a bill of transshipment shall be presented to the proper officer **in the prescribed form:**

Provided that where the goods are being transhipped under an international treaty or bilateral agreement between the Government of India and Government of a foreign country, a declaration for transshipment instead of a bill of transshipment shall be presented to the proper officer **in the prescribed form.**

Provision after amendment

54(1) Where any goods imported into a customs station are intended for transshipment, a bill of transshipment shall be presented to the proper officer in such form and manner as may be prescribed.

Provided that where the goods are being transhipped under an international treaty or bilateral agreement between the Government of India and Government of a foreign country, a declaration for transhipment instead of a bill of transhipment shall be presented to the proper officer in such form and manner as may be prescribed.

Amendment

As per 54(1) The words “in the prescribed form”, have been substituted by the words “in such form and manner as may be prescribed”.

Effect of the Amendment

The Board has been empowered to make regulations providing manner of presenting a bill of transhipment and declaration for transhipment.

40. Order permitting deposit of goods in warehouse to allow clearance of goods by Customs Automated system

Source

Clause 80 of the Finance Bill, 2018

Affected Provision

Section 60, sub-section (1) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

60(1) When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse.

Provision after amendment

60(1) When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse.

Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

Amendment

Proviso marked in green above has been inserted

Effect of the Amendment

Order permitting deposit of goods in warehouse has been amended to allow clearance of goods by Customs Automated system in addition to clearance by the proper officer

41. Clearance of warehoused goods for home consumption**Source**

Clause 81 of the Finance Bill, 2018

Affected Provision

Section 68 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before Amendment

The importer of any warehoused goods may clear them for home consumption, if -

- (a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;
- (b) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for home consumption has been made by the proper officer.

Provision after Amendment

The importer of any warehoused goods may clear them for home consumption, if -

- (a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;
- (b) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for home consumption has been made by the proper officer.

Provided that the order referred to in clause (c) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria:

Amendment

Proviso marked in green above has been inserted

Effect of the Amendment

The order for clearance of warehoused goods for home consumption will be permitted to be made electronically through the customs automated system on the basis of risk evaluation through selection criteria

42. Clearance of warehouse goods for Exportation

Source

Clause 82 of the Finance Bill, 2018

Affected Provision

Section 69 (1) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

(1) Any warehoused goods may be exported to a place outside India without payment of import duty if -

- (a) a shipping bill or a bill of export has been presented in respect of such goods in the prescribed form;
- (b) the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for exportation has been made by the proper officer.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that such goods shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.

Provision after amendment

(1) Any warehoused goods may be exported to a place outside India without payment of import duty if -

- (a) a shipping bill or a bill of export has been presented in respect of such goods in the prescribed form;
- (b) the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for exportation has been made by the proper officer.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that such goods shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.

Provided that the order referred to in clause (c) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

Amendment

Proviso marked in green above has been inserted

Effect of the Amendment

The order for clearance of warehoused goods for home consumption will be permitted to be made electronically through the customs automated system on the basis of risk evaluation through selection criteria

43. Substitution of word and figure “Section 82” by “clause (a) of Section 84” in the provisions of Drawback

Source

Clause 83 of the Finance Bill 2018

Affected Provision

Section 74 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

Section 74(1)(iii) are entered for export by post under **section 82** and the proper officer makes an order permitting clearance of the goods for exportation,

Provision after amendment

Section 74(1)(iii) are entered for export by post under **clause (a) of section 84** and the proper officer makes an order permitting clearance of the goods for exportation,

Amendment

The word “Section 82” marked in red has been substituted by the word “clause (a) of section 84” marked in green.

Effect of the Amendment

The Provisions relating to drawback allowable on re-export of duty paid goods which contained reference to section 82 has now been rationalized to refer to Section 84(a). This was because Section 82 was repealed by Finance Act, 2017 and the new provision Section 84 was inserted against it.

44. Substitution of the word and figure “Section 82” by the word and figure “clause (a) of section 84”**Source**

Clause 84 of the Finance Bill 2018

Affected Provision

Section 75 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

Section 75(1). Where it appears to the Central Government that in respect of goods of any class or description [manufactured, processed or on which any operation has been carried out in India] [, being goods which have been entered for export and in respect of which an order permitting the clearance and loading thereof for exportation has been made under section 51 by the proper officer], [or being goods entered for export by post under **section 82** and in respect of which an order permitting clearance for exportation has been made by the proper officer], a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the [manufacture or processing of such goods or carrying out any operation on such goods], the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2).

Provision after amendment

Section 75(1). Where it appears to the Central Government that in respect of goods of any class or description [manufactured, processed or on which any operation has been carried out in India] [, being goods which have been entered for export and in respect of which an order permitting the clearance and loading thereof for exportation has been made under section 51 by the proper officer], [or being goods entered for export by post under **clause (a) of section 84** and in respect of which an order permitting

clearance for exportation has been made by the proper officer], a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the [manufacture or processing of such goods or carrying out any operation on such goods], the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2).

Amendment

The word “Section 82” marked in red has been substituted by the word “clause (a) of section 84” marked in green.

Effect of the Amendment

The Provisions relating to drawback allowable on imported materials used in the manufacture of goods which are exported contained reference to section 82. This has now been rationalized to refer to Section 84(a). This was because Section 82 was repealed by Finance Act, 2017 and the new provision Section 84 was inserted against it.

45. Substitution of word “post” by the word “post, courier” in the chapter heading containing baggage, goods imported or exported by post and stores

Source

Clause 85 of the Finance Bill 2018

Affected Provision

Chapter XI of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

Special provisions regarding baggage, goods imported or exported by **post** and stores
Baggage

Provision after amendment

Special provisions regarding baggage, goods imported or exported by **post, courier** and stores

Amendment

The word “post” marked in red has been substituted with the word “post, courier” marked in green.

Effect of the Amendment

Nomenclature of Chapter heading ‘Special provisions regarding baggage, goods imported or exported by post, and stores’ is being amended so as to include reference to courier along with courier

46. Substitution of the word ‘post’ and ‘postal authorities’ by the word ‘post or courier’ and ‘postal authorities or the authorised courier’ respectively in rate of duty and tariff valuation in respect of goods imported or exported

Source

Clause 86 of the Finance Bill 2018

Affected Provision

Section 83 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

Section 83. Rate of duty and tariff valuation in respect of goods imported or exported by post - (1) The rate of duty and tariff value, if any, applicable to any goods imported by **post** shall be the rate and valuation in force on the date on which the postal authorities present to the proper officer a list containing the particulars of such goods for the purpose of assessing the duty thereon

(2) The rate of duty and tariff value, if any, applicable to any goods exported by **post** shall be the rate and valuation in force on the date on which the exporter delivers such goods to the **postal authorities** for exportation

Provision after amendment

Section 83. Rate of duty and tariff valuation in respect of goods imported or exported by post or courier - (1) The rate of duty and tariff value, if any, applicable to any goods imported by **post or courier** shall be the rate and valuation in force on the date on which the postal authorities present to the proper officer a list containing the particulars of such goods for the purpose of assessing the duty thereon

(2) The rate of duty and tariff value, if any, applicable to any goods exported by **post or courier** shall be the rate and valuation in force on the date on which the exporter delivers such goods to the **postal authorities or the authorized courier** for exportation

Amendment

1. The word “post” marked in red has been substituted with the word “post or courier” marked in green.

2. The word “postal authorities” marked in red has been substituted with the word “postal authorities or the authorized courier” marked in green.

Effect of the Amendment

The provision for rate of duty and tariff valuation in respect of goods imported or exported by post has been amended so as to include reference to goods imported or exported by courier through the authorized courier.

47. Substitution of the word “post” by the word “post or courier” in regulations regarding goods imported or to be exported by post

Source

Clause 87 of the Finance Bill 2018

Affected Provision

Section 84 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

84. Regulations regarding goods imported or to be exported by post. - The Board may make regulations providing for

- (a) the form and manner in which an entry may be made in respect of goods imported or to be exported by **post**;
- (b) the examination, assessment to duty, and clearance of goods imported or to be exported by **post**;
- (c) the transit or transshipment of goods imported by **post**, from one customs station to another or to a place outside India.

Provision after amendment

84. Regulations regarding goods imported or to be exported by post or courier - The Board may make regulations providing for

- (a) the form and manner in which an entry may be made in respect of goods imported or to be exported by **post or courier**;
- (b) the examination, assessment to duty, and clearance of goods imported or to be exported by **post or courier**;
- (c) the transit or transshipment of goods imported by **post or courier**, from one customs station to another or to a place outside India.

Amendment

The word “post” marked in red has been substituted with the word “post or courier” marked in green

Effect of the Amendment

This provision is being amended so as to include a reference to goods imported or exported by courier and to empower the Board to make regulations in this regard.

48. Insert of New Chapter – XIIA on Audit**Source**

Clause 88 of the Finance Bill 2018

Effective Date

Date of Presidential Assent to the Finance Bill, 2018.

Amendment

In the Customs Act, after Chapter XII, the following Chapter shall be inserted, namely:

CHAPTER XIIA – AUDIT

99A. The proper officer may carry out the audit of assessment of imported goods or export goods or of an auditee under this Act either in his office or in the premises of the auditee in such manner as may be prescribed.

Effect of the Amendment

A new Chapter XIIA and section 99A thereunder, is being inserted relating to Audit. Enabling provisions for the proper officer may carry out the audit of assessment of imported or exported goods or of an auditee have been provided.

49. Insertion of New Section 109A on power to undertake controlled delivery**Source**

Clause 89 of the Finance Bill 2018

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

Insert of new section 109A after the section 109:

109A. Notwithstanding anything contained in this Act, the proper officer or any other officer authorised by him in this behalf, may undertake controlled delivery of any consignment of such goods and in such manner as may be prescribed, to-

(a) any destination in India; or

(b) a foreign country, in consultation with the competent authority of such country to which such consignment. is destined.

Explanation.—For the purposes of this section “controlled delivery” means the procedure of allowing consignment of such goods to pass out of, or into, the territory of India with the knowledge and under the supervision of proper officer for identifying the persons involved in the commission of an offence or contravention under this Act.’.

Effect of the Amendment

1. This provision relating to ‘Controlled Delivery’ is being inserted, which seeks to authorize the proper officer or any other officer authorized by him to undertake Controlled Delivery of any consignment of goods to any destination in India or a foreign country.
2. The section also provides, through an explanation, definition of controlled delivery. It basically means the procedure of allowing consignment of such goods to pass out of or into the territory of India with the knowledge and supervision of proper officer for identifying the person involved in the commission of the offence or contravention under this Act.
3. It also seeks to provide that controlled delivery shall be applicable on such consignment of goods and in such manner as may be prescribed in the regulations.

50. Time period extension for return of goods, documents and things seized earlier in case of non-provision of notice

Source

Clause 90 of the Finance Bill 2018

Affected Provision

Section 110(2) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

110. Seizure of goods, documents and things.

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Principal Commissioner of Customs or Commissioner of Customs for a period not exceeding six months.

Provision after amendment

110. Seizure of goods, documents and things.

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified

Provided further that where any order for provisional release of the seized goods has been passed under section 110A, the specified period of six months shall not apply.

Amendment

The above provision marked in red has been substituted with the above provision marked in green:

Effect of the Amendment

1. This provision has been amended proviso to provide that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend the six months period by a period not exceeding six months and inform the person from whom such goods have been seized before the expiry of the time mentioned in the said sub-section;

2. It is also provided that where any order for provisional release of the seized goods has been passed under Section 110A, the aforesaid period of six months shall not apply.

51. Change in the Limit for adjudication in case of confiscation and penalty

Source

Clause 91 of the Finance Bill 2018

Affected Provision

Section 122 (b) and (c) of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before Amendment

122. Adjudication of confiscations and penalties. - In every case under this Chapter in which anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged –

(b) where the value of the goods liable to confiscation does not exceed [five lakh] rupees, by an [Assistant Commissioner of Customs or Deputy Commissioner of Customs];

(c) where the value of the goods liable to confiscation does not exceed, [fifty thousand] rupees, by a Gazetted Officer of Customs lower in rank than an [Assistant Commissioner of Customs or Deputy Commissioner of Customs]

Provision after amendment

122. Adjudication of confiscations and penalties. - In every case under this Chapter in which anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged –

(b) up to such limit, by such officers, as the Board may, by notification, specify

Amendment

The above provision marked in red has been substituted with the above provision marked in green.

Effect of the Amendment

This provision is being amended so as to substitute the existing limits to empower the Board to fix monetary limits for adjudication of cases by officers below the rank of Joint Commissioner by way of notification.

52. Power of proper officer to issue a supplementary show cause notice before confiscation of goods

Source

Clause 92 of the Finance Bill 2018

Affected Provision

Section 124 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -

- (a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;
- (b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and
- (c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

Provision after amendment

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -

- (a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs], informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;
- (b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and
- (c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.

Amendment

The above proviso marked in green has been newly inserted.

Effect of the Amendment

Proper Officer has been granted power to issue a supplementary show cause notice under such circumstances and in such manner as may be prescribed through regulations in case of confiscation of goods

53. Option to pay fine in lieu of confiscation not applicable if the demand proceedings closed on grounds of payment of dues

Source

Clause 93 of the Finance Bill 2018

Affected Provision

Section 125 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provision after amendment

Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply.

Amendment

The proviso marked in green above has been inserted

Effect of the Amendment

When the demand proceeding against the noticee or co-noticees have been closed on the grounds of having paid the dues, then the provisions of this section in respect of option to pay fine in lieu of confiscation will not be applicable if the goods are not prohibited or restricted.

54. Option void if payment not made within 120 days of exercising the option to pay fine in lieu of confiscation or the date of Presidential Assent to the Bill

Source

Clause 93 of the Finance Bill 2018

Affected Provision

Section 125 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Amendment

Following provision marked in green has been newly inserted:

125(3). Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

Explanation. — For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.

Effect of the Amendment

1. It is provided that where redemption fine has not been paid within a period of one hundred and twenty days from the date of having option to pay fine in lieu of confiscation, then such option shall become void, except in cases where appeal against such order is made or pending.
2. It is provided that in cases where an order under sub-section (1) has been passed before the date on which the Finance Bill, 2018 receives the Presidential assent, and no appeal is pending against such order, then such option may be exercised within a period of hundred and twenty days from the date on which such assent is received.

55. Remanding back of certain matters to original adjudicating authority

Source

Clause 94 of the Finance Bill 2018

Affected Provision

Section 128A of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

The Commissioner (Appeals) shall, after making such further inquiry as may be necessary, pass such order, as he thinks **just and proper, confirming, modifying or annulling the decision or order appealed against**

Provision after amendment

The Commissioner (Appeals) shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, —

- (a) confirming, modifying or annulling the decision or order appealed against; or
- (b) referring the matter back to the adjudicating authority with directions for fresh adjudication or decision, as the case may be, in the following cases, namely: —
 - (i) where an order or decision has been passed without following the principles of natural justice; or
 - (ii) where no order or decision has been passed after re-assessment under section 17; or

- (iii) where an order of refund under section 27 has been issued by crediting the amount to Fund without recording any finding on the evidence produced by the applicant.

Amendment

Section 128A marked as red has been substituted with the provisions above marked as green.

Effect of the Amendment

The Commissioner (Appeals) has been allowed to remand back the matter to the original adjudicating authority in specified categories of cases, namely:

- i) where the order has been passed without following the principle of natural justice or
- ii) order is passed after re-assessment or
- iii) where an order of refund has been issued crediting the amount to the Fund without recording any finding on the evidence produced by the applicant

56. Power to simply or provide different procedure to facilitate trade

Source

Clause 95 of the Finance Bill, 2018

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision after amendment

143AA. Notwithstanding anything contained in any other provision of this Act, the Board may, for the purposes of facilitation of trade, take such measures or prescribe separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods, in order to

- (a) maintain transparency in the import and export documentation; or
- (b) expedite clearance or release of goods entered for import or export; or
- (c) reduce the transaction cost of clearance of importing or exporting goods; or
- (d) maintain balance between customs control and facilitation of legitimate trade.

Amendment

Section marked as green has been newly inserted

Effect of the Amendment

The Board has been empowered to prescribe through regulations trade facilitation measures or separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods for:

- i. maintenance of transparency in import and export documentation and procedure; or
- ii. expeditious clearance or release of goods entered for import or export; or
- iii. reduction in the transaction cost of clearance of importing or exporting goods; or
- iv. maintenance of balance between customs control and facilitation of legitimate trade

57. Reciprocal arrangement for exchange of information facilitating trade

Source

Clause 96 of the Finance Bill, 2018

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision after amendment

151B. (1) The Central Government may enter into an agreement or any other arrangement with the Government of any country outside India or with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of this Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention, combating and investigation of offences under the provisions of this Act or under the corresponding laws in force in that country.

(2) The Central Government may, by notification, direct that the provisions of this section shall apply to the contracting State with which reciprocal agreement or arrangements have been made, subject to such conditions, exceptions or qualifications as may be specified in that notification.

(3) Subject to the provisions of sub-section (2), the information received under sub-section(1) may also be used as evidence in investigations and proceedings under this Act.

(4) Where the Central Government has entered into a multilateral agreement for exchange of information or documents for the purpose of verification of compliance in identified cases, the Board shall specify the procedure for such exchange, the conditions subject to which such exchange shall be made and designation of the person through whom such information shall be exchanged.

(5) Notwithstanding anything contained in sub-section(1) or sub-section(2) or sub-section(3), anything done or any action taken or purported to have been done or taken, in pursuance to any agreement entered into or any other arrangement made by the Central Government prior to the date on which the Finance Bill,2018 receives the assent of the President, shall be deemed to have been done or taken under the provisions of this section.

Amendment

Section marked in green has been newly inserted

Effect of the Amendment

A new section 151B on reciprocal arrangement for exchange of information is being inserted so as to:

- (a) authorize the Central Government to enter into an agreement or any other arrangement with the Government of any country or with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of Customs Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention, combating and investigation of offences under the provisions of this Act or under the corresponding laws in force in that country;
- (b) authorize the Central Government to provide by a notification that the application of this section in relation to a contracting state with which reciprocal agreement or arrangements have been made, shall be subject to such conditions, exceptions or qualifications as are specified in the said notification.;
- (c) utilize the information received under sub-section (1) as evidence in investigations and proceedings under this Act subject to provisions of sub-section (2);
- (d) where the Central Government has entered into a multilateral agreement for exchange of information or documents for purposes of verification of compliance in identified cases, the Board shall specify the procedure for such exchange, the conditions subject to which such exchange shall be made and designation of the person through whom such information shall be exchanged.;
- (e) insert a deeming provision that any agreement entered into or any other arrangement made by the Central Government prior to the date on which the Finance Bill, 2018 receives the assent of the President, shall be deemed to have been done or taken under the provisions of this Section.;

58. Mode of service of notice, order etc.

Source

Clause 97 of the Finance Bill 2018

Affected Provision

Section 153 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

153. Service of order, decision, etc. - Any order or decision passed, or any summons or notice issued under this Act, shall be served –

(a) by tendering the order, decision, summons or notice or sending it 27[by registered post or by such courier as may be approved by the 25[Principal Commissioner of Customs or Commissioner of Customs]]

(b) if the order, decision, summons or notice cannot be served in the manner provided in clause (a), by affixing it on the notice board of the customs house.

Provision after amendment

153. (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:

(a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;

(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

(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;

(d) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or

(e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published, or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Amendment

Section 153 marked as red has been substituted by the provision marked as green

Effect of the Amendment

Section 153 is being substituted so as to align it with the provisions of the section 169 of the CGST Act to include Speed Post, Courier, and registered email as valid modes of delivery and in case of non-service by such means, to also provide for affixing it at some conspicuous place at the last known place of business or residence in addition to affixing it on the notice board of the Customs House.

59. Expansion of the Power to make regulations

Source

Clause 98 of the Finance Bill 2018

Affected Provision

Section 157 of the Customs Act, 1962

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

157(2). In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely -

(a) the **form** of a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export report, bill of transshipment, declaration for transshipment boat note and bill of coastal goods;

(d) the manner of conducting audit of the assessment of duty of the imported or export goods at the office of the proper officer or the premises of the importer or exporter, as the case may be.

Provision after amendment

157(2). In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :-

- (a) the form and manner to deliver or present of a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export report, bill of transshipment, declaration for transshipment boat note and bill of coastal goods;
- (d) the time and manner of finalisation of provisional assessment;
- (e) the manner of conducting pre-notice consultation;
- (f) the circumstances under which, and the manner in which, supplementary notice may be issued;
- (g) the form and manner in which an application for advance ruling or appeal shall be made, and the procedure for the Authority, under Chapter VB;
- (h) the manner of clearance or removal of imported or export goods;
- (i) the documents to be furnished in relation to imported goods;
- (j) the conditions, restrictions and the manner of making deposits in electronic cash ledger, the utilisation and refund therefrom and the manner of maintaining such ledger;
- (k) the manner of conducting audit;
- (l) the goods for controlled delivery and the manner thereof;
- (m) the measures and separate procedure or documentation for a class of importers or exporters or categories of goods or on the basis of the modes of transport of goods.

Amendment

In clause (a) and (d), the portion in red has been substituted by the portion marked in green above.

Effect of the Amendment

The Board has been empowered to make regulations relating to the following matter:

1. manner to deliver or present, a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export report, bill of transshipment, declaration for transshipment, boat note and bill of coastal goods;
2. time and manner of finalization of provisional assessment;
3. manner of conducting pre-notice consultation and circumstances under which, and the manner of issuing supplementary notice
4. form and manner in which an application for advance ruling or appeal shall be made, and the procedure for the authority, under Chapter VB;
5. manner of clearance or removal of imported or export goods; (g) documents to be furnished in relation to imported goods;
6. conditions, restrictions and the manner for deposits in electronic cash ledgers, the utilization and refund therefrom and the manner of maintaining such ledger;
7. manner of conducting audit;
8. goods for controlled delivery and the manner thereof;
9. measures and the simplified or different procedures or documentation for a class of importers or exporters or categories of goods or on the basis of the modes of transport of goods.

60. Power to grant exemption from duty

Source

Clause 99 of the Finance Bill 2018

Affected Provision

Section 25(1) of the Customs Act, 1962 and section 3(12) of Customs Tariff Act

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

Customs act

25(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be

specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon.

Customs Tariff Act

3(12) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties shall, so far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section as they apply in relation to the duties leviable under that Act.

Provisions After Amendment

Customs Act

25(1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 850 (E), dated the 8th July, 2017, amending the notification number G.S.R. 785 (E), dated the 30th June, 2017 which was issued in exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 and sub-section (12) of section 3 of the Customs Tariff Act, 1975, shall be deemed to have, and always to have, for all purposes, come into force on and from the 1st day of July, 2017.

Customs Tariff Act

3(12) Refund shall be made of all such integrated tax which has been collected, but which would not have been so collected, had the amendment made vide the notification referred to in sub-section (1) been in force at all material times:

Provided that an application for claim of integrated tax shall be made within a period of six months from the date on which the Finance Bill, 2018 receives assent of the President.

Amendment

1. Provision of Customs act Section 25(1) has been substituted with the provision marked in green above
2. Provision of Customs Tariff Act section 3(12) has been amended with the portion marked in green above

Effect of the Amendment

Notification No. 65/2017-Customs dated 8th July 2017 amending notification No. 50/2017- Customs dated 30th June 2017 is proposed to be given retrospective effect so as to exempt integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 on aircrafts, aircraft engines and other aircraft parts imported under cross-border lease during the period from the 1st July, 2017 to the 7th July, 2017 subject to the payment of Integrated tax leviable under section 5(1) of the IGST Act, 2017 on the said supply.

AMENDMENTS TO TARIFF STRUCTURE IN CUSTOMS TARIFF ACT, 1975

| I. AMENDMENTS IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975 | | | | |
|---|--|---|--------------|-----|
| A | Amendments affecting rates of BCD [to be effective from 02.02.2018]* [Clause 101(a) of the Finance Bill, 2018] | | Rate of Duty | |
| S.No | Heading,sub-heading tariff item | Commodity | From | To |
| | | Food Processing | | |
| 1 | 2009 21 00 to 2009 90 00 | Fruit juices and vegetable juices including cranberry juice | 30% | 50% |
| | | Perfumes and toiletry preparations | | |
| 2 | 3303 | Perfumes and toilet waters | 10% | 20% |
| 3 | 3304 | Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or suntan preparations; manicure or pedicure preparations | 10% | 20% |
| 4 | 3305 | Preparations for use on the hair | 10% | 20% |
| 5 | 3306 | Preparations for oral or dental hygiene, including denture fixative pastes and powders; yarn used to clean between the teeth (dental floss), in individual retail packages | 10% | 20% |
| 6 | 3307 | Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery,cosmetic or toilet preparations, not elsewhere specified or included, prepared room deodorizers, whether or not perfumed or having disinfectant properties | 10% | 20% |
| | | Automobile Parts | | |
| 7 | 4011 20 10 | Truck and Bus radial tyres | 10% | 15% |
| 8 | 8407, 8408,8409,8483 10 91,8483 10 92, 8511, 8708,8714 10 | Specified parts/accessories of motor vehicles, motor cars, motor cycles | 7.5%/10% | 15% |
| | | Footwear | | |
| 9 | 6401, 6402,6403, 6404,6405 | Footwear | 10% | 20% |
| 10 | 6406 | Parts of footwear | 10% | 15% |
| | | Jewellery | | |
| 11 | 7117 | Imitation Jewellery | 15% | 20% |
| | | Electronics / Hardware | | |
| 12 | 8517 12 | Cellular mobile phones | 15% | 20% |

| | | | | |
|----|--|--|----------|-----|
| 13 | 3919 90 90,3920 99 99,3926 90 91,3926 90 99,4016 99 90,7318 15 00,7326 90 99,8504, 8506,8507,8517 70 90,8518, 8538 90 00,8544 19,8544 42,8544 49 | Specified parts and accessories including lithium ion battery of cellular mobile phones | 7.5%/10% | 15% |
| 14 | 8517 62 90 | Smart watches / wearable devices | 10% | 20% |
| 15 | 8529 10 99 , 8529 90 90 | LCD/LED/OLED panels and other parts of LCD/LED/OLED TVs | 7.5%/10% | 15% |
| | | Furniture | | |
| 16 | 9401 | Seats and parts of seats [other than aircraft seats and their parts] | 10% | 20% |
| 17 | 9403 | Other furniture and parts | 10% | 20% |
| 18 | 9404 | Mattresses supports; articles of bedding and similar furnishing | 10% | 20% |
| 19 | 9405 | Lamps and lighting fitting, illuminated signs, illuminated name plates and the like [except solar lanterns or solar lamps] | 10% | 20% |
| | | Watches and Clocks | | |
| 20 | 9101, 9102 | Wrist watches, pocket watches and other watches, including stop watches | 10% | 20% |
| 21 | 9103 | Clocks with watch movements | 10% | 20% |
| 22 | 9105 | Other clocks, including alarm clocks | 10% | 20% |
| | | Toys and Games | | |
| 23 | 9503 | Tricycles, scooters, pedal cars and similar wheeled toys; dolls'carriages; dolls; other toys; puzzles of all kinds | 10% | 20% |
| 24 | 9504 | Video game consoles and machines, articles for funfair, table or parlor games and automatic bowling alley equipment | 10% | 20% |
| 25 | 9505 | Festive, carnival or other entertainment articles | 10% | 20% |
| 26 | 9506 [except 9506 91] | Articles and equipment for sports or outdoor games, swimming pools and paddling pools [other than articles and equipment for general physical exercise, gymnastics or athletics] | 10% | 20% |
| 27 | 9507 | Fishing rods, fishing-hooks and other line fishing tackle; fish landing nets, butter fly nets and similar nets; decoy birds and similar hunting or shooting requisites | 10% | 20% |

| | | | | |
|---|--|--|---------------------|-----------|
| 28 | 9508 | Roundabouts, swings, shooting galleries and other fairground amusements; travelling circuses, traveling menageries and travelling theatres | 10% | 20% |
| | | Miscellaneous items | | |
| 29 | 3406 | Candles, tapers and the like | 10% | 25% |
| 30 | 4823 90 90 | Kites | 10% | 20% |
| 31 | 9004 10 | Sunglasses | 10% | 20% |
| 32 | 9611 | Date, sealing or numbering stamps, and the like | 10% | 20% |
| 33 | 9613 | Cigarette lighters and other lighters, whether or not mechanical or electrical, and parts thereof other than flints and wicks. | 10% | 20% |
| 34 | 9616 | Scent sprays and similar toilet sprays, and mounts and heads therefor; powder-puffs and pads for the application of cosmetic or toilet preparations | 10% | 20% |
| B | Amendments not affecting rates of duty [to be effective from 02.02.2018]* [Clause 101(a) of the Finance Bill, 2018] | | Rate of Duty | |
| S.No | Heading,sub-heading tariff item | Commodity | From | To |
| 1 | 8507 60 00 | Tariff rate of BCD on Lithium-ion batteries [The effective rate of import duty on Lithium-ion batteries [except those for cellular mobile phones will, however, remain unchanged at 10%.] | 10% | 20% |
| 2 | 9018, 9019,9020, 9021 ,9022 | Tariff rate of BCD on medical devices [The effective rates of BCD on such medical devices will, however, remain unchanged.] | 7.5% | 10% |
| C | Technical amendment not affecting rates of duty [Clause 101(b) of the Finance Bill, 2018] | | Rate of Duty | |
| S.No | Heading,sub-heading tariff item | Commodity | | |
| 1 | | Bifurcate the tariff item 0713 31 00 to create separate tariff items each for Moong Dal and Urad Dal. | | |
| 2 | | Omit tariff item 0904 22 12 and entries relating thereto and create new tariff item 1209 91 70, in relation to chilly seed of genus capsicum. | | |
| 3 | | Amend the tariff item 2917 39 20 to specify the isomers it covers. | | |
| *Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931. | | | | |

| AMENDMENTS TO TARIFF STRUCTURE IN CUSTOMS TARIFF ACT,1975 | | | | | |
|---|---|--|-----------------|---------------------|------|
| IV. AMENDMENTS IN THE SECOND SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975 | | | | | |
| S.No | Amendment | | | | |
| A | Amendments not affecting rates of Export duty | | | Rate of Duty | |
| | | | From | To | |
| 1 | To insert a new Note to specify Nil rate of duty in respect of all other goods which are not covered under column (2) of the Schedule. [Clause 102 (a) of the Finance Bill, 2018] | | | ---- | ---- |
| 2 | Electrodes of a kind used for furnaces [Clause 102 (b) of the Finance Bill, 2018]* [Introduction of 20% Tariff rate of Export Duty on Electrodes of a kind used for furnaces (8545 11 00). The effective rate of Export duty on such electrodes will, however, remain Nil] | | | ---- | 20% |
| *Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931. | | | | | |
| V. OTHER PROPOSALS INVOLVING CHANGES IN BASIC CUSTOMS DUTY RATES | | | | | |
| S.No | Heading,sub-heading tariff item | Commodity | From | To | |
| | | Food processing | | | |
| 1 | 0801 31 00 | Cashew nuts in shell [Raw cashew] | 5% | 2.5% | |
| 2 | 2009 11 00 , 2009 12 00 ,2009 19 00 | Orange fruit juice | 30% | 35% | |
| 3 | 2009 81 00, 2009 90 00 | Cranberry Juice | 10% | 50% | |
| 4 | 2106 90 | Miscellaneous Food preparations (other than soya protein) | 30% | 50% | |
| | | Textile | | | |
| 5 | 5007 | Silk Fabrics | 10% | 20% | |
| | | Capital goods and Electronics | | | |
| 6 | 8504 90 90/3926 90 99 | Printed Circuit Board Assembly (PCBA) of charger/adaptor and moulded plastics of charger/adaptor of cellular mobile phones | Nil | 10% | |
| 7 | Any Chapter | Inputs or parts for manufacture of: a) PCBA, or b) moulded plastics of charger/adaptor of cellular mobile phones of cellular mobile phones | Applicable Rate | Nil | |
| 8 | 8483 40 00,8466 93 90,8537 10 00 | Ball screws, linear motion guides, CNC systems for manufacture of all types of CNC machine tools falling under headings 8456 to 8463 | 7.5% | 2.5% | |
| 9 | 70 | Solar tempered glass or solar tempered [anti-reflective coated] glass for manufacture of solar cells /panels/modules | 5% | Nil | |

| | | | | |
|----|--|---|-------|------|
| 10 | 70 | Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables | Nil | 5% |
| 11 | 8529/4016 | 12 specified parts for manufacture of LCD/LED TV panels | Nil | 10% |
| | | Automobile and automobile parts | | |
| 12 | 8702, 8703,8704, 8711 | CKD imports of motor vehicles, motor cars, motor cycles | 10% | 15% |
| 13 | 8702, 8704 | CBU imports of motor vehicles | 20% | 25% |
| | | Diamonds and Precious stones | | |
| 14 | 71 | Cut and polished colored gemstones; | 2.5% | 5% |
| 15 | 71 | Diamonds including lab grown diamonds-semi processed, half-cut or broken; non-industrial diamonds including lab-grown diamonds (other than rough diamonds), including cut and polished diamonds | 2.5% | 5% |
| | | Medical Devices | | |
| 16 | Any Chapter | Raw materials, parts or accessories for the manufacture of Cochlear Implants | 2.5% | Nil |
| | | Rationalization in Customs duty rates | | |
| | | Edible oils of vegetable origin | | |
| 17 | 1508, 1509,1510,1512,1513, 1515 | Crude edible vegetable oils like Ground nut oil, Olive oil, Cotton seed oil, Safflower seed oil, Saffola oil, Coconut oil, Palm Kernel/Babassu oil, Linseed oil, Maize corn oil, Castor oil, Sesame oil, other fixed vegetable fats and oils. | 12.5% | 30% |
| 18 | 1508, 1509,1510,1512,1513, 1515, 1516 20,1517 10 21,1517 90 10, 1518 00 11,1518 00 21,1518 00 31 | Refined edible vegetable oils, like Ground nut oil, Olive oil, Cotton seed oil, Safflower seed oil, Saffola oil, Coconut oil, Palm Kernel/Babassu oil, Linseed oil, Maize corn oil, Castor oil, Sesame oil, other fixed vegetable fats and oils, edible margarine of vegetable origin, Sal fat; specified goods of heading 1518 | 20% | 35% |
| | | Refractory Items | | |
| 19 | 6815 91 00 | Other articles of stone containing magnesite, dolomite or chromite | 10% | 7.5% |
| 20 | 6901 | Bricks, blocks, tiles and other ceramic goods of siliceous fossil meals or of similar siliceous earths | 10% | 7.5% |
| 21 | 6902 | Refractory bricks, blocks, tiles and similar refractory ceramic constructional goods, other than those | 5% | 7.5% |

| | | of siliceous fossil meals or similar siliceous earths | | |
|---|----------------------------------|---|---|------------------------------------|
| 22 | 6903 | Other refractory ceramic goods | 5% | 7.5% |
| AMENDMENTS TO TARIFF STRUCTURE IN CUSTOMS TARIFF ACT,1975 | | | | |
| VI. Levy of Social Welfare Surcharges as a duty of Customs on imported goods [Clause 108 of the Finance Bill,2018] | | | | |
| S.No | Heading,sub-heading tariff item | Description | From | To |
| 1 | Any Chapter | Levy of Social Welfare Surcharge on imported goods to finance education, housing and social security [clause 108 of Finance Bill, 2018] | - | 10% of aggregate duties of customs |
| 2 | Any Chapter | Abolition of Education Cess and Secondary and Higher Education Cess on imported goods [clause 106 of Finance Bill, 2018] | 3% of aggregate duties of customs [2% + 1%] | Nil |
| 3 | 2710 | Motor spirit commonly known as petrol and high speed diesel oil | - | 3% of aggregate duties of customs |
| 4 | 7106 | Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured form, or in powder form | - | 3% of aggregate duties of customs |
| 5 | 7108 | Gold (including gold plated with platinum), unwrought or in semi-manufactured form, or in powder form | - | 3% of aggregate duties of customs |
| 6 | Any Chapter | Specified goods hitherto exempt from Education Cess and Secondary and Higher Education Cess on imported goods | - | Nil |
| VII. Levy of the Road and Infrastructure Cess [Clause 109 of the Finance Bill, 2018] | | | | |
| S.No | Heading, sub-heading tariff item | Description | From | To |
| 1 | 2710 | Levy of Road and Infrastructure Cess on imported motor spirit commonly known as petrol and high | - | Rs. 8 per litre |

| | | | | |
|--|---|---|---------------------|--------------------|
| | | speed diesel oil [clause 109 of Finance Bill, 2018] | | |
| 2 | 2710 | Exemption from additional duty of customs leviable under section 3(1) of the Customs Tariff Act, 1975 in lieu of the proposed Road and Infrastructure cess on domestically produced motor spirit commonly known as petrol and high speed diesel oil | - | Nil |
| 3 | 2710 | Abolition of Additional Duty of Customs [Road Cess] on imported motor spirit commonly known as petrol and high speed diesel oil [Clause 106 of Finance Bill, 2018] | Rs. 6 per litre | Nil |
| 4 | Additional duty of customs under sections 3(1) of the Customs Tariff Act, 1975 in lieu of basic excise duty | | | |
| | 2710 | (i) Motor spirit commonly known as petrol | Rs. 6.48 per litre | Rs. 4.48 per litre |
| | 2710 | (ii) High speed diesel oil | Rs. 8.33 per litre | Rs. 6.33 per litre |
| EXCISE | | | | |
| I. PROPOSALS INVOLVING CHANGE IN EXCISE DUTY RATES | | | | |
| Note: "Basic Excise Duty" means the excise duty set forth in the Fourth Schedule to the Central Excise Act, 1944. | | | | |
| | | Commodity | Rate of Duty | |
| | | | From | To |
| I | Motor spirit commonly known as petrol and high-speed diesel oil | | | |
| | 1 | Levy of Road and Infrastructure Cess on motor spirit commonly known as petrol and high-speed diesel oil [clause 110 of Finance Bill, 2018] | ---- | Rs. 8 per litre |
| | 2 | Abolition of Additional Duty of Excise [Road Cess] on motor spirit commonly known as petrol and high-speed diesel oil [clause 106 of Finance Bill, 2018] | Rs. 6 per litre | Nil |
| | 3 | Basic excise duty on: | | |
| | | (i) Unbranded Petrol | Rs. 6.48 per litre | Rs. 4.48 per litre |

| | | | | |
|--|---|---|---------------------|--------------------|
| | | (ii) Branded petrol | Rs. 7.66 per litre | Rs. 5.66 per litre |
| | | (iii) Unbranded diesel | Rs. 8.33 per litre | Rs. 6.33 per litre |
| | | (iv) Branded diesel | Rs. 10.69 per litre | Rs. 8.69 per litre |
| | 4 | Road and Infrastructure Cess on (i) 5% ethanol blended petrol, (ii) 10% ethanol blended petrol and (iii) bio-diesel, up to 20% by volume, subject to the condition that appropriate excise duties have been paid on petrol or diesel and appropriate GST has been paid on ethanol or bio-diesel used for making such blends | ---- | Nil |
| | 5 | Road and Infrastructure Cess on petrol and diesel manufactured in and cleared from 4 specified refineries located in the North-East | ---- | Rs. 4 per litre |

AMENDMENTS RELATED TO SERVICE TAX

1. **Special provision for exemption from service tax in certain cases relating to life insurance services provided by Naval Group Insurance Fund to personnel of Coast Guard, retrospectively.**

Source

Clause 103 of the Finance Bill 2018

Affected provision

Section 66B of Chapter V of the Finance Act, 1994

Effective Date

10th September, 2004

Amendment

(1) Notwithstanding anything contained in section 66, as it stood prior to the 1st day of July, 2012, or in section 66B, as it stood prior to the 1st day of July, 2017, of Chapter V of the Finance Act, 1994, as it stood prior to its omission vide section 173 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Chapter), no service tax shall be levied or collected in respect of taxable services provided or agreed to be provided by the Naval Group Insurance Fund by way of life insurance to personnel of Coast Guard under the Group Insurance Schemes of the Central Government, during the period commencing from the 10th day of September, 2004 and ending with the 30th day of June, 2017 (both days inclusive).

(2) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times:

Provided that an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2018 receives the assent of the President.

(3) Notwithstanding the omission of the said Chapter, the provisions of the said Chapter shall apply for refund under this section retrospectively as if the said Chapter had been in force at all material times.

Effect of the Amendment

Services provided or agreed to be provided by the Naval Group Insurance Fund by way of life insurance to personnel of Coast Guard, under the Group Insurance Schemes of the Central Government, are proposed to be exempted from service tax for the period commencing from the 10th September, 2004 and ending with the 30th June, 2017

2. Special provision for exemption from service tax in certain relating to services provided or agreed to be provided by Goods and Services Tax Network, retrospectively

Source

Clause 104 of the Finance Bill 2018

Affected provision

Section 66B of Chapter V of the Finance Act, 1994

Effective Date

28th March, 2013

Amendment

(1) Notwithstanding anything contained in section 66B of Chapter V of the Finance Act, 1994, as it stood prior to its omission vide section 173 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Chapter), no service tax shall be levied or collected in respect of taxable services provided or agreed to be provided by the Goods and Services Tax Network to the Central Government or the State Government or the Union territory Administration, during the period commencing from the 28th day of March, 2013 and ending with the 30th day of June, 2017 (both days inclusive).

(2) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times:

Provided that an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2018 receives the assent of the President.

(3) Notwithstanding the omission of the said Chapter, the provisions of the said Chapter shall apply for refund under this section retrospectively as if the said Chapter had been in force at all material times.

Effect of the Amendment

Services provided or agreed to be provided by the Goods and Services Tax Network (GSTN) to the Central Government or State Governments or Union territories administration, are proposed to be exempted from service tax for the period commencing from 28th March, 2013 and ending with the 30th June, 2017.

3. Special provision for retrospective exemption from service tax on Government's share of profit petroleum.

Source

Clause 105 of the Finance Bill 2018

Affected provision

Section 66B of Chapter V of the Finance Act, 1994

Effective Date

1st April, 2016

Amendment

(1) Notwithstanding anything contained in section 66B of Chapter V of the Finance Act, 1994, as it stood prior to its omission vide section 173 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Chapter), no service tax, leviable on the consideration paid to the Government in the form of Government's share of profit petroleum, as defined in the contract entered into by the Government in this behalf, shall be levied or collected in respect of taxable services provided or agreed to be provided by the Government by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, during the period commencing from the 1st day of April, 2016 and ending with the 30th day of June, 2017 (both days inclusive).

(2) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times:

Provided that an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2018 receives the assent of the President.

(3) Notwithstanding the omission of the said Chapter, the provisions of the said Chapter shall apply for refund under this section retrospectively as if the said Chapter had been in force at all material times.

Effect of the Amendment

Consideration paid to the Government in the form of Government's share of profit petroleum in respect of services provided or agreed to be provided by the Government by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, is proposed to be exempted from service tax for the period commencing from 1st April, 2016 and ending with the 30th June, 2017.

AMENDMENTS RELATED TO GST

1. Change in the definition of Board

Source

Clause 218 of the Finance Bill, 2018

Affected Provision

Section 2(16) of the Central Goods And Services Tax Act, 2017

Effective Date

Date of Presidential Assent to the Finance Bill, 2018

Provision before amendment

2(16) “Board” means the **Central Board of Excise and Customs** constituted under the Central Boards of Revenue Act, 1963;

Provision after amendment

2(16) “Board” means the **Central Board of Indirect Taxes and Customs** constituted under the Central Boards of Revenue Act, 1963;

Amendment

The words in red has been substituted with the words in green.

Effect of the Amendment

In the Central Goods and Services Tax Act, 2017, in section 2, in clause (16), for the words “Central Board of Excise and Customs”, the words “Central Board of Indirect Taxes and Customs” shall be substituted.

This publication contains information for general guidance only. It is not intended to address the circumstances of any particular individual or entity. Although the best of endeavour has been made to provide the provisions in a simpler and accurate form, there is no substitute to detailed research with regard to the specific situation of a particular individual or entity. S. Khaitan & Associates or any of its officials do not accept any responsibility for loss incurred by any person for acting or refraining to act as a result of any matter in this publication

ABOUT THE AUTHOR

Shubham Khaitan, B. COM (Hons) from St. Xavier's College, ACA, ACS, CFA (USA), DISA (ICAI)

Academic Achievements

- Cleared all his professional exams in the first attempt with distinction
- Passed the Chartered Accountancy Final examination in the year 2012 at the young age of 21 years with 74% marks in Indirect taxes
- Passed the Company Secretary Final Examination in the year 2011 at the young age of 20
- Passed all the three levels of Chartered Financial Analyst examination from USA with the highest category (>70%) in almost all the subjects
- Holds a Diploma in Information System Audit after clearing the exam conducted by the Institute of Chartered Accountants of India in June, 2016.

Current Designation and Positions

- Currently a partner of the Tax & Regulatory Division of S. Khaitan & Associates (a reputed middle sized CA firm in Kolkata since 29 years).
- Member of the National Council on Indirect taxes for Assocham
- Member of the elite Study Group in Kolkata for research on GST which has been established by the Indirect Taxes Committee of the Institute of Chartered Accountants of India for 2017-18
- Member of the Indirect Taxes Committee of the EIRC, the ICAI for the year 2017-18
- Treasurer of the Views Exchange Chartered Accountants Study Circle – EIRC for the year 2017-18
- Member of the Indirect Taxes Committee of Direct Taxes Professional Association for 2017-18
- Member of the editorial board of 'The Views' journal in Kolkata for the year 2017-18

Professional Achievements

- Registered Faculty in the Faculty Development Program conducted by the Indirect Tax Committee, Institute of Chartered Accountants of India in July, 2016
- Regular contributor to various articles in the professional and industrial forums like Taxguru, Tax India online, Views Journal, ACAE Journal, DTPA Journal, VIPCA Journal, GST India Expert, GST Sahayata etc.
- Made a significant contribution to the books 'Background Material on GST' and 'FAQs and MCQs on GST' published by the Institute of Chartered Accountants of India
- From the Kolkata study group, his topic 'Input Tax Credit' under the Model GST law has been sent to the Indirect Tax Committee, ICAI for preparation of Nationalised PPT on GST by ICAI.
- Member of the team selected for the revision of the "EIRC Members' Referencer on Indirect Taxes" for the year 2016-17.
- Made significant contribution to the topic 'Impact of GST on MSMEs' for publishing on the website of the Indirect Taxes Committee of the Institute of Chartered Accountants of India

Trainings and workshops

- Imparting full day trainings to businesses on behalf of the Ministry of MSME, Government of India
- Taking training sessions for well-known corporates including Bharat Petroleum, ABCI Infrastructure
- Conducted nationalised webcasts for multiple centres of ICAI at the Virtual Certificate Course on GST
- Conducting seminars at trade associations like Confederation of Indian Industry(CII), Merchants' Chamber of Commerce & Industry (MCCI), Indian Paints Association, West Bengal Hosiery Association, Paridhan Garment Park Welfare Association, West Bengal Paper Traders' Association etc.
- Sharing views on television as a guest panelist with news channels like DD news
- Visiting faculty of Universities like Burdwan University, Bhawanipur College etc.
- Speaking in seminars in branches of Institute of Chartered Accountants, Institute of Company Secretaries of India and Institute of Cost Accountants of India
- Conducting group discussions and seminars for study circles like Association of Corporate Advisors and Executives (ACAE), Direct Taxes Professional Association (DTPA), Howrah Study Circle, Vitta Salahkar, Views Exchange, VIP CA Study Circle, Central Kolkata Study Circle, CA ISA Study Circle etc.

Corporate experience

- He worked for more than a year in Credit Suisse which is one of the leading investment banks of Switzerland.
- Within just 12 months of joining the company, he was conferred with the Spartan Award for the best performers of the company at Credit Suisse.



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