

Budget 2022



Snapshot of major
Indirect Tax and
other amendments
brought in by
Union Budget 2022

Presented by:



FEBRUARY 2, 2022

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INTRODUCTION

The Indian Economy yet again faces another wave of COVID-19 pandemic. This time right at the start of 2022. The vital difference however is the huge number of vaccinations that have been successfully registered to almost 69% of adult population of the nation. This was undoubtedly facilitated by the Union Budget's allocation of almost 35 thousand crore rupees in 2021. Finance Minister, Nirmala Sitharaman, presented her fourth Union budget in a row, which is based on Prime Minister's *Amrit Kaal* or India @100 objective for the nation. Amrit Kaal is supposed to be based on a four-pillar model;

- PM Gati Shakti
- Inclusive Development
- Productivity Enhancement & Investment, Sunrise Opportunities, Energy Transition and Climate Action
- Financing of Investments

The first Pillar of the PM Gati Shakti is dependent on seven different sectors - Infrastructure Development, Roads, Railways, Airports, Ports, Mass Transport, Waterways, and Logistics.

Some of the major pointers under this scheme are –

A plan for expansion by 25,000 km of National Highways network for the year 2022-23 is on the anvil. Other than this, the data exchange among all mode operators will be brought on Unified Logistics Interface Platform (ULIP) for seamless, transparent and cheaper method of exchange of information for logistics. Railways has developed a capacity building and development of 400 Vande Bharat train models along with Multimodal connectivity between railways and mass urban transport.

The second pillar i.e., the **inclusive development** includes the departments of agriculture, health, education, skill development and housing. Agriculture is seeing a huge digitalisation *via* the arrangement of new 'Kisan Drones' and the development schemes like Chemical-Free Natural Farming being implemented in the 5km range of the Ganga, to promote protection of the environment and healthy habits of farming.

Education sector sees the development of more digital based initiatives for both school and higher education. We can expect introduction of digital based learning systems for skill development such as Digital Universities being introduced for higher education and 'One class-one TV channel' Scheme for Schools.

As far as the Healthcare sector is concerned on the anvil is introduction of ‘National Tele Mental Health Programme’ in relation to the COVID-19 pandemic and the Ayushman Bharat Digital Mission which is in relation to digital ecosystems for all health-related personnel files of citizens.

Housing sector is getting an injection of 48 thousand crores in the ever-growing scheme of PM Awas Yojana and special attention being given to housing projects in the North-eastern region of the nation along with the Har Ghar, Nal Se Jal aiming to cover 3.8 crore households in 2022-23.

Digital Banking and Payments also saw special attention from the Government with the initiative to digitalise Post Offices and bring up more and more Digital Banking Units in 75 districts.

Productivity Enhancement & Investment, Sunrise Opportunities, Energy Transition, and Climate Action the third pillar is set to experience development of Ease of Doing Business and Ease of Living Initiatives with the development of multiple schemes.

Major highlights of related schemes will include development of e-portals and tribunals to facilitate speedy process of compliance, and dispute resolution, development of chip-embedded passports in the next 2 years and the inclusion of 5g ecosystem under the Product Linked Incentive System. Required spectrum auctions will be conducted in 2022 to facilitate rollout of 5G mobile services within 2022- 23 by private telecom providers.

The *AatmaNirbhar* Bharat saw an increase in earmarking of Defence capital procurement budget to 68% from domestic sources as compared to 58% in the last year. Further 25% of R&D Budget is reserved for private industry in defence manufacturing.

Green Energy also saw an additional allocation of 19,500 crore for Production Linked Incentive for manufacture of high efficiency modules for development of Solar Energy Systems.

Under the fourth pillar i.e. **Financing of Investment** the development capital expenditure would be seeing an increase of almost 35%. The ‘Effective Capital Expenditure’ of the Central Government is estimated at 10.68 lakh crore in 2022-23, which will be about 4.1 per cent of GDP. There is also introduction of Green Bonds for the development of Green Resources. Attraction to the GIFT City with the introduction of multiple foreign corporations and universities along with the development of an International Arbitration Centre. Digital Rupee initiative by the RBI looks to develop on the digital initiative of the nation and shows the inclination of the Government to accept digital currency.

The revised Fiscal Deficit in the current year is estimated at 6.9 per cent of GDP as against 6.8 per cent projected in the Budget Estimates.

TAXATION

There are no major changes in terms of personal tax bracket but there is an introduction of 30% direct levy on income from transfer of NFTs or Non-Fungible Tokens and Digital Assets. Other than this, there is an increase in tax deduction limit of employer's contribution to NPS Account. Other measures include Taxation relief to persons with disability, extending the period of incorporation of Start-ups for providing tax incentive and reduction of Alternate Minimum Tax Rate and Surcharge.

Customs administration of Special Economic Zones to be fully IT driven and to function on the Customs National Portal. SEZ Act is also up for overhaul.

GOODS AND SERVICES TAX ('GST')

Central Goods & Services Tax Act, 2017

Amendments in the Central Goods & Services Tax Act, 2017 ("CGST Act") as per the Finance Bill, 2022

- ⇒ Section 16 is being amended to provide that Input tax credit w.r.t. supply of goods or services can be availed only if such credit has not been restricted in the details communicated to the recipient under Section 38 of the CGST Act i.e., GSTR 2B.

The time limit for availment of input tax credit by a registered person regarding any invoice or debit note pertaining to a financial year, has been extended up to 30th day of November of the following financial year. **(Clause 99)**

- ⇒ Clause (b) and (c) of sub-section (2) of Section 29 of the CGST Act are being amended so as to provide that the registration of a person is liable for cancellation, where –
 - i. Person paying tax under Section 10 (Composition Dealer) has not furnished the return for a financial year beyond three months from the due date of furnishing of the said return;
 - ii. Person, other than those paying tax under Section 10, has not furnished returns for such continuous tax period as may be prescribed. **(Clause 100)**
- ⇒ The time limit for issuance of credit notes in respect of any supply made in a financial year, has been extended upto 30th day of November of the following financial year **(Clause 101)**
- ⇒ Section 37 of the CGST Act is being amended so as to:
 - i. Prescribe conditions and restrictions for furnishing the details of outward supply in GSTR 1 and for communication of the details of such outward supplies to concerned recipients in GSTR 2B;
 - ii. Do away with two-way communication process in return filing;
 - iii. Provide for an extended time up to 30th day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1) of Section 37 of the CGST Act (GSTR 1);
 - iv. Provide for tax period-wise sequential filing of details of outward supplies under subsection (1) of Section 37 of the CGST Act (GSTR 1). **(Clause 102)**
- ⇒ Section 38 of the CGST Act is being substituted for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement in GSTR 2B and to do away with two-way communication process in return filing. **(Clause 103)**

- ⇒ Section 39 of the CGST Act is being amended so as to:
 - (i) provide that the non-resident taxable person shall furnish the return (GSTR 5) for a month by 13th day of the following month;
 - (ii) provide an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an amount that may be prescribed;
 - (iii) provide for an extended time up to 30th day of November of the following financial year, for rectification of errors in the return furnished under Section 39 of the CGST Act;
 - (iv) provide for furnishing of details of outward supplies (GSTR 1) of a tax period under subsection (1) of Section 37 as a condition for furnishing the return under Section 39 for the said tax period. **(Clause 104)**
- ⇒ Section 41 of the CGST Act is being substituted so as to do away with the concept of “claim” of eligible input tax credit on a “provisional” basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be prescribed. **(Clause 105)**
- ⇒ Sections 42, 43 and 43A of the CGST Act are being omitted so as to do away with two-way communication process in return filing. **(Clause 106)**
- ⇒ Section 47 of the CGST Act is being amended so as to provide for levy of late fee for delayed filing of return (GSTR 8) under Section 52 of the CGST Act. Further, reference to Section 38 *[which provided for furnishing details of inward supplies]* of the CGST Act is being removed consequent to the amendment in Section 38 of the CGST Act. **(Clause 107)**
- ⇒ Consequential removal of the reference to Section 38 from sub-section (2) of Section 48 of the CGST, due to the amendment in Section 38 of the CGST Act. **(Clause 108)**
- ⇒ Section 49 of the CGST Act is being amended so as to:
 - (i) Provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger;
 - (ii) Allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the CGST Act or the IGST Act of a distinct person;
 - (iii) Provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger. **(Clauses 109)**
- ⇒ Interest to be levied on input tax credit wrongly availed and utilized under Section 50 of the CGST Act, retrospectively w.e.f. July 01, 2017. **(Clause 110)**

- ⇒ The time limit for rectification of errors, in the statement furnished under Section 52(4) of the CGST Act i.e., GSTR-8, is being extended upto 30th day of November of the following financial year. **(Clause 111)**
- ⇒ Section 54 of the CGST Act is being amended so as to:
 - (i) explicitly provide that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed;
 - (ii) provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under Section 55 of the CGST Act (i.e., Refund for specialised Agency) as 2 years from the last day of the quarter in which the said supply was received;
 - (iii) extend the scope of withholding of or recovery from refunds in respect of all types of refund;
 - (iv) provide clarity regarding the relevant date for filing refund claim w.r.t supplies made to a SEZ developer or unit. **(Clause 112)**
- ⇒ Section 168(2) of the CGST Act (*which provides for power to issue instructions / directions*) is being amended, so as to remove reference to Section 38 therefrom. **(Clause 113)**
- ⇒ Notification No. 9/2018 – Central Tax, dated the January 23, 2018, is being amended, so as to notify www.gst.gov.in, retrospectively, w.e.f June 22, 2017, as the Common Goods and Services Tax Electronic Portal, for all functions provided under Central Goods and Services Tax Rules, 2017, other than those provided for e-way bill and for generation of invoices under subrule (4) of Rule 48 of the CGST Rules. **(Clause 114)**
- ⇒ Proposed to amend Notification No. 13/2017, dt. 28th June 2017 – Central Tax, retrospectively w.e.f. July 1, 2017, to notify the rate of interest on delayed payment of CGST from 24% PA to 18% PA under Section 50(3) of the CGST Act. **(Clause 115)**

Integrated Goods and Services Tax

Amendments in the Integrated Goods & Services Tax Act, 2017 (“IGST Act”) as per the Finance Bill, 2022 (Clause 118)

Notification No. 6/2017 – Integrated Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under sub-section (3) of Section 50 of the CGST Act from 24% PA to 18% PA.

Union Territory Goods and Services Tax Act

Amendments in the Union Territory Goods and Services Tax Act, 2017 (“UTGST Act”) as per the Finance Bill, 2022 (Clause 121)

Notification No. 10/2017 – Union Territory Tax, dated the 30th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under sub-section (3) of Section 50 of the CGST Act from 24% PA to 18% PA.

Retrospective amendments of GST Rate Notifications

To amend following relevant notifications under the Central Tax, Union Territory Tax and Integrated Tax *vide* Notification No. 01/2017 – Central Tax (Rate), Notification No. 01/2017 – Integrated Tax (Rate), Notification No. 01/2017 – Union Territory Tax (Rate), all dated June 28, 2017,

- on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, is being exempted during the period commencing from the 1st day of July, 2017, and ending with the 30th day of September, 2019 (both days inclusive), subject to the condition that if said tax has been collected, the same would not be eligible for refund. **(Clause 116, 119, 122)**

Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments, has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service *vide* Notification No. 25/2019- Central Tax (Rate), Notification No. 24/2019- Integrated Tax (Rate) and Notification No. 25/2019- Union Territory Tax (Rate) dated September 30, 2019.

These notifications have been given retrospective effect from July 01, 2017. However, no refund shall be made of tax which has been collected, but which would not have been so collected, had the said notifications been in force at all material times. **(Clause 117, 120, 123)**

CUSTOMS

I. AMENDMENTS IN THE CUSTOMS ACT, 1962 (“CUSTOMS ACT”)

⇒ Change in definition of Proper Officer:

It has been proposed to amend Section 2(34) of the Customs Act which provides the definition of ‘Proper Officer’. This section is being modified to specifically state that assignment of functions to an officer of Customs by the Board or the Principal Commissioner of Customs or the Commissioner of Customs shall be done under the newly inserted sub-sections (1A) and (1B) of Section 5 in the Customs Act. **[Clause 85]**

⇒ Updation of list of Officers of Customs:

It has been proposed to substitute Section 3 of the Customs Act which provide classes of officers of customs. Under Section 3 of the Customs Act, now it is proposed to specifically include the officers of DRI, Audit and Preventive formation in the class of Officers. This amendment has been made to remove any ambiguity as regards the class of officers of Customs. **[Clause 86]**

⇒ Insertion under powers of officers of customs:

Sub-section (1A) and (1B) have been proposed to be inserted in Section 5 of the Customs Act to explicitly provide power of assignment of function to officers of customs by the Board or as the case may be by the Principal Commissioner of Customs or Commissioner of Customs.

The above amendment has been made to overcome the impact of Hon’ble Supreme Court’s decision in the case of M/s Canon India Private Limited holding that the DRI officers are not the “proper officers” to issue show cause notices under Section 28(4) of Customs Act, 1962 **[Clause 87]**

⇒ Criteria which the Board may adopt while imposing limitations or conditions or to assign functions under Section 5:

Sub-section (1A) has been proposed to be inserted in Section 5 of the Customs Act to delineate the criteria which the Board may adopt while imposing limitations or conditions under Section 5(1) or while assigning functions under Section 5(1A) to the officer of Customs. For instance, one of the limitations/ conditions that the Board currently imposes on “officers of Customs” is that they are required to operate within a specified territorial jurisdiction. However, with the launch of faceless assessments and other trade facilitation initiatives wherein, for instance, a need is felt for the development of industry-specific expertise in assessments the Board may need to confine jurisdiction to certain goods or class of goods. **[Clause 87]**

⇒ **Exercise of power by the officer of customs in order to ensure proper management of work:**

It has been proposed that sub-section (5) to be inserted under Section 5 of the Customs Act in order to ensure that wherever necessary or appropriate, for the proper management of work, two or more officers of customs can concurrently exercise powers and functions to be performed under the Customs Act. **[Clause 87]**

⇒ **Amendment proposed under Valuation of goods:**

Section 14 to include the provisions for rules enabling the Board to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods. This amendment is a measure to address the issue of undervaluation in imports. **[Clause 88]**

⇒ **Omission of explanation and definition of Joint Venture and Non-resident, "Indian company" and "foreign company" respectively "Indian company" and "foreign company" under Advance Ruling of Section 28E of the Customs Act:**

Section 28E (i.e., definitions under advance rulings) is being amended to omit the Explanation under clause (c) [i.e., joint venture in India] and omit clause (h) [i.e., "Indian company" and "foreign company"]. **[Clause 89]**

⇒ **Making application of advance rulings and withdrawal of the same:**

Section 28H is proposed to be amended to make provisions for prescribing appropriate fees by Board relating to application for advance Ruling and also give flexibility to the applicant to withdraw his/ her/ its application at any time before a ruling is pronounced from the current 30 days' time period. **[Clause 90]**

⇒ **Procedure of circulation of pronounced advance ruling by department:**

Section 28I(7) is being substituted so as to remove the word "Members" and also make changes accordingly. Before, the said amendment, a copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Principal Commissioner of Customs or Commissioner of Customs, as soon as may be, after such pronouncement." **[Clause 91]**

⇒ **Sunset clause introduced to advance rulings:**

Sub-section (2) under Section 28J is being substituted so that advance ruling under sub-section (1) of Section 28J is now valid for a period of three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier. Thus, as a result of the said amendment, advance ruling is valid for 3 years or till there is change in law or facts, whichever is earlier. **[Clause 92]**

⇒ **Insertion of Section 110AA (Action subsequent to inquiry, investigation or audit or any other specified purpose):**

Section 110AA is being inserted with a view to affirm the principle that, wherever, an original function duly exercised by an officer of competent jurisdiction, is the subject matter of a subsequent inquiry, investigation, audit or any other specified purpose by any other officer of customs, then, notwithstanding, such inquiry, investigation, audit or any other purpose, the officer, who originally exercised such jurisdiction shall have the sole authority to exercise jurisdiction for further action like reassessment, adjudications, etc. consequent to the completion of such inquiry, investigation, audit or any other purpose. **[Clause 93]**

⇒ **Insertion of Section 135AA (i.e., Protection of data):**

Section 135AA is being inserted to protect the import and export data submitted by importers or exporters in their declarations by making the publishing of such information unless provided by the law, as an offence under Customs Act. The objective of this amendment is to penalize the online publishing of confidential export or import data in public domain unless the same is mandated under any law for the time being in force. **[Clause 94]**

⇒ **Amendment under Section 137 (i.e., Cognizance of offences):**

In section 137 of the Customs Act, in sub-section (1), after the words, figures and letter “or section 135A”, the words, figures and letters “or section 135AA” shall be inserted. The amendment in Section 137 is being made to provide that no court shall take cognizance of any offence with regard to the protection of the import and export data submitted to Customs by importers or exporters in their declarations without sanction of the Principal Commissioner/ Commissioner of Customs. **[Clause 95]**

II. OTHER LEGISLATIVE AMENDMENTS PERTAINING TO CUSTOMS

⇒ **Validation of certain actions taken under Customs Act:**

A clause has been inserted in the Finance Bill, 2022. This clause seeks to give validation to any action taken or functions performed before the date of commencement of the Finance Act, 2022, under certain Chapters of the Customs Act by any officer of Customs, as specified in Section 3 of the Customs Act, as amended, where such action was in pursuance of their appointment and assigning of functions by the Central government or the Board under the Customs Act. **[Clause 96]**

EXCISE

AMENDMENTS IN THE FOURTH SCHEDULE

Two new tariff items, that is, 2710 12 43 and 2710 12 44, falling under Chapter 27, have been inserted in the Fourth Schedule to the Central Excise Act, 1944, relating to E12 and E15 fuel blends, conforming to the new BIS specification [IS 17586] that has been issued for Ethanol Blended Petrol with percentage of ethanol up to twelve (E12) and fifteen (E15) percent respectively. This will align the Fourth Schedule to the Central Excise Act, 1944, with the similar proposed amendment in the sub-heading 2710 12 in the First Schedule to the Customs Tariff Act, 1975.

AMENDMENTS IN THE SCHEDULE VII OF THE FINANCE ACT, 2001 (NCCD SCHEDULE)

The Seventh Schedule of the Finance Act, 2001, is being amended by substituting Central Excise tariff item 2709 20 00 with 2709 00 10 [Petroleum Crude].

CHANGE IN EFFECTIVE RATE OF ADDITIONAL BASIC EXCISE DUTY ON UNBLENDED PETROL AND DIESEL

In order to promote blending of Motor Spirit (Petrol) with ethanol/methanol and blending of High Speed Diesel with bio-diesel, an additional Basic Excise Duty of Rs. 2 per litre on Petrol and Diesel, intended to be sold to retail consumers without blending, would be levied with effect from October 1, 2022.

OTHER CHANGES [INCLUDING CERTAIN CLARIFICATIONS/ TECHNICAL CHANGES]

Notification No. 49/2008-Central Excise (N.T.) dated December 24, 2008, provides for Retail Sale Price (RSP) based valuation for specified goods and prescribes an abatement as a percentage of retail sale price for such goods. This notification was issued under section 4A of the Central Excise Act, 1944. Since then statutory/legal position has changed. Accordingly, this notification has been superseded by Notification No. 01/2022- Central Excise (N.T.) dated February 1, 2022, in order to align the Notification No. 49/2008-Central Excise (N.T.) with the current legal position, post rollout of GST regime.

MISCELLANEOUS

AMENDMENT IN THE RESERVE BANK OF INDIA ACT, 1934:

It has been proposed to amend the definition of 'bank notes' and to include any digital form of notes issued by the Bank, in the definition of bank notes, by adding clause (aiv) in Section 2 of the Act. This is a welcome step by the Government of India to accelerate digitization to introduce RBI's own Central Bank Digital Currency. It will improve digital payment adoption and will inspire more digital savvy Indians to enter the financial ecosystem and explore newer forms of wealth creation.
