

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

Union Budget 2022-23:
Key Indirect Tax Proposals



Budget 2022

Snapshot of Economic Survey 2021-22

“The central theme of this year’s Economic Survey is the “Agile approach” “Barbell Strategy” adopted by the Government of India during pandemic

Aspect	Indicators
GDP Growth – FY 2021-22	9.2% in real terms
Projected GDP Growth – FY 2022-23	8.0-8.5%
Foreign Exchange Reserves	USD 633.6 Billion (Till 31 December 2021)
Investment	15% Growth in FY 2021-22
Fiscal Deficit (April- November 2021)	Contained At 46.2% Of Budget Estimates
Net Exports	Negative in the first half of 2021-22, compared to a surplus in the corresponding period of 2020-21
Index of Industrial Production (IIP) (April- November 2021)	17.4% YoY

Snapshot of Economic Survey 2021-22

Cross Border Insolvency – Insolvency and Bankruptcy Code, 2016

The absence of standardized cross border insolvency framework creates complexities and raises various issues and therefore, there is a need for a standardized framework for Cross-Border insolvency.

Single Window for all Departments to provide NOC for Companies voluntarily going in liquidation

A portal that combines all the steps of the liquidation process altogether, starting from application by companies to processing by all departments will prove to be very useful.

<https://www.indiabudget.gov.in/economicsurvey/>

<https://pib.gov.in/PressReleasePage.aspx?PRID=1793826>

<https://pib.gov.in/PressReleasePage.aspx?PRID=1793824>

<https://pib.gov.in/PressReleasePage.aspx?PRID=1793829>

Key Announcement in Union Budget 2022-23 (Other than Direct tax and Indirect Tax Proposals)

Key Announcement

Digital Currency to be launched by RBI Digital Rupee, using blockchain and other technologies

The **Special Economic Zones** Act will be replaced with a new legislation that will enable the states to become partners in 'Development of Enterprise and Service Hubs'. This will cover all large existing and new industrial enclaves to optimally utilise available infrastructure and enhance competitiveness of exports.

Customs administration in SEZ will be fully IT driven and RMS basis. This reform shall be implemented by 30th September 2022.

Production Linked Incentive (PLI) Scheme for:

1. Design linked Manufacturing for 5G (Telecom Sector)
2. Solar Sector - an additional allocation of RS 19,500 crore for manufacture of high efficiency modules, with priority to fully integrated manufacturing units from polysilicon to solar PV modules, will be made.

Defence Sector - 68 per cent of the capital procurement budget will be earmarked for domestic industry in 2022-23, up from 58 per cent in 2021-22.

INDIRECT TAXES

GOODS & SERVICE TAX*

Snapshot
Additional conditions for availing ITC
Time limit for availing ITC and declaration of credit note, modification of returns for FY extended till 30 th November of following FY
Key amendments under GSTR 1 and GSTR 3B provisions
Restriction on filing of GSTR-1 and GSTR-3B if earlier returns not filed
Reversal of ITC with interest if supplier defaulted in the payment of tax
Transfer of Electronic Cash Ledger from one registration to another (distinct person)
Restriction on usage of ITC for discharging output liability
Interest applicable only when ITC is wrongly availed and utilised (retrospectively w.e.f 1 July 2017)
ITC to be availed based on GSTR 2B
Cancellation or suspension of Registration for non-filing of returns
Exemption on supply of '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', as it has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service, for the period 01 July 2017 to 30 September 2019, subject to the condition that if the said tax has been paid, same shall not be eligible for refund.
Exemption on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, for the period 01 July 2017 to 30 September 2019, subject to the condition that if the said tax has been paid, same shall not be eligible for refund

*All provisions will come into effect once the Finance Bill is passed and notified (except as mentioned above).

INDIRECT TAXES

Customs and other*

Snapshot
Scope of Proper officer widened to include DRI and other officer. Certain action of such officers are being validated through the Finance Bill, 2022
Advance Ruling Provisions amended
Provision for penalty and imprisonment for publishing import and export data
To further amend Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 so as to simplify and automate the procedures and make the entire process digital and transparent.
Clarification has been issued to ensure uniform implementation of Retail Sale Price (RSP) based valuation on notified goods, in accordance to Section 4A of the Central Excise Act, 1944 (1 of 1944).

Customs Duty Rate

Snapshot
40+ exemptions to be gradually phased out in relation to Project Import and Capital Goods
Sunset dates is being stipulated as per section 25(4A) of Customs Act, 1962 in respect of conditional exemptions entries in respective notifications. Certain exemptions like FTA/CECA, AA, PMP excluded from the purview of automatic expiry
Graded import duty structure is being notified to operationalize PMP for wearables, hearables and smart meters
Rate changes as prescribed under notifications for various tariff headings [Coming into effect immediately]
In order to promote blending of Motor Spirit (commonly known as 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, as confirming to (Bureau of Indian Standards) BIS classification, would be levied with effect from the 1 October, 2022 *All provisions will come into effect once the Finance Bill is passed and notified (except rate change and as mentioned above).

Detailed Analysis followed in subsequent slides.

INDIRECT TAXES - GST

Aspect	Provision	Impact
<p>New condition for availing ITC and time limit for availing ITC for FY extended till 30th November of following FY</p>	<p>New sub section added under Section 16 (2) after clause (b):</p> <p>“(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted</p> <p>in clause (c), the words, figures and letter “or section 43A” shall be omitted;</p> <p>(b) in sub-section (4), for the words and figures “due date of furnishing of the return under section 39 for the month of September”, the words “thirtieth day of November” shall be substituted.</p>	<p>Additional new condition to be fulfilled before availing ITC under section 16(2) of CGST Act</p> <p>Now the ITC for any FY can be availed till 30 November of following FY and not connected with following year September month return filing due date.</p>
<p>Cancellation or suspension of Registration for non-filing of returns</p>	<p>In section 29 of the Central Goods and Services Tax Act,</p> <p>in sub-section (2), —</p> <p>(a) in clause (b), for the words “returns for three consecutive tax periods”, the words “the return for a financial year beyond three months from the due date of furnishing the said return” shall be substituted;</p> <p>(b) in clause (c), for the words “a continuous period of six months”, the words “such continuous tax period as may be prescribed” shall be substituted.</p>	<p>For tax payers other than under composition scheme, continuous tax period of six months is amended to ‘as prescribed’ for cancellation or suspension of GST registration and may be reduced further by CGST Rules or notification.</p> <p>For tax payers under composition scheme, the delay of filing of three months tax period to be looked for each Financial Year for cancellation or suspension of</p>

INDIRECT TAXES - GST

Aspect	Provision	Impact
<p>Credit note details for any financial year can be declared till 30th November of following year</p>	<p>In section 34 of the Central Goods and Services Tax Act, in sub-section (2), for the word “September”, the words “the thirtieth day of November” shall be substituted.</p>	<p>The time period for any amendment/declaration related to credit notes for FY can be done till 30 November of following FY.</p>
<p>Amendments related to GSTR-1</p>	<p>In section 37 of the Central Goods and Services Tax Act,—</p> <p>(a) in sub-section (1), —</p> <p>(i) after the words “shall furnish, electronically,”, the words “subject to such conditions and restrictions and” shall be inserted;</p> <p>(ii) for the words “shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed”, the words “shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies” shall be substituted;</p> <p>(iii) the first proviso shall be omitted;</p> <p>(iv) in the second proviso, for the words “Provided further that”, the words “Provided that” shall be substituted;</p> <p>(v) in the third proviso, for the words “Provided also that”, the words “Provided further that” shall be substituted;</p> <p>(b) sub-section (2) shall be omitted;</p>	<p>Following are key changes:</p> <ol style="list-style-type: none"> 1. The rectification of error or omission for FY’s tax periods can be done till 30th November of following year 2. Restriction on filing of GSTR 1 for any tax period, if the details of outward supplies for any of the previous tax periods has not been furnished.

INDIRECT TAXES - GST

Aspect	Provision	Impact
<p>Amendments related to GSTR-1</p>	<p>(c) in sub-section (3),—</p> <p>(i) the words and figures “and which have remained unmatched under section 42 or section 43” shall be omitted;</p> <p>(ii) in the first proviso, for the words and figures “furnishing of the return under section 39 for the month of September”, the words “the thirtieth day of November” shall be substituted;</p> <p>(d) after sub-section (3), the following sub-section shall be inserted, namely:—</p> <p>“(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section</p> <p>(1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him:</p> <p>Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods.”.</p>	

INDIRECT TAXES - GST

Aspect	Provision	Impact
<p>Restriction on availment of ITC based on auto populated GSTR 2B</p>	<p>For section 38 of the Central Goods and Services Tax Act, the following section shall be substituted, namely:—</p> <p>“38. (1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an autogenerated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.</p> <p>(2) The auto-generated statement under sub-section (1) shall consist of—</p> <p>(a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and</p> <p>(b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,—</p> <p>(i) by any registered person within such period of taking registration as may be prescribed; or</p> <p>(ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or</p>	<p>Auto Populated GSTR-2B replaced current GSTR 2/2A provisions.</p> <p>Further, under Form GSTR 2B, details of supplies would be available in respect of which ITC wholly/ partially cannot be availed on supplies by any registered person (supplier):</p> <ul style="list-style-type: none"> • Within such period of its registration as prescribed • Who defaulted in payment of taxes for the period as prescribed • Whose output tax liability exceeds than the output tax liability reflected in GSTR-1, as prescribed

INDIRECT TAXES - GST

Aspect	Provision	Impact
Restriction on availment of ITC based on auto populated GSTR 2B	<p>(iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said subsection during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or</p> <p>(iv) by any registered person who, during such period as may be prescribed, has availed credit of</p> <p>input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by</p> <p>such limit as may be prescribed; or</p> <p>(v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed;</p> <p>or</p> <p>(vi) by such other class of persons as may be prescribed.”</p>	<ul style="list-style-type: none"> • Who has availed ITC exceeding the amount reflecting in GSTR 2B as prescribed • Who defaulted in tax payment as per section 49(12) of CGST Act subject to such conditions and restrictions as may be prescribed
Amendment for GSTR 3B return	<p>In section 39 of the Central Goods and Services Tax Act,—</p> <p>(a) in sub-section (5), for the word “twenty”, the word “thirteen” shall be substituted;</p> <p>(b) in sub-section (7), for the first proviso, the following proviso shall be substituted, namely: —</p>	<p>Relevant changes made in Form GSTR 3B provision in line with changes for GSTR -1 and GSTR 2B provisions.</p> <p>Further, relevant provisions for matching concept has been deleted.</p>

INDIRECT TAXES - GST

Aspect	Provision	Impact
<p>Amendment for GSTR 3B return</p>	<p>“Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,—</p> <p>(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or</p> <p>(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.”;</p> <p>(c) in sub-section (9), —</p> <p>(i) for the words and figures “Subject to the provisions of sections 37 and 38, if”, the word “Where” shall be substituted;</p> <p>(ii) in the proviso, for the words “the due date for furnishing of return for the month of September or second quarter”, the words “the thirtieth day of November” shall be substituted;</p> <p>(d) in sub-section (10), for the words “has not been furnished by him”, the following shall be substituted,</p> <p>namely:— “or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him:</p>	

INDIRECT TAXES - GST

Aspect	Provision	Impact
<p>Amendment for GSTR 3B return</p>	<p>Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not</p> <p>99 furnished the details of outward supplies under subsection (1) of section 37 for the said tax period.”.</p> <p>Sections 42, 43 and 43A of the Central Goods and Services Tax Act shall be omitted.</p>	
<p>Reversal of ITC with interest if supplier defaulted in the payment of tax</p>	<p>For section 41 of the Central Goods and Services Tax Act, the following section shall be substituted, namely:—</p> <p>“41. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.</p> <p>(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:</p> <p>Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount</p>	<p>The concept of availment of ITC on provisional basis has been taken away.</p> <p>Further, in case ITC has been availed on supplies on which tax has not been paid by the supplier, the same needs to be reversed along with interest.</p> <p>In other words, ITC as reflected in GSTR 2B and cross verification with vendor on payment of tax would be required for availment of ITC.</p>

INDIRECT TAXES - GST

Aspect	Provision	Impact
<p>Late fee for TCS Return and rectification can be done for any returns of FY till 30th November of following year</p>	<p>In section 47 of the Central Goods and Services Tax Act, in sub-section (1), —</p> <p>(a) the words “or inward” shall be omitted;</p> <p>(b) the words and figures “or section 38” shall be omitted;</p> <p>(c) after the words and figures “section 39 or section 45”, the words and figures “or section 52” shall be inserted.</p> <p>In section 52 of the Central Goods and Services Tax Act, in sub-section (6), in the proviso, for the words “due date for furnishing of statement for the month of September”, the words “thirtieth day of November” shall be substituted.</p>	<p>Late fee for TCS Return and rectification can be done for any returns of FY till 30th November of following year</p>
<p>Transfer of Electronic Cash Ledger from one registration to another (distinct person)</p>	<p>In section 49 of the Central Goods and Services Tax Act,—</p> <p>(a) in sub-section (2), the words, figures and letter “or section 43A” shall be omitted;</p> <p>(b) in sub-section (4), after the words “subject to such conditions”, the words “and restrictions” shall be inserted;</p> <p>(c) for sub-section (10), the following sub-section shall be substituted, namely:—</p>	<p>Any balance on electronic cash ledger can be transferred among distinct person’s registrations. Thus, no need to claim refund for electronic cash ledger balance if the same can be utilised by other registration of the same legal entity.</p>

INDIRECT TAXES - GST

Aspect	Provision	Impact
Transfer of Electronic Cash Ledger from one registration to another (distinct person)	<p>“(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for,—</p> <p>(a) integrated tax, central tax, State tax, Union territory tax or cess; or</p> <p>(b) integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, subsection</p> <p>(5) of section 25, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act:</p> <p>Provided that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.”;</p>	
Restriction on usage of ITC for discharging output liability	<p>In section 49 of the Central Goods and Services Tax Act,—</p> <p>(d) after sub-section (11), the following sub-section shall be inserted, namely:—</p> <p>“(12) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.”</p>	The GST Council can put restriction to an extent on utilisation of ITC under electronic credit ledger to discharge output tax liability

INDIRECT TAXES - GST

Aspect	Provision	Impact
<p>Interest applicable only when ITC is wrongly availed and utilised (retrospectively w.e.f 1 July 2017)</p>	<p>In section 50 of the Central Goods and Services Tax Act,</p> <p>for sub-section (3), the following sub-section shall be substituted</p> <p>and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—</p> <p>“(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”.</p>	<p>In line with erstwhile CENVAT Credit Rules, 2004, the interest liability under GST law would arise only when ITC has been wrongly availed and utilised.</p>
<p>Changes in Refund provisions</p>	<p>In section 54 of the Central Goods and Services Tax Act, —</p> <p>(a) in sub-section (1), in the proviso, for the words and figures “the return furnished under section 39 in such”, the words “such form and” shall be substituted;</p> <p>(b) in sub-section (2), for the words “six months”, the words “two years” shall be substituted;</p> <p>(c) in sub-section (10), the words, brackets and figure “under sub-section (3)” shall be omitted;</p> <p>(d) in the Explanation, in clause (2), after sub-clause</p>	<p>Following changes have been made:</p> <ol style="list-style-type: none"> 1. Time limit for filing refund applications for UNO/other extended from six months to 2 years 2. The amount of refund can be withheld in any of the refund claim filed under section 54 if delay in filing of return or amount due, if any.

INDIRECT TAXES - GST

Aspect	Provision	Impact
<p>Changes in Refund provisions</p>	<p>(b), the following sub-clause shall be inserted, namely:—</p> <p>“(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;”.</p>	<p>3. Relevant date is separately prescribed for refund claim related to supply made to SEZ Developer/Unit.</p>

INDIRECT TAXES - CUSTOMS

Aspect	Provision	Impact
<p>Concept of Officer/Proper Officer widened to include DRI and other officers and validation of certain actions taken under Customs Act.</p>	<p>In the Customs Act, 1962, in section 2, in clause (34), after the words “Principal Commissioner of Customs or Commissioner of Customs”, the words and figure “under section 5” shall be inserted.</p> <p>For section 3 of the Customs Act, the following section shall be substituted, namely:—</p> <p>Classes of officers of customs.</p> <p>“3. There shall be the following classes of officers of customs, namely:—</p> <p>(a) Principal Chief Commissioner of Customs or Principal Chief Commissioner of Customs (Preventive) or Principal Director General of Revenue Intelligence;</p> <p>(b) Chief Commissioner of Customs or Chief Commissioner of Customs (Preventive) or Director General of Revenue Intelligence;</p> <p>(c) Principal Commissioner of Customs or Principal Commissioner of Customs (Preventive) or Principal Additional Director General of Revenue Intelligence or Principal Commissioner of Customs (Audit);</p> <p>(d) Commissioner of Customs or Commissioner of Customs (Preventive) or Additional Director General of Revenue Intelligence or Commissioner of Customs (Audit);</p> <p>(e) Principal Commissioner of Customs (Appeals);</p> <p>(f) Commissioner of Customs (Appeals);</p>	<p>Considering the Apex Court judgment in the case of Canon India Private Limited v. Commissioner of Customs, Civil Appeal No.1827 of 2018 Canon India [TS-75-SC-2021 which set aside the SCN/order issued by the DRI Officer being not an proper officer, the relevant sections has been amended to include DRI and other officers as proper officer under Customs.</p> <p>By this provision, any SCN/Order issued by any officer including DRI officer will be valid and sustainable under law.</p> <p>Further, the new section is inserted which validate all actions takes under Customs Act.</p>

INDIRECT TAXES - CUSTOMS

Aspect	Provision	Impact
<p>Concept of Officer/Proprietor Officer widened to include DRI and other officers and validation of certain actions taken under Customs Act.</p>	<p>(g) Additional Commissioner of Customs or Additional Commissioner of Customs (Preventive) or Additional Director of Revenue Intelligence or Additional Commissioner of Customs (Audit);</p> <p>(h) Joint Commissioner of Customs or Joint Commissioner of Customs (Preventive) or Joint Director of Revenue Intelligence or Joint Commissioner of Customs (Audit);</p> <p>(i) Deputy Commissioner of Customs or Deputy Commissioner of Customs (Preventive) or Deputy Director of Revenue Intelligence or Deputy Commissioner of Customs (Audit);</p> <p>(j) Assistant Commissioner of Customs or Assistant Commissioner of Customs (Preventive) or Assistant Director of Revenue Intelligence or Assistant Commissioner of Customs (Audit);</p> <p>(k) such other class of officers of customs as may be appointed for the purposes of this Act.”.</p> <p>In section 5 of the Customs Act,— (a) after sub-section (1), the following sub-sections shall be inserted, namely:—</p> <p>“(1A) Without prejudice to the provisions contained in sub-section (1), the Board may, by notification, assign such functions as it may deem fit, to an officer of customs, who shall be the proper officer in relation to such functions.</p>	

INDIRECT TAXES - CUSTOMS

Aspect	Provision	Impact
<p>Concept of Officer/Proprietor Officer widened to include DRI and other officers and validation of certain actions taken under Customs Act.</p>	<p>(1B) Within their jurisdiction assigned by the Board, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may, by order, assign such functions, as he may deem fit, to an officer of customs, who shall be the proper officer in relation to such functions.”;</p> <p>(b) after sub-section (3), the following sub-sections shall be inserted, namely:—</p> <p>“(4) In specifying the conditions and limitations referred to in sub-section (1), and in assigning functions under sub-section (1A), the Board may consider any one or more of the following criteria, including, but not limited to—</p> <ul style="list-style-type: none"> (a) territorial jurisdiction; (b) persons or class of persons; (c) goods or class of goods; (d) cases or class of cases; (e) computer assigned random assignment; (f) any other criterion as the Board may, by notification, specify. <p>(5) The Board may, by notification, wherever necessary or appropriate, require two or more officers of customs (whether or not of the same class) to have concurrent powers and functions to be performed under this Act.”.</p>	

INDIRECT TAXES - CUSTOMS

Aspect	Provision	Impact
<p>Concept of Officer/Proprietor Officer widened to include DRI and other officers and validation of certain actions taken under Customs Act.</p>	<p>Notwithstanding anything contained in any judgment, decree or order of any court, tribunal, or other authority, or in the provisions of the Customs Act, 1962 (hereinafter referred to as the Customs Act),— 52 of 1962.</p> <p>(i) anything done or any duty performed or any action taken or purported to have been taken or done under Chapters V, VAA, VI, IX, X, XI, XII, XIIA, XIII, XIV, XVI and XVII of the Customs Act, as it stood prior to its amendment by this Act, shall be deemed to have been validly done or performed or taken;</p> <p>(ii) any notification issued under the Customs Act for appointing or assigning functions to any officer shall be deemed to have been validly issued for all purposes, including for the purposes of section 6;</p> <p>(iii) for the purposes of this section, sections 2, 3 and 5 of the Customs Act, as amended by this Act, shall have and shall always be deemed to have effect for all purposes as if the provisions of the Customs Act, as amended by this Act, had been in force at all material times.</p> <p>Explanation.— For the purposes of this section, it is hereby clarified that any proceeding arising out of any action taken under this section and pending on the date of commencement of this Act shall be disposed of in accordance with the provisions of the Customs Act, as amended by this Act.</p>	

INDIRECT TAXES - CUSTOMS

Aspect	Provision	Impact
<p>Changes in Customs Advance Rulings Provisions</p>	<p>In section 28E of the Customs Act,—</p> <p>(a) in clause (c), the Explanation shall be omitted;</p> <p>(b) clause (h) shall be omitted</p> <p>In section 28H of the Customs Act, —</p> <p>(a) in sub-section (1), after the words “an application in such form and in such manner”, the words “and accompanied by such fee” shall be inserted;</p> <p>(b) sub-section (3) shall be omitted;</p> <p>(c) in sub-section (4), for the words “within thirty days from the date of the application”, the words “at any time before an advance ruling is pronounced” shall be substituted.</p> <p>In section 28-I of the Customs Act, in sub-section (7),</p> <p>the words “by the Members” shall be omitted.</p> <p>In section 28J of the Customs Act, for sub-section (2), the following sub-section shall be substituted, namely:—</p> <p>“(2) The advance ruling referred to in sub-section (1) shall remain valid for 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:</p> <p>Provided that in respect of any advance ruling in force on the date on which the Finance Bill, 2022 receives the assent of the President, the said period of three years shall be reckoned from the date on which the said Finance Bill receives the assent of the President.”</p>	<p>The definition of Joint Venture and other definition such as non-resident, Indian Company and Foreign Company deleted.</p> <p>No need to file the application in quadruplicate</p> <p>The application can be withdrawn anytime before advance ruling is announced</p> <p>The validity of advance ruling is prescribed for 3 years or till there is any change in law, whichever is earlier.</p>

INDIRECT TAXES - CUSTOMS

Aspect	Provision	Impact
<p>Action subsequent to inquiry, investigation or audit or any other specified purpose.</p>	<p>After section 110A of the Customs Act, the following section shall be inserted, namely:—</p> <p>—</p> <p>“110AA. Where in pursuance of any proceeding, in accordance with Chapter XIIA or this Chapter, if an officer of customs has reasons to believe that—</p> <p>(a) any duty has been short-levied, not levied, short paid or not paid in a case where assessment has already been made;</p> <p>(b) any duty has been erroneously refunded;</p> <p>(c) any drawback has been erroneously allowed; or</p> <p>(d) any interest has been short-levied, not levied, short-paid or not paid, or erroneously refunded, then such officer of customs shall, after causing inquiry, investigation, or as the case may be, audit, transfer the relevant documents, along with a report in writing—</p> <p>(a) to the proper officer having jurisdiction, as assigned under section 5 in respect of assessment of such duty, or to the officer who allowed such refund or drawback; or</p> <p>(b) in case of multiple jurisdictions, to an officer of</p> <p>customs to whom such matter is assigned by the Board, in exercise of the powers conferred under section 5, and thereupon, power exercisable under sections 28, 28AAA or Chapter X, shall be exercised by such proper officer or by an officer to whom the proper officer is subordinate in accordance with sub-section (2) of section 5.”.</p>	<p>As the proper officer definition has been widened, the file in the case of specific issue such duty not paid, erroneous refund and other can be transferred from one officer to another.</p>

INDIRECT TAXES - CUSTOMS

Aspect	Provision	Impact
<p>Protection of Data</p>	<p>After section 135A of the Customs Act, the following section shall be inserted, namely:—</p> <p>—</p> <p>‘135AA. (1) If a person publishes any information relating to the value or classification or quantity of goods entered for export from India, or import into India, or the details of the exporter or importer of such goods under this Act, unless required so to do under any law for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both.</p> <p>(2) Nothing contained in this section shall apply to any publication made by or on behalf of the Central Government.</p> <p>Explanation. — For the purposes of this section, the expression “publishes” includes reproducing the information in printed or electronic form and making it available for the public.’</p> <p>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.</p>	<p>Any data related to import and export cannot be published (includes reproducing the information in printed or electronic form and making it available for the public.) except by or on behalf of Central Government by any person; else it will be punishable with fine and imprisonment.</p>
<p>Amendment of First Schedule of Customs Act, 1962 w.e.f 1 May 2022</p>	<p>In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), the First Schedule shall,— 51 of 1975.</p> <p>(a) be amended in the manner specified in the Second Schedule;</p>	<p>Relevant schedules for specified tariff headings has been amended</p>
	<p>(b) with effect from the 1st May, 2022, be also amended in the manner specified in the Third Schedule</p>	

INDIRECT TAXES - CUSTOMS

Aspect	Provision	Impact
Amendment of Fourth Schedule of Central Excise Act, 1944	In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), the Fourth Schedule shall be amended in the manner specified in the Fourth Schedule.	Relevant schedules for specified tariff headings has been amended

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