

# Pre - Budget Memorandum 2019 - 20

## Indirect Taxes



### **American Chamber of Commerce in India**

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Sl. No.	Area of Challenge	Nature of Issue	Proposed Change
<b>Exemption on import of goods</b>			
1	Permanent IGST exemption on Import of goods by EOU/ Advance authorization & EPCG holder	Presently, the IGST exemption on 'Import of Goods/ capital goods' by EOU and Advance authorization/EPCG holder has been extended till March 2019 only and thus provides only temporary relief to the exporters. In case such exemption is withdrawn at a later stage it will result into huge working capital blockages.	Permanent exemption of IGST should be granted on 'Import of Goods/Capital goods' by EOU Units and/or Advance authorization/EPCG holder to avoid blockage of working capital for exporter  Further, similar nature of exemption was available under earlier tax regime as well.
<b>Utilisation of scrips</b>			
2	Utilization of MEIS & SEIS scrips towards payment of GST and compensation cess	In terms of the current foreign trade policy, duty credit scrips provided under MEIS & SEIS scheme to exporters can only be utilized towards payment of import duty on import of goods under the Customs Act and Central Excise duty for procurement of indigenous goods. The said scrips cannot be utilized for paying off IGST and compensation cess.  As a result, IGST on imports & CGST on domestic procurements has to be paid by the exporters in cash instead of adjustment through scrips. This results in additional working capital blockage for the exporters under the GST regime.	It is suggested that MEIS & SEIS scrips be allowed to be utilized towards payment of IGST on imports and CGST/IGST on procurement of goods indigenously.
<b>Custom Duty rate</b>			
3	Increase in custom duty rate – Specific compressor	Recently Basic custom duty (BCD) rate on compressor has been increased only by 2.5% (from 7.5% to 10%)	To promote manufacturing in India, it is proposed that BCD on Hermitic compressor (HSN Code 8414 3000 and 8414 8011) should also be increased to 20%

4	High custom duty rate	<p>Sustainability and reduction in carbon foot print are one of the important initiatives for our country towards which HVAC systems are important contributor.</p> <p>Recently BCD on air-conditioner has been increased by 10% to 20%. In the absence of sufficient environment in India to manufacture air conditioner with next generation technology at par with global standards. It is suggested that such increase in BCD rates should be brought in phased manner.</p>	It is recommended to reduce the BCD on air conditioners to bring in better technology and to reduce the cost of import of energy efficient air conditioners.
5	Customs Duty exemption for medical devices	<p>Presently customs duty on all medical, surgical, dental and veterinary equipment's etc is effectively levied at 7.50%.</p> <p>Customs duty on all parts and accessories of medical, surgical, dental and veterinary equipment's etc is also 5%.</p>	All life saving drugs (including medical devices) should be exempted from Custom Duty. Further presently different medical devices have partial / full exemption under various entries in different notifications. This could be rationalised so as to bring about more clarity and less disputes from a classification aspect.
6	High custom duty rate	Current BCD for tariff item 2106 90 99 i.e. relating to food preparation including nutritional food products is 150%.	With an objective to promote good health BCD on such nutritional food products should be reduced.
7	Restoration of customs duty exemption	<p>Vide Notification No. 6/2016-Customs dated 28 January 2016, the benefit of concessional customs duty granted to the identified drugs were withdrawn by way of deletion of the said drugs from List 3 &amp; 4 of the Customs Notification.</p> <p>Deletion of the said drugs from List 3 &amp; List 4 has resulted in increase in customs duty (BCD 10%) for goods covered under Chapter 30.</p> <p>Withdrawal of Concessional Custom Duty for the drugs which are part of National List of Essential Medicines ('NLEM') 2015 has significantly impacted companies importing these Drugs. Drugs as included under NLEM are those that satisfy the priority health care needs of the population and hence, should be made available at affordable prices. It is to be noted that currently many of these drugs are not manufactured in India thereby placing heavy reliance on imports</p>	It is recommended that in the general interest of public health, the earlier exemption as provided to such essential medicines/ drugs be restored

8	Customs duty exemption on Instruments for Joint Replacement and Spinal Instruments	<p>In Pre-GST period, BCD was exempted on imported instruments for Joint Replacement and Spinal Instruments under S. No. 488, Entry No. 9 of List 32 of Notification 12/2012-Customs dated 17th March, 2012 which reads as under: <i>“90 or any other Chapter - Assistive devices, rehabilitation aids and other goods for disabled, specified in List 32”</i></p> <p>Entry No. 9 of List 32 - <i>“Instruments and implants for severely physically handicapped patients and joints replacement and spinal instruments and implants including bone cement.”</i></p> <p><b>Post-GST implementation</b>, the said notification no. 12/2012-Customs dated 17th March, 2012 has been superseded by notification no. 50/2017- Customs dated 30th June, 2017. The notification also provides the similar exemption vide S. No. 578, Entry No. 9 of List 30.</p> <p>However, customs authorities are of the view that such exemption is available to the instruments directly imported &amp; used by patients and not by surgeons for surgery purposes.</p>	Suitable clarification should be issued to the effect that BCD exemption is duly applicable on instruments imported by doctors/ hospitals for surgery as same is ultimately used for patients.
9	Reduction in Customs duty rate on Preform	<p>In last Union Budget 2018-19, the BCD on Preform was raised from 0% to 5% by amending exemption notification. This step has severely hampered the optical fiber industry in India by increasing their cost of manufacturing and eventually harming the government’s flagship programs like Digital India, Smart Cities, the National Optical Fibre Network (NOFN) and the implementation of BharatNet.</p> <p>It is to be noted that Preform of silica is a raw material which is essential for the manufacture of telecommunication grade optical fiber.</p> <p>Raising of BCD on Preform leads to uncertainty for many in the industry, and threatens the economic viability for telecommunication network expansion in the country. It further discourages the foreign investors who have contributed significantly towards Make in India</p>	It is suggested to remove BCD on Preform of silica by suitably amending exemption notification
10	Reduction in BCD on Ceramic Substrate	India as a signatory to the Paris Climate Agreement has shared a vision of low-carbon growth through ambitious targets, reducing	It is proposed to remove BCD on ceramic substrate which will incentivise manufacturers of catalytic

		<p>energy emissions intensity by 30 to 35% from 2005 levels by 2030. The government has also developed energy efficiency programs that will ensure that infrastructure required to support these goals is ready by 2030.</p> <p>The Industrial Policy 2017 recognizes the need for cleaner industrial technologies which can lead to reduction in emissions and better quality of air. It advocates for a fine balance to be drawn between sustainability and economic growth for key sectors that contribute to carbon emissions.</p> <p>Automobile sector being one of the key contributor to pollutants, lowering of import duty cost on energy and environment friendly technologies for said industry can be a key contributor for achieving success in this strategy.</p> <p>Ceramic Substrate products which are used in catalytic convertors for usage in automobiles to convert toxic gases and pollutants to less toxic pollutants and improve the quality of the air is currently liable to BCD in India.</p>	<p>convertors and help environment friendly products in the automobile sector</p>
<b>Compliances under Customs</b>			
11	Extension in time limit for filing Bill of Entry	In terms of Section 46 of the Customs Act 1962, the Bill of Entry shall be filed before the end of the next day following the day on which aircraft/ vessel carrying the import shipment has arrived at custom station. The said time limit as prescribed is too short to fulfil all the customs formalities.	It is recommended that the time limit for filing bill of entry be extended to a minimum of 3 working days as against one day without any penal implications.

**Assessment proceedings – Erstwhile tax regime**

12	Adjudication of Show cause notices	<p>At present, no statutory time limit is prescribed for adjudication of Show Cause Notices (SCNs) issued by the revenue officials. As a result, in certain cases SCNs are pending for years adjudication by the authorities.</p> <p>This practice is more common where SCNs are issued pursuant to audit objections raised by C&amp;AG and/or where matters are transferred to call books. This scenario creates an environment of uncertainty for the noticees as number of business decisions are kept on hold due to lack of clarity on such issues pending for adjudication</p>	<p>It is suggested that time limit be prescribed for adjudication of such pending SCNs issued by the department.</p> <p>Further, suitable amendment should be made in the law to provide that if SCN issued by the department is not disposed off within such specified time limit for reasons not attributable to the noticee, the matter shall be deemed to be settled in favour of noticee.</p>
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**Excise Duty & Service tax payment post 01 July 2018**

13	Credit of service tax or excise duty paid after 01 July 2017	Under the current GST transitional provisions, there is no clarity relating to treatment of Central Excise Duty or Service Tax paid after 1st July'17.	It is recommended that credit or refund mechanism should be provided against payment of such Central Excise and/or Service Tax amount
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