

India Union Budget 2022-23

Point of view

Automotive and Industrial Manufacturing



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Key announcements for the sector

- Budget seeks to lay the foundation to steer the economy over the next 25 years. Lays out 4 wide-reaching priority areas covering infrastructure, inclusivity, productivity and investment
- EODB 2.0 to boost Productivity Enhancement and Investment by widening the single window portal (PARIVESH)
- Infrastructure creation such as expansion of National Highways network by 25,000 km in 2022-23 to provide boost to industrial manufacturing and automotive sector
- Government to promote a shift towards use of clean technology public transport in urban areas, thereby creating a sustainable ecosystem for electric vehicles.
- Government to bring out a battery swapping policy and formulate standards for inter-operability, thus encouraging private sector players to develop a sustainable and innovative business model
- Special mobility zones for clean technology vehicles with zero fossil-fuel policy to be established
- Additional allocation of INR 19,500 Crores under PLI for manufacture of high efficiency modules

Implications for the Sector

- PM GatiShakti - Seven engine approach to enable development of world class modern infrastructure thereby empowering the overall manufacturing in the country
- Extension in concessional tax regime set to boost India's manufacturing ambitions
- Removal of exemption on items which can be manufactured in India and providing concessional customs duties on raw material that go into manufacturing of intermediate products would be a key step in achieving the objective of 'Make in India'
- Comprehensive review of duties would simplify the Customs rate and tariff structure particularly for industries such as Metals, textiles, thereby minimizing disputes
- Import of capital goods in industries such as textile, power, petroleum, leather, food packaging etc. will be costlier now, underscoring the need for examining other duty saving options
- Retrospective amendment in GST provisions can lead to avoidable litigations and costs

Tax implications

Direct tax

I. Promoting investments

- Last date for commencement of manufacturing/ production, to avail the reduced 15% corporate tax rate, extended by one year to 31 March 2024
- Last date of incorporation of eligible start-up for claiming deduction, extended by one year to 31 March 2023

II. Promoting voluntary tax compliance

- New provision permitting taxpayers to file an updated return within two years from the end of the relevant assessment year - only if it results into additional tax liability. Subject to additional tax payment, as prescribed

III. Litigation management

- Filing of appeal by the tax department, before Tribunal / High Court, may be deferred in case an identical issue is pending before jurisdictional High Court / Supreme Court
- Faceless Assessment scheme updated. Timelines for introducing faceless schemes for transfer pricing, International taxation matters, and Tribunal appeals proposed to be extended till 31 March 2024

IV. Tax deduction and collection at source

- In order to apply the penal rate to non-filers of tax return, only last one assessment year default to be considered (as against two earlier)
- TDS at the rate of 10 per cent to apply to any benefit or perquisite (in excess of INR 20,000) arising from a business or profession to a resident

V. Others

- Dividend from foreign companies – concessional tax rate of 15% to be phased out
- Clarification issued that the term 'tax' includes Health and Education Cess and hence not allowable as deduction while computing business income (retrospective amendment from 1 April 2005)
- Expenditure incurred for any purpose which is offence / prohibited by law, disallowable under section 37

Indirect tax

I. Change in customs exemption entry for knocked down electric vehicles

- The exemption entry for knocked down electric vehicles (commercial vehicles, passenger vehicles and two-wheeler vehicles) has been revised, pursuant to industry representations, w.e.f. 2 February 2022. Following changes have been made:
 - Erstwhile entry requiring disassembly of key specified sub-assemblies to claim lower basic customs duty ('BCD') rate of 15% has been done away with
 - Basis the revised entry, following BCD rates to apply in case of passenger vehicles:
 - 15%, if key specified sub-assemblies are not inter-connected with each other and not mounted on a chassis
 - 30%, if any of key specified sub-assemblies are inter-connected with each other but not mounted on a chassis
 - 60%/100%, if imported in any other form

The comparison of existing entry vis-à-vis new entry for passenger vehicle (8703) is reproduced in the Annexure

- Similar change has also been made in respect of commercial electric vehicles and electric two-wheelers
- In respect of entry for two-wheelers, 'electric compressor' and 'contactor' have been removed from specified sub-assemblies, as these are not used in electric two-wheelers
- Further, it has been clarified that even if some of the components required for assembly of an electric vehicle are not imported, the exemption would still be available provided that the kit as presented has the essential character of an electric vehicle

II. Rationalisation of customs tariff and exemption notifications

- Rate of duty on project imports for power projects, coal projects, gas projects, iron ore projects, water supply projects and others has been increased to 7.5% from various lower rates applicable earlier.
- Rates of duty for solar cells and solar modules hiked from 0% currently to 25% and 40% respectively
- Exemptions are introduced on inputs, such as, specialized castings, ball screw and linear motion guide, to encourage domestic manufacturing of capital goods
- Extension of Customs duty exemption given to steel scrap for another year to provide relief to MSME secondary steel producers
- Withdrawal of concessional BCD rate of 2.5% w.e.f 01 April 2023
 - Parts, components and accessories [except lithium-ion cell and printed circuit board assembly ('PCBA')] for use in manufacture of lithium-ion battery and battery pack and sub-parts thereof
 - Inputs, parts or sub-parts for use in the manufacturing of PCBA of Lithium-ion battery and battery pack
- BCD rates to be increased on import of smart meters and specified parts of smart meters, in a phased manner, effective 01 April 2022
- Certain anti-dumping and CVD on stainless steel and coated steel flat products, bars of alloy steel and high-speed steel would be revoked considering prevailing high prices of metals
- Existing customs exemptions for certain products to be factored in tariff from 01 May 2022, without any change in effective BCD
- Levy of an additional differential excise duty of INR 2 per litre on unblended petrol and diesel from 1 October 2022

III. Customs legislative changes

- Changes brought to specifically include officers of DRI, Audit and Preventive formation, in class of proper officers. Change has been made with retrospective effect
- Any matters of subsequent inquiries or investigations to be transferred to the original officer, having jurisdiction on such matter
- Central Board of Indirect Taxes & Customs ('CBIC') has been empowered to appoint two or more officers of customs to have concurrent power and functions, wherever necessary, for the proper management of work (for example in the case of faceless assessment)
- CBIC empowered to issue rules for valuation of any class of imported goods, wherever it believes value of such goods is not declared truthfully or accurately
- Several changes introduced in Advance Rulings mechanism, such as, 3-year validity for Advance Rulings and flexibility in withdrawing Advance Ruling application till the pronouncement of order

IV. GST legislative changes

- New provisions introduced regarding credit availment by recipients, clearly laying down that credit shall be availed basis and auto generated statement that would contain eligible credits, as well as restricted credits. Such restrictions on Input tax credit ('ITC') would be on account of various defaults by suppliers such as default in tax payment, suppliers' output tax paid being less tax than their tax payable, among several others

- Interest to be applicable only on wrongful utilization of ITC and not merely on availment. Interest in such cases shall be payable at 18% (earlier 24%). Amendment has been made effective retrospectively
- Time limit for availing input tax credit, issuance of credit notes, rectification of errors in returns, etc., extended to 30 November (from due date of return of September) of succeeding year
- Non-filing of GSTR-1 in one month will make the taxpayer ineligible for filing GSTR-1 and GSTR-3B in subsequent months. This is subject to exception for specified class of taxpayers
- Recipient's credit liable to be reversed with interest, if the supplier has failed to discharge the tax, with a specific provision that the same can be re-availed once tax is paid
- GST electronic cash ledger balance for IGST and CGST can be transferred between registrations under the same PAN
- If returns are not filed or tax has not been paid, all types of GST refunds can be withheld

Annexure

- Comparison of existing entry vis-à-vis new entry for passenger vehicle (8703) is reproduced below:

Chapter heading	Existing entry	New entry (w.e.f. 2 February 2022)	BCD rate
8703	Electrically operated Motor cars and other motor vehicles, principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars, if imported, -	Electrically operated vehicles, if imported, -	
	(1) As a Knocked Down kit containing all the necessary components, parts or sub-assemblies, for assembling a complete vehicle, with, -	(1) incomplete or unfinished, as a knocked down kit containing necessary components, parts or sub-assemblies for assembling a complete vehicle, including battery pack, motor, motor controller, charger, power control unit, energy monitor, contactor, brake system, electric compressor, whether or not individually pre-assembled, with,	
	(a) disassembled Battery Pack, Motor, Motor Controller, Charger, Power Control Unit, Energy Monitor Contractor, Brake system, Electric Compressor not mounted on chassis;	(a) none of the above components, parts or sub-assemblies inter-connected with each other and not mounted on a chassis	15%
	(b) pre-assembled Battery Pack, Motor, Motor Controller, Charger, Power Control Unit, Energy Monitor Contractor, Brake System, Electric compressor not mounted on a chassis or a body assembly.	(b) any of the above components, parts or sub-assemblies inter-connected with each other but not mounted on a chassis	30%
	-	<i>Explanation.</i> – For the removal of doubts, the exemption contained in items (1)(a) and (1)(b) of this entry shall be available, even if one or more of the components, parts or sub-assemblies required for assembling a complete vehicle are not imported in the kit, provided that the kit as presented, is classifiable under the heading 8703 of the Customs Tariff Act, 1975 as per the general rules of interpretation."	

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