

# 10 BUDGET EXPECTATIONS: GST CUSTOMS & CORP. TAX



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## 1. Place of Supply for “Outbound Freight/ Courier/ Mail” Charges -

A Circular has already been issued for clarifying the issues pertaining to the place of supply of services of transportation of goods in terms of the proviso to sub-section (8) of section 12 of the IGST Act, 2017 and availability of input tax credit to the recipient of such supply. Proviso to sub-section (8) of section 12 of the IGST Act, 2017 may be omitted by the budget 2023

**2. Decriminalization and Compounding** - There are 12 offences under Section 132(1) of The CGST Act 2017. Out of these certain offenses are non-bailable and others are bailable after they are cross certain threshold. These actions would be considered as offences if the tax alleged to be evaded is Rs. 1 Crore and above. **Now this threshold in Budget 2023 is set to be increased to Rs.2 Crore. However, the offence of "issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax" as per Section 132(1)(b) would still continue with a lower threshold of Rs.1 Crore only.**

Further 3 offenses may go off this list as follows as these were subject to varied interpretations by field officers –

*(g) obstructs or prevents any officer in the discharge of his duties under this Act* – It is easy to allege but difficult to prove

*(j) tampers with or destroys any material evidence or documents* – again it can be easily alleged

*(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;* - Even flimsy non-supply of information could have been alleged under this clause and criminal action could be taken. Say for example, even if the purchase register of 1 month out of 1 year could not be provided, then this clause could be invoked and criminal prosecution could be launched. Hence to eliminate the subjectivity, this offense seems to be decriminalised.

**3. GST Tribunals:** The formation of “GST Tribunals”, something which is now of critical importance, may have to wait further as there is a discussion on the structure of the Tribunals, whether they would be State level vs National GSTAT.

## **4. Legacy Dispute Settlement Scheme in Customs for further improving India’s Ease of Doing Business**

**Ranking:** The Import and Export Compliances under The Customs Act 1962 have undergone a dramatic changes in the past 3 years. Faceless Assessments under Customs have also improved India’s Worldwide ranking in Ease of Doing Business. It is expected that these changes will reduce disputes going forward and ease the pressure of Litigation under Customs. However, there are significant legacy matters under Customs which have accumulated over the years relating to Classification, valuation, etc. Such disputes should be settled as we enter into an era of NO VIVAAD and ONLY VISHWAS between the businesses and The Government. The Sabka Vishwas dispute settlement scheme for historical indirect tax levies like central excise and service tax as well as Vivaad Se Vishwas Scheme for Direct Tax have elicited an overwhelming response from businesses. Now businesses are hoping for an amnesty scheme under customs as well, essentially to ensure certainty on potential financial impacts on pending disputes, and to help business monetise the probable recoveries on impending litigations and bridge the fiscal deficit. A dispute resolution scheme under customs should also garner appreciation, especially from global businesses that have set up operations in India by outsourcing their manufacturing processes, for promoting the “Make in India” campaign.

**5. RoDTEP Scheme:** On the exports side, RoDTEP Scheme, which has replaced the MEIS Scheme could see increased allocation over and above the 40000 Cr in the past. It might be worthwhile to note that already the RoDTEP Rate on 'Tea' has been increased recently.

**6. Import duties of 'non-essential imports':** As regards foreign trade, the Government may hike the import duties of 'non-essential imports' like aviation equipment, high end electronics, steel industry items, plastics, leather and jewellery. This could improve local production of these items and also help in improving the trade balance. However, raw material import duty could see a reduction.

**7. DESH Bill:** With a view to overhauling the existing Special Economic Zone (SEZ) law of 2005, the government proposed reforms in the DESH Bill to revive interest in SEZs and develop more inclusive economic hubs. It is expected that the government should expedite the introduction of the DESH bill.

## **8. Tax Deduction at Source under section 194R of the Act and Section 28(iv) of Income from Business/Profession –**

It is recommended to suitably clarify in Circular 12 that the discounts granted would not come within the ambit of Section 28(iv). Parallely it is recommended to clarify in Circular 12 that 'discounts' include 'pre-sale discount' and 'post-sale discount'. Further, it should be clarified that write off of bad debts is not a benefit or perquisite within the provisions of Section 194R since the requirement to deduct TDS u/s. 194R will add to the cost of the corporate creditor who has already suffered a loss due to the write off of bad/unrealized debt.

**9. Deduction in respect of Expenditure on Brand Building & R&D** – It is expected that the Budget should provide tax incentives to Indian companies in form of weighted deduction on brand building expenditure incurred by them. For example, since foreign brands entail a royalty outflow, a similar percentage, say, 5% to 8% of turnover of Indian brands should be allowed as a 'standard deduction' to eligible companies, even if they have opted for concessional tax regime under Section 115BAA or 115BAB of the Income Tax Act, 1961.

**10. Requirement to issue and maintain tax deducted at source ('TDS') and Tax collected ('TCS') certificates:** The CBDT may consider removing the requirement for payers to issue TDS/TCS certificates and consider prescribing Form 26AS (generated through secure safeguards to ensure payee information is not allowed to be tampered with) as the basis for tax authorities to grant tax credit.

# THANK YOU



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