

A number of measures have been taken for ease of doing business. India's quantum leap in the Trading Across Border parameter of Ease of Doing Business rankings by the World Bank is a testimony to these efforts. Measures have also been taken for providing a level playing field to our domestic manufacturers, particularly the MSME sector and for securing borders.

It has been observed that imports under Free Trade Agreements (FTAs) are on the rise. Undue claims of FTA benefits have posed threat to domestic industry. In the coming months we shall review Rules of Origin requirements, particularly for certain sensitive items, so as ensure that FTAs are aligned to the conscious direction of our policy.

We are also strengthening provisions relating to safeguard duties which are applied when surge in imports causes serious injury to domestic industry. Amended provisions shall enable regulating such surge in imports in a systematic way.

The provisions for checking dumping of goods and imports of subsidized goods are also being strengthened for ensuring a level playing field for domestic industry. These changes are in line with the international best practices.

..... Nirmala Sitharaman

Budget 2020 – Proposals for Changes in Customs laws

- Insertion of new chapter – VAA to provide for administration of Rules of Origin under Free Trade Agreements (“FTA”): A new chapter has been proposed to be inserted in the Customs Act, 1962 (“Customs Act”), to provide enabling provision for administering the preferential tariff treatment regime under FTAs. The new provision seeks to specifically provide for certain obligations on importer and prescribe for time bound verification from exporting country in case of doubt. Pending verification preferential tariff treatment shall be suspended and goods shall be cleared only on furnishing security equal to differential duty. In certain cases, the preferential tariff treatment may be denied without further verification.

AGS Comments: The importers availing benefits of FTA's need to closely watch for updates in this space. A comprehensive review of the entire documentation in this regard may be required to ascertain potential impact of the new provisions and rules which may be notified.

AGS Legal

Simplifying law – Because ignorance of law is not an excuse



- **Creation of Electronic Credit Ledger (“ECL”) in Customs System:** It is proposed to incorporate a provision for creation of electronic credit ledger in customs system.

AGS Comments: It appears that this ECL will be linked with the Goods and Services Tax network portal in future so that all the payments of taxes and duties, refunds, remissions etc. may be streamlined.

- **Explanation (4) to Section 28:** In order to reduce possibility of litigation owing to interpretation of explanation (4) of Section 28 which was added *vide* Finance Act, 2018 as a consequence of amendment of Section 28, the explanation is proposed to be substituted with a new explanation to provide that the notice issued prior to 29 March 2018 shall continue to be governed as per old provision of Section 28.
- **Confiscation of goods if provisions of newly (proposed to be) inserted Chapter VAA are contravened:** Section 111 of the Customs Act is proposed to be amended to include a new sub clause (q) to provide for confiscation of goods if any contravention of newly (proposed to be) inserted chapter-VAA in relation to preferential rate under FTA is contravened.
- **Amendment in Section 8B of Customs Tariff Act, 1975 (“CTA”) which provided for imposition of Safeguard Duty:** The amendment is proposed to provide for application of other safeguard measures such as Tariff Rate Quota and other safeguard measure as the Central

Government may deem necessary to protect the domestic industry from injury due to significant surge in imports.

AGS Comments: A detailed analysis of this amendment is below:

- The word “duty” has been replaced with “measures” and “measures” include:
 - Imposition of Safeguard Duty
 - Application of Tariff-Rate quota
 - Such other measures as the Government may consider appropriate
- **Apropos the Tariff-Rate quota, it has been provided that the quota shall *not be lower than the average level of imports in the last three representative years* for which statistics are available**
- **Further, it has been provided that Tariff-Rate quota may be allocated to supplying countries having a substantial interest in supplying the article concerned.**
- **Amendment in Countervailing Duty Rules:** At present, there is no provision for investigation in case of circumvention of countervailing duties. A provision is being incorporated in the Countervailing Duty Rules to enable investigation into case of circumvention of countervailing duty for enabling imposition of such duty..

- **Amendment in Anti-Dumping Duty Rules:** Changes are being made in the Rules to strengthen the anti-circumvention measures by making them more comprehensive and wider in scope to take care of all types of circumventions of antidumping duty in line with best international practice.
- **Imposition of Health Cess on specific medical equipment:** In order to promote the Make-in-India and give boost to health care sector, Health Cess at the rate of 5% is proposed to be imposed on the import of medical devices. This Health Cess shall be levied as a duty of Customs.

AGS Comments: The revenue from Health Cess is proposed to be used for the initiatives in healthcare sector and towards Ayushman Bharat.

- **Increase in NCCD on Cigarettes and Tobacco Products:** The National Calamity Contingent Duty which is levied as a duty of excise on cigarettes and tobacco products is proposed to be increased.

AGS Comments: The cigarettes and tobacco products will become expensive after a span of around 2 years.

- **Various exemptions which had become outdated/redundant have been withdrawn:** Customs exemption have been reviewed to weed out such entries that are redundant, outdated or have outlived their utility. On such review, 80 exemptions have been withdrawn by

making suitable amendment/rescission of relevant notifications.

AGS Comments: Major changes have been made in exemption notifications. The importers availing Mega exemption notification benefits and other

exemption need to review the claim of exemption in light of these changes.

• **Movement in customs duty rate:**

For level playing field to domestic manufacturers

| Industry/Sector (Indicative list) | New Rates |
|---|------------|
| Household Goods and Appliances <ul style="list-style-type: none"> Tableware and kitchenware of porcelain or china, ceramic, clay, iron, steel, copper and aluminum, Glassware, padlocks, brooms, hand-sieves, combs, vacuum flasks, etc | 20% |
| Electrical Appliances <ul style="list-style-type: none"> Fans, food grinders/mixers; shavers and hair removing appliances; water heaters; hair/hand drying apparatus; ovens, cookers, toasters, coffee/ tea makers, insect repellents, heaters, irons, etc. | 20% |
| Footwear <ul style="list-style-type: none"> Footwear Parts of footwear | 35% 25% |
| Furniture Goods <ul style="list-style-type: none"> Seats; articles of bedding including mattresses; lamps, lighting, illuminated signs; | 25% |

| Industry/Sector (Indicative list) | New Rates |
|--|-----------|
| <ul style="list-style-type: none"> Other articles of furniture | |
| <ul style="list-style-type: none"> Stationary Items Filing cabinets, paper trays, binders, clips, staples, sign-plates, name plates, numbers and symbols etc. made from base metal | 20% |
| Toys <ul style="list-style-type: none"> Tricycles, scooters, scale models, dolls, etc | 60% |
| Machinery <ul style="list-style-type: none"> Specified goods used in high voltage power transmission project Railway carriage fans Compressors of refrigerators and air conditioners Commercial freezers Welding and plasma cutting machine Rotary tillers/weeder | 7.5% |
| | 10% |
| | 12.5% |
| | 15% |
| | 10% |
| | 7.5% |
| Other Miscellaneous Items <ul style="list-style-type: none"> Glass beads Artificial flowers Bells, gongs, statuettes, trophies and like, statuettes, ornaments, photograph, frames, mirrors etc. of base metal. | 20% |

To promote Make in India¹

| Industry/Sector (Indicative list) | New Rates |
|---|-----------|
| Electric Vehicles | |
| Completely Built Units of Bus and Trucks | 40% |
| Semi Knocked Down (SKD) units of bus, trucks and two wheelers | 25% |
| Semi Knocked Down (SKD) units of passenger vehicles and three wheelers | 30% |
| Completely Knocked Down (CKD) units of passenger vehicles, three wheelers, two wheelers, bus and trucks | 15% |
| Mobile Phone Manufacturing | |
| PCBA of Mobile phones | 20% |
| Vibrator/Ringer of Mobile phones | 10% |

| Industry/Sector (Indicative list) | New Rates |
|---|-----------|
| Display Panel and Touch Assembly | 10% |
| Motors like Single Phase AC motors, Stepper motors, Wiper Motors etc | 10% |
| Specified chargers and power adapters | 20% |
| Fingerprint readers for use in cellular mobile phones | 15% |
| Earphones and headphones | 15% |

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¹ w.e.f. 1 April 2020