

CUSTOMS ACT 1962

BUDGET ANALYSIS 2017-18

© All right Reserved with Bizsolindia Services Pvt. Ltd.

CUSTOMS ACT 1962 :

Clause of Finance Bill	Amendment	Bizsol Analysis
88	Section 2 is being amended to: (a) insert clause (3A) to define a beneficial owner as any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported.	Now, Beneficiary Owner has been defined so as to make accountability on exports and imports. Nobody can disown the goods for not being the owner.
	(b) include Foreign Post Office and International Courier Terminal in the definition of a Customs Station in clause (13);	Custom Station now will include Foreign Post Office and International Courier Terminal from where the goods can be imported / exported.
	(c) omit certain words in clause (13) to align with the proposed omission of Section 82;	Section 82 of the Customs Act relating to Goods exported and imported by Post has been deleted, since Foreign post Office has been included in the Customs Station
	(d) provide that the existing definition of exporter in clause (20) includes the beneficial owner;	Now, Beneficiary Owner has been defined so as to make accountability on exports and imports. Nobody can disown the goods for not being the owner.
	(e) provide that the existing definition of importer in clause (26) includes the beneficial owner;	Now, Beneficiary Owner has been defined so as to make accountability on exports and imports. Nobody can disown the goods for not being the owner.
	(f) insert clause (30B) so as to define passenger name record information;	Passenger Name record has been defined as records prepared by an operator of any Air Craft / Vessels or Vehicle or his authorized agent for each journey booked by or on behalf of any passenger. This will facilitate to book the case against for Fraudulent activities.
	Inserted Clause 28A defining International Courier Terminal	international courier terminal” means any place appointed under clause (f) of subsection (1) of section 7 to be an international courier terminal;’
Inserted Clause 20A defining foreign post office	foreign post office” means any post office appointed under	

BUDGET ANALYSIS 2017-18

Clause of Finance Bill	Amendment	Bizsol Analysis
		clause (e) of sub-section (1) of section 7 to be a foreign post office
89	Section 7 (e) & (f) has been inserted : “(e) the post offices which alone shall be foreign post offices for the clearance of imported goods or export goods or any class of such goods (f) the places which alone shall be international courier terminals for the clearance of imported goods or export goods or any class of such goods.	Section 7 is being amended to empower the Board to notify Foreign Post Offices and International Courier Terminals.
90	Section 17 (3) has been substituted : (3) For verification of self-assessment under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.	Section 17 is being amended to rationalize the requirement of documents for verification of self-assessment. Earlier, contract, Brokers Note, Insurance Policy, Catalogue or other documents were required to be furnished but now there is no specified list and any document as may be relevant may be asked for.
91	Section 27 (2) (g) has been Inserted : (g) the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where— (i) such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry; or (ii) the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.	Sub-section (2) of section 27 is being amended so as to keep outside the ambit of unjust enrichment, the refund of duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made, where- (i) such excess payment is evident from the bill of entry in the case of self-assessed bill of entry or (ii) the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.

BUDGET ANALYSIS 2017-18

Clause of Finance Bill	Amendment	Bizsol Analysis
		In such case doctrine of unjust enrichment will not be applicable.
92	Section 28E (e) has been substituted: (e) "Authority" means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961;	Clause (e) of section 28E is being amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961. In other words, there will be no advance ruling authority separately for customs, excise and service tax and advance ruling authority under Income Tax Act 1961 will be the authority for advance ruling for customs also.
93	Section 28F has been amended: 28F. (1) Subject to the provisions of this Act, the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall be the Authority for giving advance rulings for the purposes of this Act and the said Authority shall exercise the jurisdiction, powers and authority conferred on it by or under this Act: Provided that the Member from the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of this Act. (2) On and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from	Section 28F is being amended, so as to provide that the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act shall be the Authority for giving advance rulings for the purposes of the Customs Act. It further seeks to provide that the Member of the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of Customs Act. It also seeks to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance

BUDGET ANALYSIS 2017-18

Clause of Finance Bill	Amendment	Bizsol Analysis
	the stage at which such application or proceeding stood as on the date of such assent.”.	Bill, 2017 receives the assent of the President.
94	Section 28G shall be omitted	Being the said provision is now redundant, the clause 28G relating to vacancies not to invalidate proceedings is being omitted.
95	Section 28H has been amended : In the Customs Act, in section 28H, in sub-section (3), for the words “two thousand five hundred rupees”, the words “ten thousand rupees” shall be substituted.	Sub-section (3) of section 28H is being amended so as to increase the application fee for seeking advance ruling from rupees two thousand five hundred to rupees ten thousand on the lines of the Income-tax Act. Application fees for advance ruling has been increased from Rs. 2,500 to Rs. 10,000/-
96	Section 28I(6) has been amended : In the Customs Act, in section 28-I, in sub-section (6), for the words “ninety days”, the words “six months” shall be substituted.	Sub-section (6) of section 28I is being amended so as to provide time of limit of six months by which Authority shall pronounce its ruling on the lines of the Income-tax Act The Time limit for giving the advance ruling has been extended from 90 days to 180 days.
97	Section 30A has been inserted: 30A. (1) The person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer (i) the passenger and crew arrival manifest before arrival in the case of	A new section 30A is being introduced so as to make it obligatory on the person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, to deliver to the proper officer the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and passenger name record information of arriving passengers in

BUDGET ANALYSIS 2017-18

Clause of Finance Bill	Amendment	Bizsol Analysis
	<p>an aircraft or a vessel and upon arrival in the case of a vehicle; and</p> <p>(ii) the passenger name record information of arriving passengers in such form, containing such particulars, in such manner and within such time, as may be prescribed.</p> <p>(2) Where the passenger and crew arrival manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other person referred to in sub-section (1) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.”.</p>	<p>such form, containing such particulars, in such manner and within such time as may be prescribed. The section also intends to provide for imposition of a penalty not exceeding fifty thousand rupees as may be prescribed, in the case of delay in delivering the information</p> <p>The provision has been inserted, so as to file the manifest of vehicle / passengers and imposed penalty for not providing such information thereto</p>
<p>98</p>	<p>Section 41A has been inserted :</p> <p>41A. (1) The person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer—</p> <p>(i) the passenger and crew departure manifest; and</p> <p>(ii) the passenger name record information of departing passengers, in such form, containing such particulars, in such manner and within such time, as may be prescribed.</p> <p>(2) Where the passenger and crew departure manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other</p>	<p>A new section 41A is being introduced so as to make it obligatory on the person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, to deliver to the proper officer the passenger and crew departure manifest and passenger name record information of departing passengers before the departure of the conveyance in such form, containing such particulars, in such manner and within such time as may be prescribed. The section also intends to provide for a penalty not exceeding fifty thousand rupees as may be prescribed in the case of delay in delivering the information.</p>

BUDGET ANALYSIS 2017-18

Clause of Finance Bill	Amendment	Bizsol Analysis
	person referred to in sub-section (1) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.”.	
99	<p>Section 46(3) has been amended :</p> <p>(3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:</p> <p>Provided that a bill of entry may be presented within thirty days of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:</p> <p>Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed</p>	<p>This is very important change. Now importer will have to file Bill of Entry on very second day, otherwise late fees will be charged and duty applicable on very next day of arrival of the Vessel / Aircraft at the Customs Station.</p> <p>Sub-section (3) of section 46 is being substituted so as to make it mandatory to file the bill of entry before the end of the next day following the day (excluding holidays) on which the vessel or aircraft or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing and to provide for imposition of such charges for late presentation of the bill of entry as may be prescribed.</p>
100	<p>Section 47 (2) has been amended:</p> <p>The importer shall pay the import duty—</p> <p>(a) on the date of presentation of the bill of entry in the case of self-assessment; or</p> <p>(b) within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or</p> <p>(c) in the case of deferred payment under the proviso to sub-section</p>	<p>Sub-section (2) of section 47 is being amended so as to provide the manner of payment of duty and interest thereon in the case of self-assessed bills of entry or, as the case may be, assessed, reassessed or provisionally assessed bills of entry.</p> <p>Now, duty will have to be paid on the date of filing the Bill of Entry based on self assessment or within one day after assessment otherwise interest will be payable.</p>

BUDGET ANALYSIS 2017-18

Clause of Finance Bill	Amendment	Bizsol Analysis
	<p>(1), from such due date as may be specified by rules made in this behalf, and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent. but not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.”.</p>	
<p>101</p>	<p>Section 49 has been amended :</p> <p>49.Where,</p> <p>(a) in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time;</p> <p>(b) in the case of any imported dutiable goods, entered for warehousing, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be removed for deposit in a warehouse within a reasonable time, the goods may pending clearance or removal, as the case may be, be permitted to be stored in a public warehouse for a period not exceeding thirty days:</p> <p>Provided that the provisions of Chapter IX shall not apply to goods permitted to be stored in a public warehouse under this section:</p> <p>Provided further that the Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a</p>	<p>Section 49 is being amended to extend the facility of storage under section 49 to imported goods entered for warehousing before their removal.</p> <p><i>This is also the welcome provision. Now Assistant Commissioner / Deputy Commissioner of Customs may on his own can direct storage for warehouse before clearing when clearance is likely to be delayed.</i></p>

BUDGET ANALYSIS 2017-18

Clause of Finance Bill	Amendment	Bizsol Analysis
	further period not exceeding thirty days at a time.”.	
102	Section 69 (1) (a) has been amended (a) a shipping bill or a bill of export or the form as prescribed under section 84 has been presented in respect of such goods.	Section 69 relating to clearance of warehoused goods for exportation is being amended to align it with the proposed omission of section 82.
103	Section 82 has been deleted	Section 82 relating to label or declaration accompanying goods to be treated as entry is being omitted
104	Section 84 has been amended (a) the form and manner in which an entry may be made in respect of goods imported or to be exported by post;	Section 84 is being amended to empower the Board to make regulations to provide for the form and manner in which an entry may be made in respect of goods imported or to be exported by post.
105	Section 127B (5) has been inserted (5) Any person, other than an applicant referred to in sub-section (1), may also make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the applicant which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority, in such manner and subject to such conditions, as may be specified by rules.	Section 127B is being amended so as to insert a new sub-section (5) therein to enable any person, other than applicant, referred to in sub-section (1) to make an application to the Settlement Commission. It will allow the Co-Noticee to approach Settlement Commission.
106	Section 127C (3) has been amended : (i) in sub-section (3), for the words “Commissioner of Customs having jurisdiction and the Commissioner”, the words “Commissioner of Customs or Principal Additional Director General of Revenue Intelligence or Additional Director General of Revenue Intelligence, as	Sub-section (3) of section 127C is being amended so as to substitute certain words therein. It further seeks to insert a new sub-section (5A) therein to enable the Settlement Commission to amend the order passed by it under sub-section (5), to rectify any error apparent on the face of record.

BUDGET ANALYSIS 2017-18

Clause of Finance Bill	Amendment	Bizsol Analysis
	<p>the case may be, having jurisdiction and such Commissioner or Additional Director General” shall be substituted;</p> <p>(ii) after sub-section (5), the following sub-section shall be inserted, namely:— “(5A) The Settlement Commission may, at any time within three months from the date of passing of the order under sub-section (5), may amend such order to rectify any error apparent on the face of record, either suo motu or when such error is brought to its notice by the jurisdictional Principal Commissioner of Customs or Commissioner of Customs or Principal Additional Director General of Revenue Intelligence or Additional Director General of Revenue Intelligence or the applicant:</p> <p>Provided that no amendment which has the effect of enhancing the liability of the applicant shall be made under this sub-section, unless the Settlement Commission has given notice of such intention to the applicant and the jurisdictional Principal Commissioner of Customs or Commissioner of Customs or Principal Additional Director General of Revenue Intelligence or Additional Director General of Revenue Intelligence, as the case may be, and has given them a reasonable opportunity of being heard.</p>	
107	<p>Section 157 (2) (aa) has been amended:</p> <p>(ab) the form, the particulars, the manner and the time of delivering the passenger and crew manifest for arrival and departure and passenger name record information and the penalty for delay in delivering such information under sections 30A and 41A;</p>	<p>Section 157 is being amended so as to empower Board to make regulations for specifying the form, particulars, manner and time of providing the passenger and crew manifest for arrival and departure and passenger name record information and penalty in the case of delay in delivering the information.</p>

BUDGET ANALYSIS 2017-18

AMENDMENT IN THE CUSTOMS TARIFF ACT, 1975

Clause of Finance Bill	Amendment	Bizsol Analysis
108	Section 9 (3) (c) has been substituted: (c) the subsidy has been conferred on a limited number of persons engaged in the manufacture, production or export of articles	Clause (c) of sub-section (3) of section 9 is being substituted so as to withdraw the exemption to three categories of non-actionable subsidies specified therein from the scope of anti-subsidy investigations

BUDGET ANALYSIS 2017-18