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Tax Alert - Key amendments proposed in Finance Bill, 2023

A Forward-Looking Budget for The Indian Automobile Sector

Saurabh Agarwal
Partner - Tax & Regulatory Services

The Union Budget 2023 is a forward-looking budget for the Indian automobile sector, focusing on 'Make in India' initiative of the Government with continued focus on promoting green mobility. The budget proposals will accelerate the push towards domestic manufacturing and help in fulfilling the vision of Atmanirbhar Bharat.

Key highlights for this sector include BCD exemption on import of specified capital goods/ machinery required for manufacturing of lithium-ion cells for batteries used in Electric Vehicle (EV). Additionally, BCD exemption has been introduced on import of specified vehicles, automobile parts/ components, sub-systems and tyres when imported by notified testing agency to promote localization.

Further, for last and first mile connectivity for ports, coal, steel, fertilizers and food grain sectors, 100 critical transport infrastructure projects have been identified.

The recently launched National Green Hydrogen Mission with an outlay of 19,700 crores will facilitate the transition of the economy to low carbon intensity and reduce dependents on fossil fuel imports.

How does the budget impact Automotive sector?

Key takeaways for a tax professional

- In order to promote domestic manufacturing, non-creditable custom duty rates (after factoring effect of SWS) on vehicles covered under HSN 8703 increased:
  - from 33% to 35% (SKD vehicles including EV)
  - from 66% to 70% (CBU EV having CIF vale upto $40K; and other CBU vehicle having CIF value upto $40K or/ and engine capacity upto 3000 cc for petrol-run vehicles/ upto 2500 cc for diesel-run vehicles).
- Re-emphasis laid on National Green Hydrogen Mission which was recently launched with outlay of INR19,700 crores, for supporting green mobility to reach annual production target of 5 MMT by 2030.
- The concessional BCD rate is extended upto 31 March 2024:
  - On import of lithium-ion cell for manufacture of battery or battery packs of EV /Hybrid Vehicles;
  - On import of other specified parts, components & sub-parts (excluding Printed Circuit Board Assembly (PCBA)) for manufacture of lithium-ion battery or battery pack;
  - On import of inputs, parts or sub-parts for use in manufacturing of PCBA (falling under tariff item 8507 90 90) of Lithium-ion battery and battery pack
- BCD exemption has been introduced on import of specified capital goods/ machinery required for manufacturing of lithium-ion cells for batteries used in EV.
- Additional budget allocation to support scrappage of old vehicles of Central and State Government.
- To support MSMEs in timely receipt of payments, deduction of expenditure to payer on payment made to MSMEs beyond time limit specified in MSMED Act to be allowed only when actual payment is made.
- For ensuring timely receipt of the export proceeds by units located in SEZs and claiming 10AA deduction, time limit proposed of 6 months from the end of year or such further period as RBI may allow
- To prevent undervaluation of inventory, power of inquiry given to assessing officer to direct the assessee to get inventory valued by cost accountant nominated by prescribed authorities

Highlights

Increased non-creditable custom duty rates by 2%~/ 4%~.

Support green mobility

Support Atmanirbhar Initiative

Prevention of undervaluation of inventory

Key amendments

- **Changes in Auto Sector for OEM:**

S. No.	Heading, sub-heading tariff item	Description	BCD (incl. SWS) Rate (Current Rate)	BCD (New Rate)	Remarks
1	8703	Motor cars or motor vehicles imported as a Completely Knocked Down (CKD) kit containing all the necessary components, parts or sub-assemblies, for assembling a complete vehicle, with engine or gearbox or transmission mechanism in pre-assembled form but not mounted on a chassis or a body assembly	33%	35%	Notification no. 02/2023-Customs dated 01 February 2023 read with Notification No. 04/2023 dated 01 February 2023 *(effective from 02 February 2023)*
2	8703	Vehicle (other than EV) in Completely Built Unit (CBU) form, other than with CIF more than USD 40,000 or with engine capacity more than 3000 cc for petroleum vehicle and more than 2500 cc for diesel-run vehicles, or with both	66%	70%	
3	8703	Electric Vehicle in CBU form, other than with CIF more than USD 40,000	66%	70%	

- **Changes in Customs duty rate for Capital Goods**

Customs duty exemption has been provided on import of specified capital goods and machinery (of Chapter 84 and 85) required for manufacture of lithium-ion cells for batteries used in electric vehicles. Changes through Notification 06/2023 dated 01 February 2023 via amendment in notification 25/2002-Customs dated 01 March 2002 and would be **effective from 02 February 2023.**

- **Exemption benefit to Testing Agencies:**

Exemption from BCD is provided to vehicles, specified automobile, parts/components, sub-systems and tyres, when imported by notified testing agencies (like ARAI, ICAT, GARC, NATRAX etc.) for the purpose of testing and/ or certification, subject to specified conditions (Change done vide Notification no. 02/2023-Customs dated 01 February 2023 by introduction of s.no.532A in Exemption Notification 50/2017-Cus dated 30 June 2017 and would be **effective from 02 February 2023).**

- **Concessional rate of duty for specified auto-components / raw material/ inputs for auto-components extended by another 1 year**

S.No.	Changes via Not. No. 2/2023-Cus dated 1 Feb 2023 (Corresponding S.No. in notification no. 50/2017- Customs)	Heading, sub-heading tariff item	Description	BCD Rate (Current Rate)	Remarks
1	527B	8507 60 00	Lithium-ion cell for use in the manufacture of battery or battery pack of electrically operated vehicle (EVs) or hybrid motor vehicle	5%	Benefit extended by one year, i.e., upto 31 March 2024
2	495	8507	Batteries for electrically operated vehicles, including two and three wheeled electric motor vehicles	5%	Benefit extended by one year, i.e. upto 31 March 2024
3	512	85 or any other Chapter	Specified Parts, components, and subparts for use in manufacture of Lithium-ion battery and battery pack	2.5%	Benefit extended by one year, i.e. upto 31 March 2024

S.No.	Changes via Not. No. 2/2023-Cus dated 1 Feb 2023 (Corresponding S.No. in notification no. 50/2017- Customs)	Heading, sub-heading tariff item	Description	BCD Rate (Current Rate)	Remarks
4	512A	Any Chapter	Inputs, parts or subparts for manufacture of PCBA of Lithium-ion battery and battery pack	2.5%	Benefit extended by one year, i.e. upto 31 March 2024

- **Other key tariff changes:**

S.No.	Heading, sub-heading tariff item	Description	BCD Rate (Current Rate)	BCD (New Rate)	Remarks
1	8712 00 10	Bicycles [Bicycles and other cycles (including delivery tricycle), not motorised]	33%	35%	Amendment through Finance bill 2023 read with Notification No. 04/2023 dated 01 February 2023 ***(effective from 02 February 2023)***
2	4005	Compounded rubber, unvulcranised in primary forms or plates, sheets or strip	10%	25% or Rs 30/kg, whichever is lower	Amendment through Finance bill 2023 ***(effective from 02 February 2023)***
3	2207 20 00	Denatured ethyl alcohol for use in manufacture of industrial chemicals	5%	Nil (subject to compliance with IGCR provisions)	Notification no. 02/2023-Customs dated 01 February 2023 ***(effective from 02 February 2023)***

- **Proposal to promote timely payments to MSME vendors**
  - In order to support timely payments to MSME vendors, it is proposed to include within the ambit of section 43B of the Act such amounts payable to MSME vendors beyond time limit prescribed in MSMED Act
  - Consequently, in case payments to MSME vendors are made beyond time limit prescribed in MSMED Act, deduction in the hands of payer is proposed to be made available only on payment basis
  - Relaxation provided under section 43B of the Act to allow deduction in case the payment is made till the due date of filing return of income is proposed to be made not applicable to payments to MSME
  - This amendment is applicable with effect from 1 April 2024 and will accordingly apply to assessment year 2024-25.

- **Proposal to promote timely receipt of export proceeds by units claiming deduction under section 10AA of the Act**
  - Presently, there are no timelines prescribed under the Act for timely realization of export proceeds from sale of goods and services, by the units claiming deduction under section 10AA of the Act
  - It is now proposed that deduction under section 10AA of the Act shall not be available if the export proceeds are not brought into India in convertible foreign exchange within 6 months from the end of year or such further period as RBI may allow

- The definition of "Export turnover" (as used in the formula to calculate deduction) is accordingly proposed to be amended to restrict to the export turnover to consideration realized within aforesaid time limit
- It is also proposed to allow assessing officer to amend the assessment order later when such export proceeds are realized in India after permitted time period
- Further, it is also clarified that the deduction under section 10AA will be available only if the return of income is filed within due date prescribed under section 139(1) of the Act
- This amendment is applicable with effect from 1 April 2024 and will accordingly apply to assessment year 2024-25.

- **Proposal to prevent undervaluation of inventory**
  - To curb the practice of undervaluation of inventory to defer tax payments, it is proposed to amend the provisions of section 142 of the Act to enable the Assessing Officer to direct the taxpayer to get the inventory valued from a cost accountant as nominated by the prescribed tax authorities
  - It is proposed to provide opportunity of being heard to assessee before directing to get the inventory valued as well as before utilising the material gathered based on such valuation for the purpose of assessment
  - Assessing officer is also required to obtain approval from prescribed authority before directing the assessee to get the inventory valued
  - This amendment is applicable with effect from 1 April 2023 and will accordingly apply to assessment year 2023-24

Impact analysis

The automobile sector is a key driver of India's economic growth. As per paragraph 9.39 of the Economic survey 2022-23, the significance of this sector can be seen in its impact on the economy, where it accounts for 7.1% to the total GDP and a substantial 49 % of the manufacturing GDP. Furthermore, at the end of 2021, it directly and indirectly provides employment to 3.7 crore people, demonstrating its important role in the country's workforce. This Budget will boost the Indian car market to reach the pinnacle, currently being at the third-largest spot globally.

A robust promotion of *Aatmanirbhar Bharat* mission was seen in the Budget as the emphasis was on the continuation of phased manufacturing programme as a transformative approach to boost indigenous manufacturing thereby achieving a significant presence for India in the global market. This has been driven majorly by three engines which includes Taxation, Green mobility, and Technology.

Glossary

APA – Advance Pricing Agreement

GST – Goods and Services Tax

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Our offices

Ahmedabad
22nd Floor, B Wing, Privilon
Ambli BRT Road, Behind Iskcon
Temple, Off SG Highway
Ahmedabad - 380 059
Tel: + 91 79 6608 3800

Bengaluru
12th & 13th floor
"UB City", Canberra Block
No.24 Vittal Mallya Road
Bengaluru - 560 001
Tel: + 91 80 6727 5000

Ground Floor, 'A' wing
Divyasree Chambers
11, Langford Gardens
Bengaluru - 560 025
Tel: + 91 80 6727 5000

Chandigarh
Elante offices, Unit No. B-613 & 614
6th Floor, Plot No- 178-178A
Industrial & Business Park,
Phase-I
Chandigarh - 160 002
Tel: + 91 172 6717800

Chennai
Tidel Park, 6th & 7th Floor
A Block, No.4, Rajiv Gandhi Salai
Taramani, Chennai - 600 113
Tel: + 91 44 6654 8100

Delhi NCR
Golf View Corporate Tower B
Sector 42, Sector Road
Gurugram - 122 002
Tel: + 91 124 443 4000

3rd & 6th Floor, Worldmark-1
IGI Airport Hospitality District
Aerocity, New Delhi - 110 037
Tel: + 91 11 4731 8000

4th & 5th Floor, Plot No 2B
Tower 2, Sector 126
Gautam Budh Nagar, U.P.
Noida - 201 304
Tel: + 91 120 671 7000

Hyderabad
THE SKYVIEW 10
18th Floor, "SOUTH LOBBY"
Survey No 83/1, Raidurgam
Hyderabad - 500 032
Tel: + 91 40 6736 2000

Jamshedpur
1st Floor, Shantiniketan Building
Holding No. 1, SB Shop Area
Bistupur, Jamshedpur – 831 001
Tel: + 91 657 663 1000

Kochi
9th Floor, ABAD Nucleus
NH-49, Maradu PO
Kochi - 682 304
Tel: + 91 484 433 4000

Kolkata
9th Floor, Golf View Corporate
Tower B, Sector 42, Golf Course
Road, Gurgaon Haryana
122002.

Mumbai
14th Floor, The Ruby
29 Senapati Bapat Marg
Dadar (W), Mumbai - 400 028
Tel: + 91 22 6192 0000

5th Floor, Block B-2
Nirlon Knowledge Park
Off. Western Express Highway
Goregaon (E)
Mumbai - 400 063
Tel: + 91 22 6192 0000

Pune
C-401, 4th floor
Panchshil Tech Park, Yerwada
(Near Don Bosco School)
Pune - 411 006
Tel: + 91 20 4912 6000

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