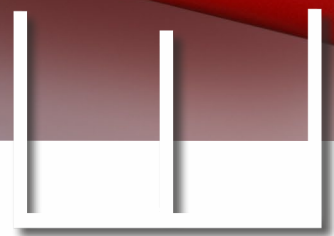




UNION BUDGET 2022



**KEY INDIRECT TAX AMENDMENTS TO BUDGET
2022 PROPOSALS - NOTIFIED VIDE FINANCE
ACT 2022**

The Lok Sabha passed the Finance Bill, 2022 on 25 March 2022, with 39 amendments – the same has received presidential assent now and has just been notified as Finance Act 2022. Of these 39 amendments, most pertain to Direct taxes. From an indirect tax perspective, there is one amendment that merits discussion – the same has been analyzed below.

The Finance Bill, 2022 presented by the Hon'ble Finance Minister as a part of her budget speech on 1 February 2022 introduced a new section 135AA in the Customs Act, 1962. In terms of the said provision, the government proposed to criminalise publication of information pertaining to the value, classification, or quantity of imported or exported goods. This proposal, which ostensibly intended to protect confidential data of importers/ exporters submitted to the customs authorities, received heavy criticism given the width of its language and the consequent potential for misuse.

Given the critical feedback received on the said proposition, significant amendments have been undertaken vis a vis this new section 135AA in the Finance Bill, 2022 passed by the Lok Sabha on 25 March 2022 (which has now been notified as Finance Act, 2022) bringing in a lot of specificity in the provision. The key features of this amended section 135AA are summarized below:

- (a) The new provision prohibits the publication of that information which is furnished to Customs pertaining to the value, classification, or quantity of goods entered for export from India, or import into India

only if it leads to disclosure of the identity of the persons involved;

- (b) The above prohibition shall not apply in the following cases:
- i. In case such publication or disclosure is mandated by law
 - ii. Where specific authorisation from the exporter/importer is obtained for lawful publication.
 - iii. Where such data is sourced from any publication made by or on behalf of the Central Government for analysis of trends in India's international trade and dissemination.

COMMENTS:

The new provision is significantly clearer in its ambit and does a better job of balancing competing considerations of protection of data privacy and legitimate publication of trade-related data for research/analysis purposes. This is certainly a welcome step as it introduces greater certainty in the application of this prohibition.

However, the amended version continues to retain the imprisonment-related provision and to that extent, remains onerous, especially in light of the recent policy of the government to move towards decriminalisation vis a vis economic statutes to enhance 'ease of doing business in India'

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