

## BUDGET 2021-2022

### Amendment in the provisions relating to Countervailing Duty (CVD) Measures

#### A. Synopsis

Clause 93 of the Finance Bill 2021 seeks to amend sub-section (1A) of section 9 of the Customs Tariff Act to provide for retrospective levy of countervailing duty to counter circumvention. It further seeks to insert a new sub-section (1B) in the said section to provide for anti-absorption measures in countervailing duty. It also seeks to insert a new sub-section (2A) in that section to align it with the provisions contained in sub-section (6) of section 8B of the said Act relating to safeguard measures. It also seeks to amend sub-section (6) thereof to provide for further imposition of countervailing duty after review, for a period upto five years. It also seeks to insert a third proviso therein so as to provide that if countervailing duty is revoked temporarily, the period of such revocation shall not be more than one year at a time.

Therefore, **Section 9 of the Customs Tariff Act**, which deals with the provisions of CVD, is being amended to include provisions for anti-absorption, retrospective levy from the date of initiation of investigation in anti-circumvention cases, aligning countervailing duty provisions with those in safeguard measures in respect of levy on goods cleared from EOU and SEZ into Domestic Tariff Area, stipulating that when countervailing duty is revoked temporarily, such revocation shall be for a period not exceeding one year at a time and to provide for imposing Countervailing duty on review for period not exceeding 5 years at a time, instead of the 5 years at present. [Clause 93]

#### B. Other Miscellaneous changes pertaining to Countervailing Duty (CVD)

1. **Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995** provide for manner and procedure for causing investigation into the cases of imports of subsidized goods that cause injury to domestic industry. Changes are being made in the Rules to provide that with effect from 01.07.2021, the final findings are to be issued by the designated authority, in review cases, at least three months prior to expiry of the CVD under review. The CVD Rules are also being amended to provide for provisional assessment in cases of anti-circumvention investigation. Certain other changes are being made for bringing clarity in the scope of these rules.
2. Countervailing duty is being temporarily revoked for the period **commencing from 2.2.2021 till 30.09.2021**, on imports of Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products, originating in or exported from **People's Republic of China**, imposed vide notification No. 1/2017-Cus (CVD) dated 07.09.2017.

3. Provisional Countervailing duty is being revoked on imports of Flat Products of Stainless Steel, originating in or exported from **Indonesia**, imposed vide notification No. 2/2020-Customs (CVD) dated 9.10.2020.

### C. Changes in Countervailing Duty (CVD) Law and Rules:

Section – 9 (Anti-dumping duty on dumped articles)		
Current provisions	Proposed provisions	Effect of the changes made
(1A) Where the Central Government, on such inquiry as it considers necessary, is of the opinion that circumvention of countervailing duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article on which such duty has been imposed or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the countervailing duty so imposed is rendered ineffective, it may extend the countervailing duty to such other article also.	(1A) Where the Central Government, on such inquiry as it considers necessary, is of the opinion that circumvention of countervailing duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article on which such duty has been imposed or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the countervailing duty so imposed is rendered ineffective, it may extend the countervailing duty to such other article also <b>from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.</b>	Section 9 of the Customs Tariff Act and respective Rules are being amended to make following amendments in the provision relating to CVD:  imposition of duty from the date of initiation of anti-circumvention investigation;
	(1B) Where the Central Government, on such inquiry as it considers necessary, is of the opinion that absorption of countervailing duty imposed under sub-section	anti-absorption provisions to counter situation where, by reduction of export prices or otherwise, the CVD levied is

<p>(2) The Central Government may.....</p>	<p><b>(1) has taken place whereby the countervailing duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.</b></p> <p><b>Explanation.—For the purposes of this subsection, “absorption of countervailing duty” is said to have taken place,—</b></p> <p><b>a) if there is a decrease in the export price of an article without any commensurate change in the resale price in India of such article imported from the exporting country or territory; or</b></p> <p><b>b) under such other circumstances as may be provided by rules.</b></p> <p>(2) The Central Government may.....</p> <p><b>‘(2A) Notwithstanding anything contained in sub-sections (1) and (2), a notification issued under sub-section (1) or any countervailing duty imposed under sub-section (2) shall not apply to article imported by a hundred per cent. export-oriented</b></p>	<p>sought to be absorbed, diluting the intended impact of such CVD.</p> <p>uniform provisions for imposition CVD on account of inputs (attracting CVD) used by EOUs and SEZs for manufacture of goods that are cleared to</p>
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<p>(6) The countervailing duty imposed under this section shall,</p>	<p><b>a) the expression “hundred per cent. export-oriented undertaking” shall have the same meaning as assigned to it in clause (i) of Explanation 2 to subsection (1) of section 3 of the Central Excise Act, 1944;</b></p> <p><b>b) the expression “special economic zone” shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005.’;</b></p> <p>(6) The countervailing duty imposed under this section shall,</p>	

<p>unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:</p> <p>Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension:</p> <p>Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.</p>	<p>unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:</p> <p>Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such imposition for a further period <b>upto</b> five years and such further period shall commence from the date of order of such extension:</p> <p>Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.</p> <p><b>Provided also that if the said duty is revoked temporarily, the period of such revocation shall not exceed one year at a time.</b></p>	<p>imposition of these duties on review for period upto 5 years at a time;</p> <p>whenever any particular CVD is temporarily revoked, such temporary revocation shall not exceed one year at a time.</p>
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<p><b>Customs Tariff Rules, 1995 (CVD Rules)</b></p> <p><b>24. Review-</b></p> <p>(1) Any countervailing duty imposed under section 9 of the Act shall remain in force so long as and to the extent necessary, to counteract subsidisation, which is causing injury.</p> <p>(2).....</p> <p>(3).....</p> <p>(4) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding 12 months from the date of initiation of such review.</p>	<p><b>Customs Tariff Rules, 1995 (CVD Rules)</b></p> <p><b>24. Review-</b></p> <p>(1) Any countervailing duty imposed under section 9 of the Act shall remain in force so long as and to the extent necessary, to counteract subsidisation, which is causing injury.</p> <p>(2).....</p> <p>(3).....</p> <p>(4) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding 12 months from the date of initiation of such review.</p>	
<p>(5) The provisions of rules 6, 7,8,9,10,11,12,13,16,17,18,19,20,22 and 23 shall mutatis mutandis apply in the case of review.</p> <p><b>26. Initiation of investigation to determine circumvention</b></p> <p>(1).....</p> <p>(2).....</p> <p>(3).....</p> <p>(4) The designated authority may initiate an investigation to determine the existence and effect of any alleged circumvention of the countervailing duty in force:</p>	<p><b>*Provided that notwithstanding anything contained in rule 19, such review shall be completed at least three months prior to expiry of the countervailing duty under review.</b></p> <p><b>*(5) Subject to sub-rule (4), the provisions of rules 7,8,9,10,11,12,13,18,19,20,21 and 22 shall apply mutatis mutandis in case of review.</b></p> <p><b>26. Initiation of investigation to determine circumvention</b></p> <p>(1).....</p> <p>(2).....</p> <p>(3).....</p> <p>(4) The designated authority may initiate an investigation to determine the existence and effect of any alleged</p>	<p>final findings are to be issued in CVD, in investigation in review proceedings, by the designated authority, at least three months prior to expiry of the CVD under review (with effect from the 1st Jul, 2021);</p>

<p>Provided that the designated authority shall notify the Government of the exporting country before proceeding to initiate such an investigation.</p> <p>(5)..... (6).....</p>	<p>circumvention of the countervailing duty in force: Provided that the designated authority shall notify the Government of the exporting country before proceeding to initiate such an investigation.</p> <p><b>(4A) The Central Government may, on recommendation of the designated authority, resort to provisional assessment of the imports of the article alleged to be circumventing a countervailing duty in force and may ask a guarantee from the importer, till the time a decision under sub-rule (3) of rule 27 is taken by the Central Government.</b></p> <p>(5)..... (6).....</p>	<p>provisional assessment in anti-circumvention investigation and make some other technical changes in CVD Rules;</p>
<p><b>28. Review of circumvention.</b></p> <p>(1) The designated authority may, where warranted, review the need for the continued imposition of the countervailing duty on circumventing product or against the circumventing country as applicable, either on its own initiative or, upon request by any interested party which submits necessary information substantiating the need for the review provided that a reasonable period of time has elapsed since the imposition of the measures, and upon such review make recommendations to the Central Government.</p>	<p><b>28. Review of circumvention.</b></p> <p>(1) The designated authority may, where warranted, review the need for the continued imposition of the countervailing duty on circumventing product or against the circumventing country as applicable, either on its own initiative or, upon request by any interested party which submits necessary information substantiating the need for the review provided that a reasonable period of time has elapsed since the imposition of the measures, and upon such review make recommendations to the Central Government.</p>	

<p>(2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of such review.</p>	<p>(2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of such review.</p> <p><b>*Provided that such review shall be completed at least three months prior to expiry of the duty under review.</b></p>	<p>final findings are to be issued in CVD, in investigation in review proceedings, by the designated authority, at least three months prior to expiry of the CVD under review (with effect from the 1st Jul, 2021);</p>
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\*with effect from 1<sup>st</sup> day of July, 2021