

Additional customs duties: More teeth to recovery mechanism

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THE CENTRE VIA amendments to the Finance Bill has made several provisions of the Customs Act applicable on other duties levied on import of goods such as countervailing duty (CVD), IGST and GST compensation cess. This is being done to ensure traders pay interest and penalty on non-payment of additional import duties in all cases, which wasn't the case earlier, say experts.

These duties — covered under the Customs Tariff Act, 1975 — are levied on many imported goods in addition to the basic customs duty. In certain judicial precedents, the levy of interest and penalty on additional duties had been set aside on the grounds

These duties are levied on many goods in addition to basic customs duty

that there was no enabling provision under the customs law to recover the same for non-payment or delayed payment of duties. This argument will no longer be available to traders, experts say. The amendments to the Finance Bill ensure that all aspects of the Customs Act relating to the determination of the rate of duty, "assessment, non-levy, short-levy, refunds, exemptions, interest, recovery, appeals, offences, and penalties" are applicable to such additional duties.

Similar amendments have been proposed to the Central Excise Tariff

Act, 1985 to make sure the provisions of the Central Excise Act, 1944 are applicable to additional duties such as national calamity contingent duty, special additional excise duty, road and infrastructure cess, agriculture infrastructure and development cess.

Yogesh Kale, executive director, Nangia Andersen, said the amendments seek to create "sufficient machinery provisions" regarding levy and recovery of additional duties. Jitendra Motwani, partner, Economic Laws Practice, said it is a settled position in law that substantive provisions are to be applied prospectively unless there is an express intention to apply them retrospectively. "It would be interesting to see the view that will be taken by the revenue authorities with regards to this," he added.