77TH ISSUE

17 JUL 2016 - 23 JUL 2016

TAX CONNECT

GST	
SERVICE TAX	CENTRAL EXCISE
CUSTOMS	INCOME TAX
	STATE TAXES

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WORKSHOP ON GST

TAX CONNECT

TAX CONNECT IS ORGANISING A

SEMINAR ON GOODS AND SERVICES TAX WITH MODULE 1

from 1.30 p.m. onwards, on 5th August, 2016, at Bharatiya Bhasha Parishad

THE SEMINAR WILL BROADLY DELIBERATE ON THE FOLLOWING TOPICS UNDER GST

- Registration, Return, Payments, Refunds Under GST,
- Planning for GST - Logistics, Contracts, Stock, Credit, Model GST Law 2016, etc

EMINENT EXPERTS WHO SHALL BE ADDRESSING AND INTERACTING WITH THE PARTICIPANTS ON THE ABOVE INCLUDE:-

Sri. S. K. Panda, IRS, Chief Commissoner of Service Tax, Chief Guest

Mr. T. B. Chatterjee, Chairperson, Indirect Taxes Committee, The Bengal Chamber of Commerce and Industry & Chief Corporate Officer, Legal and Corporate Affair, DIC India Ltd

Mr. Vivek Jalan, FCA, CIDT (ICAI), Member, Indirect Taxes Committee, The Bengal Chamber of Commerce and Industry

Sri. Khalid Anwar, Joint Commissioner, West Bengal Commercial Taxes

- The Overhead per participant is Rs. 1500/-(inclusive of all taxes)
- 15% discount is available for a group of 3 or more registration

For more information & nominations please contact

Mr. Gaurav Pandit (M: 8017387083 / Email: p3.javaa@gmail.com)

EDITORIAL

Friends

18th July 2016 would be the D Day w.r.t. to GST when the Constitutional Amendment bill, now popularly known as the GST Bill will be tabled in the upper house. The whole country now hopes that The Congress would set aside its political differences and allows the GST Bill to pass. This week we have witnessed the firming up of positions and strategies and negotiation for the legislative work during the session by The Government for the passage of the Bill in the Rajya Sabha. The strategy has two components: Passing GST with the Congress; and what to do if the Congress opposes the Bill in its current form.

We on our part have already scheduled a Workshop on GST on 5th August where we would try to analyze the Model GST Law 2016 in detail.

In WB VAT, due to maintenance issues return filing has been put on hold. The due date of filing of return shall be extended and the intimation shall be available soon.

Further all dealers with a CTP of more than Rs.50 Lakhs and all private companies shall take a DSC to avail of online services. **However it is to be noted that the DSC used for Income Tax/ MCA purposes may not be suitable for VAT.**

In Income Tax, The Income Declaration Scheme, 2016 has generated a lot of confusion and picked up steam of late. CBDT has clarified there is no modification or alteration to the rate of tax, surcharge and penalty payable under the Scheme which remain 45% of undisclosed income.

In Central Excise & Service tax, there is a welcome and long awaited clarification from the Government that no recovery proceedings would be initiated against the assessee who has already paid the pre-deposit amount to the credit of the Government.

Earlier the Central Government vide Circular No. 967/1/2013-CX dated 01.01.2013 provided clarification on the issue of recovery of confirmed demands during the pendency of stay application filed by the assessee. However, Hon'ble High Court of Punjab and Haryana judgment in case of M/s PML Industries Ltd. Vs Commissioner of Central Excise - 2013-TIOL-201-HC-P&H-CX pronounced that during the pendency of stay, irrespective of the conduct of the assessee, no recovery could be made. SLP filed by the Department against this judgment has also been dismissed by the Hon'ble Supreme Court, thus upholding the decision of the Hon'ble High Court. Based on the decisions, Circular No. 967/1/2013-CX dated 01.01.2013 has been rescinded by the Government.

In another welcome move, Vide Notification No. 31/2016 dated 11-07-2016, the requirement of mandatory physical verification of the manufacturing premises has been waived at the time of Central Excise Registration in respect of manufacturers of Ready Made Garment & Made up items of Textile.

Just to reiterate that we remain available over a telecom or e-mail.

Truly Yours

Timir Baran Chatterjee

M.Com, FCS, MBA (International Business)-IIFT, ACMA

Vivek Jalan

FCA, CIDT (ICAI), B. Com

COMPLIANCE CALENDAR

Due date	COMPLIANCES FROM 17th July, 2016 to 23rd July, 2016	STATUTE
20th July, 2016	Deposit of VAT of previous month	Karnataka VAT Act, Tamil Nadu VAT Act, Chandigarh VAT Act Punjab VAT Act (if payment by cheque) Uttar Pradesh VAT Act, Uttarakhand VAT Act, Manipur VAT Act, Goa VAT Act (if Tax> or = Rs. 1 lac)
	Filing of monthly/quarterly VAT return	Karnataka VAT Act (Monthly) Tamil Nadu VAT Act(Monthly) Uttar Pradesh VAT Act (Monthly) Uttarakhand VAT Act (Monthly) Punjab VAT Act (Monthly, if payment is through cheque) Manipur VAT Act (Monthly, if PY turnover is >Rs. 40 lacs)
	Deposit of P Tax of previous month	Karnataka VAT Act, West Bengal VAT Act
	Deposit of Entry tax of previous month	Andhra Pradesh VAT Act, Karnataka VAT Act Uttar Pradesh VAT Act, Uttarakhand VAT Act
	Deposit of WCT of previous month	Andhra Pradesh VAT Act, Karnataka VAT Act Tamil Nadu VAT Act, Uttar Pradesh VAT Act Uttarakhand VAT Act, Goa VAT Act (Tax >/= Rs. 1 lac)
	Filing of monthly/quarterly WCT return	Karnataka VAT Act (Monthly) Uttarakhand Vat Act (Quarterly)
	Issuance of WCT certificate	Uttar Pradesh VAT Act , Manipur VAT Act
21st July, 2016	Deposit of VAT of previous month	Delhi VAT Act, Maharashtra VAT Act, Odisha VAT Act, West Bengal VAT Act Assam VAT Act, Nagaland VAT Act Meghalaya VAT Act
	Filing of monthly/quarterly VAT return	Assam VAT Act (Monthly) Maharashtra VAT Act (Monthly) Odisha VAT Act (Monthly) Meghalaya VAT Act (Monthly)
	Deposit of WCT of previous month	Maharashtra VAT Act
	Deposit of Entry tax of previous month	Odisha VAT Act, West Bengal VAT Act
	Deposit of Ptax of previous month	Odisha VAT Act
	ESI deposit of previous month	ESI Act
22nd July, 2016	Deposit of VAT of previous month	Gujarat VAT Act
	Deposit of WCT of previous month	Gujarat VAT Act
	Issuance of WCT certificate	Delhi VAT Act
	Deposit of Entry tax of previous month	Gujarat VAT Act

MODEL GST LAW 2016: TRANSITIONAL PROVISIONS contd..

Price revision in pursuance of a contract

- If in relation to a contract entered into prior to the appointed day, the price of any goods and/or services is revised on or after the appointed day, the taxable person who had removed/provided such goods/services or sold such goods, may issue a supplementary invoice/debit/credit note within 30 days of revision.

- In case of downward price revision, the taxable person shall be allowed to reduce his tax liability only if the recipient has reduced his corresponding input tax credit.

Pending Refund claims under earlier law

- Any refund claim filed before the appointed day, shall be disposed of in accordance with the provisions of earlier law. If any claim is fully or partially rejected, the amount so rejected shall lapse.

Pending Cenvat credit/input tax credit claim under the earlier law

- Every proceeding of appeal, revision, review or reference relating to a claim for CENVAT credit/input tax credit under the earlier law shall be disposed as per earlier law and shall not be admissible as input tax credit under this Act.

- Any such proceeding relating to recovery of CENVAT credit/input tax credit under the earlier law shall be disposed as per earlier law and the amount so recovered shall not be admissible as input tax credit under this Act.

Proceedings relating to output duty/tax liability

- Every proceeding of appeal, revision, review or reference relating to any output duty/tax liability initiated before the appointed day, shall be disposed as per earlier law. The same shall be recovered as an arrear of tax under this Act shall not be admissible as input tax credit.

- If any amount is to be refunded to the claimant, the same shall be refunded as per earlier law and shall not be admissible as input tax credit under this Act.

Amount recovered or refunded in assessment or adjudication proceedings

- In assessment or adjudication proceedings instituted before or after the appointed day, under the earlier law, if any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit

- If any amount becomes refundable to the taxable person, the same shall be refunded in accordance with the provisions of earlier law.

Amount recovered or refunded due to revision of returns

- If any return, furnished under the earlier law, is revised and any amount is found to be recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

- If any amount becomes refundable to the taxable person, the same shall be refunded in accordance with the provisions of earlier law.

SERVICE TAX

CASE LAWS

M/S. SRI KRISHNA PACKAGING VERSUS CCE & ST, CHENNAI-I [CESTAT CHENNAI]

BRIEF: No penalty is leviable on service tax and interest discharged by the assessee before issuance of Show cause notice.

OUR COMMENTS: In the above case, the assessee is engaged in the service of "Man Power Recruitment". He filed the service tax returns in ST-3, however, no service tax was paid by at the time of filing of the returns. The same was paid subsequent to filing of returns but before the issuance of the Show cause notice. The interest liability was also paid subsequently.

The Revenue imposed a penalty under Section 76 of the Finance Act, 1994.

The Honble' CESTAT held that as the entire service tax and interest has been discharged by the assessee before issuance of Show cause notice, no penalty is leviable on him as per Sec 80.

Accordingly, the demand of penalty was set aside.

[Decided in favour of assessee]

CST, CHENNAI - I VERSUS M/S. J.M. BAXI & CO. [CESTAT CHENNAI]

BRIEF: Courtesy services or assistance rendered by the service provider to the service receiver beyond the scope of the contractual obligations shall not be included in the taxable value of services.

OUR COMMENTS: In the above case, the assessee is registered in the category of steamer agent and pays service tax on the service charges collected from their customers (shipping lines) accordingly. It also incurs additional expenditure towards arranging drinking water, garbage clearance, transport for crew etc. The shipping line reimburses these expenses to the assessee and the same does not form part of the service charges. The charges for providing steamer agent services are collected separately and service tax is being paid on the said amount.

The Department contended that sum reimbursed by the shipping lines against additional expenditure incurred by the assessee should be included in the value of taxable services.

The Hon'ble CESTAT held that the additional expenditure incurred by the assessee are only courtesy services or assistance rendered to shipping lines, beyond the scope of any contractual obligations. The assessee is the ship's conduit in the port of call for contracted steamer agency service. There can arise requests for assistance for the ship or her officers, on issues not related to ship's husbandry or booking etc. of cargo. And, because of ongoing relationship with the shipping line, the steamer agents extend such assistance.

Therefore, the value reimbursed thereof is not required to be added to the value of taxable services and hence no tax liability will arise on such value.

[Decided in favor of assessee]

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

MANDATORY PHYSICAL VERIFICATION OF MANUFACTURING PREMISES IN RESPECT OF MANUFACTURERS OF READYMADE GARMENTS AND MADE UP ARTICLES OF TEXTILES WAIVED

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 32/2016 – Central Excise (N.T.) dated 11.07.2016 has** notified that **e**very manufacturing factory or premises engaged in the manufacture or production of readymade garments and made up articles of textile bearing a brand name or sold under a brand name and having a retail sale price (RSP) of Rs 1,000 and above, shall be exempted from the requirement of mandatory physical verification at the time of registration.

The said goods fall under Chapters 61, 62 or 63 of the First Schedule to the Central Excise Tariff Act, 1985 (i.e. s)

CLARIFICATION ON RECOVERY OF CONFIRMED DEMANDS DURING THE PENDENCY OF STAY APPLICATION

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 1035/23/2016-CX dated 04.07.2016** has issued clarification on recovery of confirmed demands during the pendency of stay application as follows:

- **When stay application is pending before Commissioner (Appeals) or CESTAT**

  - For periods prior to 06.08.214, no recovery shall be made during the pendency of the stay application.

  - For period from 06.08.2014 onwards, instructions contained in Circular No. 984/08/2014-CX dated 16.09.2014 shall continue to be followed

- **When demand is cofirmed by Hon'ble CESTAT or Hon'ble High Court & stay is pending before Hon'ble High Court or Hon'ble Supreme Court:** In this case the recovery proceeding may be initiated only after a period of sixty days from the date of order of the Hon'ble Tribunal or Hon'ble High Court, as the case may he, where no stay has been granted by Hon'ble High Court or Hon'ble Supreme Court against the order of Hon'ble Tribunal or Hon'ble High Court, respectively.

The notification is self-explanatory. The readers may refer the same.

SCOPE OF WORD 'SITE' IN NOTIFICATION NO. 12/2012-CENTRAL EXCISE

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 1036/24/2016-CX dated 06.07.2016** has issued clarification on the Scope of word 'site' appearing in Notification No. 12/2012-Central Excise dated 17.03.2012,

As per the aforesaid notification, exemption is applicable to goods manufactured at the site of construction for use in construction work at such site.

In the current circular, it has been directed that each case may be decided taking into consideration the facts of the individual case and examined in light of the clarification given in the circular.

Also, Circular No. 456/22/99-CX, dated 18.05.1999 has been rescinded.

CUSTOMS

NOTIFICATIONS/CIRCULARS

SUGAR EXPORTED UNDER ADVANCE AUTHORIZATION SCHEME EXEMPTED FROM EXPORT DUTY

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 41/2016-Customs dated 06.07.2016 has amended Notification No. 27/2011-Customs, dated the 1st March, 2011,** and has exempted sugar exported under Advance Authorization Scheme from export duty subject to certain conditions.

NOTIFICATION NO.18/2003-CUSTOMS DATED 1ST MARCH 2003 PROVIDING RATE OF INTEREST IN RELATION TO WAREHOUSED GOODS RESCINDED

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No.98/2016- Customs dated 08.07.2016** has rescinded **Notification number 18/2003-Customs, dated 1st march 2003,** providing rate of interest (@15% per annum) in relation to warehoused goods.

AMENDMENT IN NOTIFICATION NO. 12/2012-CUSTOMS, DATED 17.03.2012: ADDITIONAL BODY NOTIFIED FOR AVAILING DUTY FREE IMPORT ENTITLEMENT

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 42/2016 - Customs** has amended **Notification No.12/2012 - Customs, dated 17.03.2012** and has provided that a manufacturer or merchant-exporter, may also be registered with the Cotton Textiles Export Promotion Council, in addition to Apparel Export Promotion Council or the Synthetic and Rayon Textile Export Promotion Council and seek certification from any of the aforesaid bodies for the purposes of availing duty free import entitlement.

HONNAVAR PORT, KARNATAKA NOTIFIED FOR LOADING /UNLOADING OF GOODS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 97/2016 – Customs (N.T.)** has amended **Notification No.62/1994-Customs (N.T.) dated 21.11.1994** and has notified "Honnavar" in Karnataka as additional port for Unloading of imported goods and loading of export goods or any class of such goods.

SALE OF GOODS AT DUTY FREE SHOPS IN INDIAN CURRENCY

OUR COMMENTS: In order to increase the visibility of Indian products at the duty free shops (DFS) and for more transparency and ease, the Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No.31/2016-Customs dated 06.07.2016** has stated that

- the Duty Free Shop operators may be advised of the revised permitted limits for purchase of goods in Indian currency at Duty Free shops.

-Use of Indian currency at duty free shops should be displayed at all DFSs.

-It may be ensured that DFSs display the rate of exchange as published by the commercial banks or the rate of exchange notified by the CBEC .

-Websites of DFS/Airports must be kept accurately updated with regard to the facility and limit in use of Indian currency for making purchases.

-It may be ensured that DFS operators are familiarized with the procedures for procuring excisable goods, duty free, from factories in terms of the procedure prescribed from time to time.

-The display of prices of goods by DFSs in Indian Rupees shall be complied with at the earliest.

INCOME TAX

NOTIFICATIONS & CIRCULARS

CLARIFICATION ON THE INCOME DECLARATION SCHEME, 2016

OUR COMMENTS: The Income Declaration Scheme, 2016 under Chapter IX of the Finance Act, 2016 provides an opportunity to persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totalling in all 45% of such undisclosed income declared.

In this regard, Board issued **Circular No. 17 of 2016 dated 20th May, 2016** which provided clarifications to 14 queries.

Now, the Board has further **issued Circular No. 24 of 2016 dated 27th June, 2016, Circular No. 25 of 2016 dated 30th June, 2016** and **Circular No. 27 of 2016 dated 14th Juy, 2016** providing clarifications on 32 (11 +11+10) queries.

The circulars are self-explanatory. The readers may refer the same.

INFOMATION RECEIVED UNDER THE INCOME DECLARATION SCHEME, 2016 SHALL NOT BE PRODUCED BY ANY PUBLIC SERVANT

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 56/2016 dated 06.07.2016** has ordered that no public servant shall produce before any person or authority any such document or record or any information or computerised data or part thereof as comes into his possession during the discharge of official duties in respect of a valid declaration made under 'the Income Declaration Scheme, 2016'.

INCOME-TAX (19TH AMENDMENT), RULES, 2016

OUR COMMENTS The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 55/2016 dated 28.06.2016** has prescribes new rules for –

(i) Fair market value of assets in certain cases

(ii) Determination of Income attributable to assets in India

(iii) Information or documents to be furnished under section 285A.

This notification is self-explanatory. The readers may refer the same.

CLARIFICATION ON APPLICABILITY OF SECTION 197A(ID) AND SECTION 10(15)(VIII) OF THE INCOME-TAX ACT, 1961 TO INTEREST PAID BY IFSC BANKING UNITS (IBUS)

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Circular No. 26/2016 dated 04.07.2016** has clarified that in accordance with the provisions of Section 197A (ID) of the Income-tax Act, 1961, tax is not required to be deducted on interest paid by IFSC Banking Units (IBUs), on deposit made on or after 1.4.2005 by a non-resident or a person who is not ordinarily resident in India, or on borrowings made on or after 1.4.2005 from such persons.

The IBUs fulfill the necessary criteria for being considered Offshore Banking Units as defined in Section 2(u) of the Special Economic Zones Act, 2005.

ANDHRA PRADESH

TAX RATE REDUCTION ON CELL PHONE, CELL PHONE CHARGERS AND CELL PHONE BATTERIES FROM 14.5% TO 5%

OUR COMMENTS: The Revenue (Commercial taxes –II) Department, Government of Assam vide **G.O.MS. No. 307 dated 12.07.2016** has reduced the tax rate on cell phone, cell phone chargers and cell phone batteries from 14.5% to 5% by including the said goods in schedule IV.

ASSAM

IMPOSITION OF TAX ON TEA SOLD BY GTAC BROKER IN COURSE OF INTER-STATE TRADE OR COMMERCE TO THE REGISTERED BUYERS UNDER PAN INDIA AUCTION SYSTEM

OUR COMMENTS: The Finance (Taxation) Department, Government of Assam vide **Notification No.FTX.90/2004/Pt-11/70 dated 02.07.2016** has directed that a Guwahati Tea Auction Centre (GTAC) broker shall be liable to pay tax @ one paise in the rupee for tea sales in the course of inter-State trade or commerce through Pan India Auction System to a registered buyer of any Tea Auction Centre having registration under the Central Sales Tax Act, provided the sale is covered by a declaration, as per Sec 8(4).

This notification is self-explanatory. The readers may refer the same.

VERIFICATION OF THE TRANSIT PASSES OF ALL THE EN-ROUTE STATES

OUR COMMENTS: The Office of the Commissioner of Taxes, Government of Assam vide **Circular No. 3/2016 dated 01.07.2016** has instructed that henceforth, all Check-post Authorities will reconcile consignments details declared to the Tax Authorities of other States with the details declared at Check-posts and will keep the copies of Transit passes and record such Transit Pass Numbers in the system. In case of discrepancies, they may take necessary action for realization of tax & penalty.

BIHAR

COMPULSORY FILING OF RETURNS BY ELECTRONIC MEANS

OUR COMMENTS: The Commercial Taxes Department, Government Bihar vide **Notification No. 2384 dated 29.06.2016** has directed that all registered dealers shall furnish all the required returns compulsorily by electronic means on the departmental website with immediate effect.

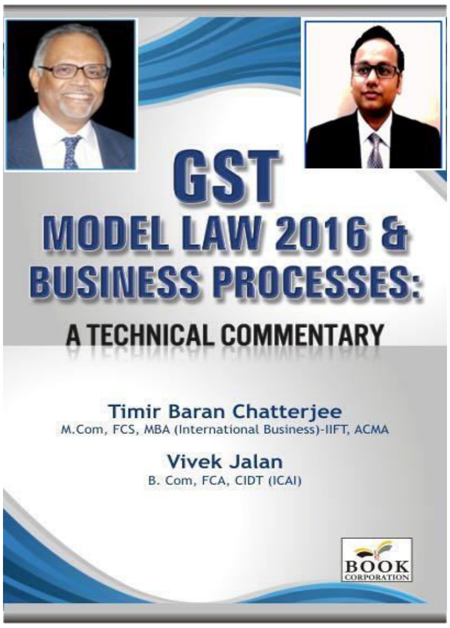
UTTARAKHAND

REDUCTION IN CESS ON CARRIAGE OF SPECIFIED GOODS BY ROAD

OUR COMMENTS: The Finance Section - 8, Government of Uttarakhand vide **Notification No. No.431/2016/17(120)XXVII(8)/2014 dated 27.06.2016** has reduces the cess rate from 5% to 2% of the value of the goods on carriage of the following Goods by Road:

Ready to eat food (Fast Food) sold by Pizza outlets or Fried Chicken outlets, Pre-Packed Frozen Food, Pre-Packed Soft Drinks, Fruit Drinks, Flavoured Drinks and Beverages but not including Pre-Packed Lassi, Buttermilk and Milk.

IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



ABOUT THE BOOK: GST Bill is going to be passed in July 2016 and GST is expected to go live from 1st April 2017! In this backdrop, as our initiative to get GST READY, we have launched this publication. This books provides an insight into the following –

1. Procedural provisions under The Model GST Law 2016
2. Glimpse of the Model GST Law 2016
3. Model GST Law 2016
4. GST Valuation (Determination of The Value of Supply of Goods and Services) Rules, 2016
5. The Integrated Goods and Services Tax Act, 2016
6. GST Registration Process
7. GST Return Process
8. GST Payment Process
9. GST Refund Process
10. Eco system for GST and GST Suvidha Provider

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Bengal Chamber of Commerce and Industry (the first chamber of the Country)

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BOOK EXCLUSIVELY ON WORKS CONTRACT (SERVICE TAX AND VAT)

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Works Contract has been one of the most complex and litigation prone areas in Indirect Taxes. However with good understanding of all the provisions under Service Tax & VAT which hit Works Contracts & proper planning, Trade & Industry can not only avoid litigation but can also save around 5% - 10% on indirect taxes which by no means is an ordinary saving in the competitive market. For Trade & Industry, the problems on the subject have been many. Over the last few years we have received queries and replied to the issues at various forums.

Vide this publication, we have made an attempt to cover in detail all issues related to **Service Tax:** Valuation, Point of Taxation, Place of Taxation, Abatement, Reverse Charge, Input Tax Credit Mechanism & **VAT**: Contractual Transfer Price, Modes of Valuation, WIP, STDS as well as **GST** . We have also focused on the issues faced by various sectors on account of Works Contract.

This book is divided into Seven Parts covering several broad areas. Each area has the provisions directly from the Statue in the beginning and detailed discussions on the provisions in the form of questions and answers thereafter. Since litigations on the subject have been manifold, we have also covered judicial pronouncements extensively.

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