TAX CONNECT
86th Issue: 18 SEP 2016 - 24 SEP 2016

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TAX CONNECT ADVISORY SERVICES LLP
Kolkata: 1, Old Court House Corner, "Tobacco House" 1st Floor, R.No.-13 (North), Kolkata-700001
Gujarat: Quarter no. 3/174, Gujarat Refinery Township, Jawaharnagar, Vadodara-391320

Contact: +919331042424; +919831594980; +913322625203
Email: tb.chatterjee@yahoo.co.in; cavivekjalan@gmail.com

EDITORIAL

Friends,

The GST Bandwagon is rolling fast and furious!

The Goods and Services Tax Network (GSTN) will start migrating taxpayers onto its system from October 2016. First & Foremost taxpayers will be issued IDs and passwords to come on the system now itself and familiarise themselves. On receiving their ID and passwords, taxpayers will be expected to log on to the GSTN and provide three additional inputs viz., Place and address of business, Name(s) of directors or proprietors and Details of bank accounts. These will become part of the GST records. The Tax Payers would be granted 15 Digit PAN Based Provisional GSTIN (GST Identification Number). On providing the documents, they would be allotted Permanent GSTIN.

Vide Order No. S.O. 2957(E) **The GST Council has also been formed** w.e.f 15th September, 2016 by the Hon'ble President in exercise of power conferred by newly inserted Article 279A of the Constitution.

Another Important Issue is regarding the fate of Entry Tax after the Constitution (One Hundred and First Amendment) Act, 2016 w.e.f. 12th September 2016. Section 17 (b) (i) of The said Act Amended The 7th Schedule to the Constitution thereby omitting Entry No 52 in List II: State List, which empowers The States to levy Taxes on the Entry of Goods into a local area for consumption, use or sale therein. Doubts have arisen among sections of Trade & Industry regarding the fate of Entry Tax w.e.f. 12th September 2016. In this regard we would like to state that Sec 19 of the said Act lays down Transitional provisions whereby it can be concluded that Entry Taxes shall continue to be in force until a notification is issued by a competent authority in the coming months.

Now, for the present taxes, in Central Excise, the long due reservation on availment of CENVAT credit of the service tax paid on GTA services for transporting the goods upto the buyers' premises is resolved. **In the case of CCE, DEHRADUN VS. M/S. FORACE POLYMERS PVT. LTD [CESTAT NEW DELHI], it has been held that Cenvat credit for the service tax paid on GTA services for outward transport of finished goods from the factory to the buyer's premises is allowed if the property of the goods is passing from seller to buyer at buyer's end.**

In Customs, the Government has revised exchange rate of foreign currencies into Rupee & vice versa effective from 16.09.2016.

In Service Tax, the Hon'ble CESTAT in the case of Sundram Fasteners Ltd. Versus Commissioner Of Central Excise, Chennai has clarified on availability of cenvat credit on various services like Auction, Cab, Courier, Foreign, Exchange, Mobile telephone, printing work, travel agency and certification audit.

In Income-Tax, the CBDT has issued clarifications on the Direct Tax Dispute Resolution Scheme, 2016 vide Circular No. 33/2016 dated 12.09.2016.

The referred notifications/circulars/case laws have been discussed in detail further in the bulletin.

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

SYNOPSIS

GOODS & SERVICE TAX (GST)

The Department of Revenue, Ministry of Finance has started issuing GST notifications from 10.09.2016. Till date 2 notifications have been issued as follows:

NOTIFICATIONS/CIRCULARS

PROVISIONS FOR FORMATION OF GST COUNCIL TO BE EFFECTIVE FROM 12-9-2016

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. S.O. 2915(E) dated 10.09.2016** has appointed 12.09.2016 as the effective date for the provisions of formation of GST council provided under section 12 of the Constitution (One Hundred and First Amendment) Act, 2016 . The provisions can be summarised as follows:

279A: Goods and Services Tax Council

- The President shall constitute Goods and Services Tax Council within 60 days from the date of commencement of the Amendment Act. The Council shall consist of the following members:
  - the Union Finance Minister as Chairperson;
  - the Union Minister of State in charge of Revenue or Finance as Member;
  - the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government as Members. The Members shall choose one to be the Vice-Chairperson of the Council for such period as they may decide.
- The Council shall recommend to the Union and the States on levies which may be subsumed in GST, on the goods and services that may be subjected to/ exempted from GST, GST law, threshold limit, tax rates, special provision with respect to the NE States Jammu and Kashmir, Himachal Pradesh and Uttarakhand or any other related matter.

○ The Council shall recommend the date on which the GST shall be levied on petroleum crude, HSD, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

○ In meetings, half of the Members of the Council shall constitute the quorum and the decisions shall be taken by a majority of not less than three-fourths of the weighted votes of the members present and voting as follows:-

- the vote of the Central Government shall have a weightage of 1/3rd of the total votes cast, and
- the votes of all the State Governments taken together shall have a weightage of 2/3rd of the total votes cast

○ The Council shall establish a mechanism to adjudicate any dispute-

- between the Government and one or more States; or
- between the Government and any State or States on one side and one or more other States on the other side; or
- between two or more States

CONSTITUTION OF THE GST COUNCIL

The Department of Revenue, Ministry of Finance, Government of India vide Notification No. S.O. 2957(E) dated 15.09.2016 has constituted the Council as provided in Section 12 and as discussed in our first (adjacent) bullet point of the first (above) notification

TAX CALENDAR

Due date	COMPLIANCES FROM 18th Sep, 2016 to 24th Sep, 2016	State/Region
20th Sep, 2016	Deposit of VAT of previous month (VAT Act)	Andhra Pradesh, Karnataka, Tamil Nadu, Chandigarh Punjab (if payment by cheque) Uttar Pradesh, Uttarakhand, Manipur, Goa (if Tax> or = Rs. 1 lac)
	Filing of monthly/quarterly VAT return (VAT Act)	Andhra Pradesh (Monthly) Karnataka (Monthly) Tamil Nadu(Monthly) Uttar Pradesh (Monthly), Uttarakhand Punjab (Monthly, if payment is through cheque) Manipur (Monthly, if PY turnover is >Rs. 40 lacs)
	Deposit of P Tax of previous month (Commercial Tax Act)	Karnataka, West Bengal
	Deposit of Entry tax of previous month (Entry Tax Act)	Andhra Pradesh, Karnataka Uttar Pradesh, Uttarakhand
	Deposit of WCT of previous month (VAT Act)	Andhra Pradesh, Karnataka Tamil Nadu, Uttar Pradesh Uttarakhand, Goa (Tax >/= Rs. 1 lac)
	Filing of monthly/quarterly WCT return (VAT Act)	Karnataka (Monthly)
	Issuance of WCT certificate (VAT Act)	Uttar Pradesh, Manipur
21st Sep, 2016	Deposit of VAT of previous month (VAT Act)	Delhi, Maharashtra, Odisha, West Bengal Assam, Nagaland Meghalaya
	Filing of monthly/quarterly VAT return (VAT Act)	Assam (Monthly) Maharashtra (Monthly) Odisha (Monthly) Meghalaya (Monthly)
	Deposit of WCT of previous month (VAT Act)	Maharashtra
	Deposit of Entry tax of previous month (Entry Tax Act)	Odisha, West Bengal
	Deposit of Ptax of previous month (Commercial Tax Act)	Odisha
	ESI deposit of previous month (ESI Act)	All India
22nd Sep, 2016	Deposit of VAT of previous month (VAT Act)	Gujarat
	Deposit of WCT of previous month (VAT Act)	Gujarat
	Issuance of WCT certificate (VAT Act)	Delhi
	Deposit of Entry tax of previous month (Entry Tax Act)	Gujarat

SERVICE TAX

COURT DECISIONS

SUNDRAM FASTENERS LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, CHENNAI [CESTAT CHENNAI]

BRIEF: Services for Auction, Cab, Courier, Foreign, Exchange, Mobile telephone, printing work, travel agency, certification audit are eligible input services for cenvat credit.

OUR COMMENTS: In the above case, the assessee is a manufacturer availing cenvat credit on the below mentioned services. The department, however, denied the credit on the grounds that the said services were not related to the manufacture of final products.

- **Auction Service** - used for clearing the waste and scrap in the factory

  The Hon'ble CESTAT held that sale of waste and scrap out of manufacturing of final product is part of manufacturing, hence, eligible for credit.

  Ref: **Mangalam Cement Ltd. Vs CCE & ST Jaipur [CESTAT NEW DELHI]**

- **Courier Service** - used to correspond with government agencies, customers and suppliers.

  The Hon'ble CESTAT held that the interaction with government agencies is regarding statutory compliance, with customer is related to marketing of excisable goods and that of supplier is for procurement of materials. Credit is allowed as the service is in relation to manufacture.

- **Foreign Exchange Service**

  The Hon'ble CESTAT held that foreign exchange money service is connected with business and relevant for export and import and hence eligible to input service credit.

  Ref: **Sterlite Industries India Ltd. [CESTAT CHENNAI]**

- **Mobile Telephone Service**

  The Hon'ble CESTAT held that that the telecommunication service is a vital service for day-to-day affairs of a company, hence, eligible for cenvat credit.

  Ref: **CCE Nagpur Vs Ultratech Cement [High Court of Bombay]**

- **Printing Work Service** - service relates to sharing of registry documents, export invoice etc.

  The Hon'ble CESTAT held that the activity of sharing of registry documents, export invoices etc. has a direct nexus with the manufacture and clearance of the final product, hence, eligible for cenvat credit.

- **Travel Agency Service** –

  The Hon'ble CESTAT held that as long as the Travel Agency Service is not received for personal benefit of any employee but meant for travel of office personnel, credit is allowed.

  Ref: **Principal Commissioner Vs Essar Oil Ltd. [GUJARAT HIGH COURT]**

- **Certification Audit Service** - service was received for obtaining ISO certificates.

  The Hon'ble CESTAT held that the since the ISO certification is a must for marketing, the service received for obtaining ISO certificates is eligible for cenvat credit.

  Ref: **Rotork Control (India) Pvt. Ltd. Vs CCE Chennai [CESTAT, CHENNAI]**

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

AMENDMENT IN NOTIFICATION NO.12/2012-CENTRAL EXCISE DATED 17.03.2012

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 34/2016 - Central Excise dated 08.09.2016** has amended notification No.12/2012-Central Excise dated 17.03.2012.

In the said notification, in the Table, serial number 192 and the entries relating thereto has been substituted.

COURT DECISIONS

CCE, DEHRADUN VS. M/S. FORACE POLYMERS PVT. LTD [CESTAT NEW DELHI]

BRIEF: Cenvat credit for the service tax paid on GTA services for outward transport of finished goods from the factory to the buyer s premises is allowed if the property of the goods is passing from seller to buyer at buyer's end.

OUR COMMENTS: In the above case, the assessee is engaged in the manufacture of Resin, Catalyst, thinner, varnish, etc. liable to central excise duty. He is taking **cenvat credit for the service tax paid on GTA services for outward transport of finished goods from the factory to the buyer s premises.**

However, the revenue denied the credit and issued a show cause notice on the grounds that as per the definition of "place of removal" u/s 4 of the Central Excise Act, 1944, transportation upto the place of removal can only be considered for credit. If the place of removal is factory gate, transportation from factory to the buyer's premises cannot be considered for credit. **Refr: CCE Vs Ispat Industries Ltd [2015-TIOL-238-SC-CX].**

The Hon'ble CESTAT noted that in Ispat Industries Ltd. the Hon'ble Supreme Court was examining the question of valuation of excisable goods with reference to inclusion of the freight charges from the factory gate to the buyer s premises. In the said case, the goods were sold ex factory and it was held that buyer s premises cannot be the place of removal u/s Section 4 on the facts of the case.

However, the issue involved in the present appeal is availability of cenvat credit on the outward transportation of finished goods. In the relevant period, there is no definition of place of removal under Cenvat Credit Rules, 2004. The definition u/s Section 4 has been taken to interpret the same for credit purposes.

Further, it was noted that in terms of purchase order 100% payment for the finished goods will be made on receipt of goods; delivery was F.O.R destination basis and the insurance was also done by the assessee. These facts clearly indicates that the property of the goods is passing from seller to buyer at buyer's end only.
Ref: M/s. Ambuja Cement Vs. Union of India reported in 2009 (236) ELT 431 (Punjab & Haryana High Court).
CBEC Circular No.97/6/2007-S.T. dated 23.08.2007 and Circular no.988/12/2014-CX dated 20.10.2014

The Hon'ble CESTAT, considering the above facts held that CENVAT credit of service tax on outward transportation from factory gate upto buyer's premises is allowed.

[Decided in favour of assessee].

CUSTOMS

NOTIFICATIONS/CIRCULARS

REVISION OF EXCHANGE RATE OF FOREIGN CURRENCIES INTO RUPEE & VICE VERSA

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 121/2016-Customs (N.T.) dated 15.09.2016 & in supersession of Notification No. 119/2016-Customs (N.T.) dated 01.09.2016** has **revised the exchange rate of foreign currencies** specified in col.(2) of each of **Schedule I** and **Schedule II** annexed hereto, into Indian currency or vice versa, w.e.f. **16.09.2016** to be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	50.80	49.05
2.	Bahrain Dinar	183.70	171.40
3.	Canadian Dollar	51.40	49.85
4.	Danish Kroner	10.30	9.90
5.	EURO	76.55	74.00
6.	Hong Kong Dollar	8.75	8.50
7.	Kuwait Dinar	229.55	214.75
8.	New Zealand Dollar	49.60	47.70
9.	Norwegian Kroner	8.25	7.95
10.	Pound Sterling	90.25	87.20
11.	Singapore Dollar	49.80	48.20
12.	South African Rand	4.80	4.50
13.	Saudi Arabian Riyal	18.45	17.25
14.	Swedish Kroner	8.00	7.70
15.	Swiss Franc	70.00	67.55
16.	UAE Dirham	18.80	17.65
17.	US Dollar	67.75	66.05
18.	Chinese Yuan	10.20	9.85

SCHEDULE-II

Sl. No	Foreign Currency	Rate of exchange of 100 units of foreign currency equv. to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen		
2.	Kenya Shilling		

FIXATION OF TV OF EDIBLE OIL, BRASS, POPPY SEED, ARECA NUT, GOLD AND SLIVER

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 120/2016-Customs (N.T.) dated 15.09.2016 respectively** has amended **Notification No.36/2001-Customs, dated 03.08.2001** and fixed tariff value of edible oil, brass, poppy seed, areca nut, gold and silver by substituting tables, TABLE – 1, TABLE – 2 and TABLE – 3.

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INCOME TAX

NOTIFICATIONS & CIRCULARS

CANCELLATION OF NOTIFICATION PROVIDING TAX BENEFIT U/S 35(1)(III) ON SUM PAID TO MATRIVANI INSTITUTE OF EXPERIMENTAL RESEARCH AND EDUCATION DECLARATIONS

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 78/2016 dated 06.09.2016** has cancelled the notification No. 229/2007 dated 21st August, 2007 with effect from 1st April, 2004 providing tax benefit u/s 35(1)(iii) on sum paid to Matrivani Institute Of Experimental Research And Education Declarations.

It shall be deemed that the said notification has not been issued for any tax benefits under the Income-tax Act, 1961 or any other law in force.

CANCELLATION OF NOTIFICATION PROVIDING TAX BENEFIT U/S 35(1)(II) ON SUM PAID TO HERBICURE HEALTHCARE BIO-HERBAL RESEARCH FOUNDATION, KOLKATA

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 78/2016 dated 06.09.2016** has cancelled the notification No. 35/2008 dated 14.03.2008 with effect from 1st April, 2007 providing tax benefit u/s 35(1)(ii) on sum paid Herbicure Healthcare Bio-Herbal Research Foundation, Kolkata.

It shall be deemed that the said notification has not been issued for any tax benefits under the Income-tax Act, 1961 or any other law in force.

AGREEMENT BETWEEN INDIA AND SEYCHELLES FOR THE EXCHANGE OF INFORMATION WITH RESPECT TO TAXES AND SIGNED ON THE 26TH DAY OF AUGUST, 2015 TO BE EFFECTED IN UNION OF INDIA

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 80/2016 dated 08.09.2016** has notified that all the provisions of the Agreement entered into between the Government of the Republic of India and the Government of the Republic of Seychelles for the Exchange of Information with respect to Taxes and signed on the 26th day of August, 2015 shall be given effect to in the Union of India.

CLARIFICATIONS ON THE DIRECT TAX DISPUTE RESOLUTION SCHEME, 2016

OUR COMMENTS: The Direct Tax Dispute Resolution Scheme, 2016 incorporated as Chapter X of the Finance Act, 2016 provides an opportunity to tax payers who are under litigation to come forward and settle the dispute in accordance with the provisions of the Scheme. The Direct Tax Dispute Resolution Scheme Rules, 2016 have been notified in this regard.

The Central Government has received certain queries with respect to the provisions of the scheme. The 14 queries have been answered by the CBDT, Department of Revenue, Ministry of Finance, Government of India vide Circular No. 33/2016 dated 12.09.2016.

The readers may refer the circular for the details.

STATE TAXES

ANDHRA PRADESH

MODIFICATION IN FORMAT OF VAT, CST AND ADVANCED CST EWAYBILLS

OUR COMMENTS The Commercial Taxes Department, Government of Andhra Pradesh, vide **Circular dated 09.09.2016** has modified the format of existing VAT, CST and Advanced CST eWaybills.

The existing format of electronic Waybill does not contain all options for entering the purpose for which the goods are being transported by the Consigner in box 5 of Form X of 600. Hence the Waybill format is modified in the system.

AUTHORITY TO VISIT DEALERS DEALING IN HYPERSENSITIVE AND SENSITIVE COMMODITIES DELEGATED TO DEPUTY COMMERCIAL TAX OFFICERS

OUR COMMENTS The Commercial Taxes Department, Government of Andhra Pradesh, vide **Circular dated 03.09.2016** has modified the instructions issued vide CCT's Ref. No. CCW/CS(1)/35/2016 dated 04-03-2016 and authorised the Deputy Commercial Tax Officers of the Circles to conduct advisory visits of dealers dealing in Hypersensitive and Sensitive commodities with effect from 30-08-2016.

The above authority was earlier granted to Commercial Tax Officers of the Circles who represented that being over burdened with several functions they are not able to concentrate on this work.

DELHI

LAST DATE OF FILING OF Q1 RETURN FOR 2016-17, IN FORM DVAT-16, DVAT-17 AND DVAT-48 EXTENDED TO 19/09/2016

OUR COMMENTS The Department of Trade and Taxes, Government of National Capital Territory of Delhi, vide **CIRCULAR No. 14 of 2016-17 dated 09.09.2016** has extended the last date of filing of online/hard copy of Q1 return for 2016-17, in Form DVAT-16, DVAT-17 and DVAT-48 to 19/09/2016.

The tax due shall continue to be paid as per section 3(4) of the Delhi Value Added Tax Act, 2004. The dealers filing the returns through digital signature need not file hard copy of the return/Form DVAT-56.

HARYANA

HARYANA ALTERNATIVE TAX COMPLIANCE SCHEME FOR CONTRACTORS, 2016

OUR COMMENTS The Excise & Taxation Department, Government of Haryana, vide **Notification No. 19/ST-1/H.A. 6/2003/S.59A/2016 dated 12.09.2016** has provided for an Amnesty Scheme namely, the Haryana Alternative Tax Compliance Scheme for Contractors, 2016. The scheme provides for the recovery of tax, interest, penalty or other dues payable under the Haryana Value Added Tax Act, 2003, for the period upto the 31st March, 2014. The Scheme is applicable on all contractors, whether they have opted for lump sum scheme under rule 49 or not.

The readers may refer the notification for the details.

JHARKHAND

TAX RATE ON LED BULB REVISED TO 5%

OUR COMMENTS The Commercial Tax Department, Government of Jharkhand, vide **Notification No. S.O. 85/2016-3796- dated 31.08.2016** has revised the tax rate on LED bulbs to 5%.

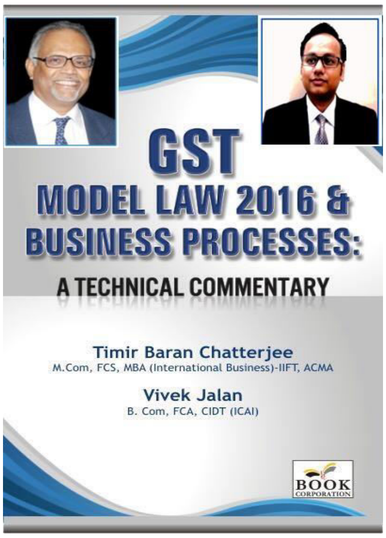
MAHARASHTRA

AMENDMENTS WITH RESPECT TO TAXATION OF LIQUOR

OUR COMMENTS The Commissioner of Sales Tax, Government of Maharashtra, vide **No. VAT. 1516/CR-99/Taxation-1 dated 06.09.2016 has amended Notification No. VAT. 1511/C.R.57/Taxation-1, dated the 30th April 2011 with respect to taxation of liquor.**

The readers may refer the notification for the details.

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

FOR ONSITE DELIVERY CONTACT TAX CONNECT AT :
+91 33 2262 5203 ; +91 80173 87083; p3.javaa@gmail.com

Authors:

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

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

Published *by:*

BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
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<u>**BOOK EXCLUSIVELY ON WORKS CONTRACT (SERVICE TAX AND VAT)**</u>

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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.

<u>**Authors:**</u>

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

Vivek Jalan
B. Com, FCA, CIDT (ICAI)

<u>**Published *by:***</u>

BOOK CORPORATION

4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999, 22306669, 22205367
Cell : 9830010297, 9331018333