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TAX CONNECT

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INCOME TAX

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EDITORIAL

Friends,

The GST Council held its First Meeting on 22nd September & 23rd September 2016. By now , we are all aware of the broad decisions taken at the meeting. In this regard, we would like to point out the following issues which are worth noting-

1. Basic Exemption Limit of Aggregate Turnover is set at Rs.20 Lakhs (Rs. 10 Lakhs for North Eastern and Hilly States):

POINT TO NOTE: It is important to note that this Limit of Aggregate Turnover includes **"Taxable + Non- Taxable + Exempt"** Supplies.

Hence even if a dealer supplies Rs.2000/- worth of Taxable Goods, but if he has supplied Rs.20,00,000/- worth of Exempt Supplies, even then he is liable to take Registration.

Further to note that this Rs.20 Lakhs includes Goods and Services. Hence even if a dealer supplies Rs.2000/- worth of Taxable Services, but if he has supplied Rs.20,00,000/- of Exempt Goods , even then he is liable to take Registration.

In effect the Tax Base is expected to go up substantially!

2. On the issue of dual control, it has been decided that businesses with an annual turnover of up to Rs 1.5 crore will be assessed by the States :

POINT TO NOTE: Incase of any dispute with the Dept. regarding Turnover, the burden of proof shall rest with the assessee to prove its point.

With respect to Entities with turnover of more than Rs.1.5 Crores, it is vaguely out in the press that there will be an element of dual control and they will be assessed either by the Centre or States based on a formula for risk assessment. However, there is still lack of clarity!

3. The base year for calculating compensation would be 2015-16 and the formula for payment of compensation would be deliberated between the state and Central authorities.

POINT TO NOTE: This is a welcome move and would protect consumers from increase in States Taxes in 2016-17 to jack up revenues.

In the present taxes, in Central Excise, CBEC vide Notification No. 45/2016 - Central Excise (N.T.) dated 20.09.2016 **has done away with the requirement of photocopies of the railway receipts (RRS) to be enclosed with the STTG certificate for claiming cenvat credit.**

In Customs, the Government has increased the basic customs duty for marble and travertine blocks, marble slabs and granite slabs.

In Service Tax, vide Notification No. 41/2016 – Service Tax dated 22.09.2016, **service provided by State Government Industrial Development Corporations/ Undertakings by way of granting long term lease of industrial plots to industrial units has been exempted from service tax leviable on the one time upfront amount**.

In Income-Tax, due date for filing of returns and audit u/s 44AB extended has been extended to 17.10.2016

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

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SYNOPSIS

GOODS & SERVICE TAX (GST)

NOTIFICATIONS/CIRCULARS

The Department of Revenue, Ministry of Finance has till date issued 3 notifications on GST.

Vide Notification No. S.O. 2915(E) dated 10.09.2016, 12.09.2016 has been appointed 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 .

Vide Notification No. S.O. 2957(E) dated 15.09.2016, GST Council has been constituted as provided in Section 12,

And,

Vide Notification No. S.O. 2986(E). dated 16.09.2016, 16.09.2016 has been appointed as the effective date for the provisions of sections 1-11 and 13-20

FAQ ISSUED BY CBEC

National Academy of Customs, Excise & Narcotics (NACEN), a training institution in indirect taxation under the CBEC, has been mandated to impart GST training to Central and State Government officers. It has prepared a compilation of FAQ reviewed by officials from both Centre and States.

We have summarised one of the clarification issued vide this FAQ as follows:

HOW A PARTICULAR TRANSACTION OF GOODS AND SERVICES WOULD BE TAXED SIMULTANEOUSLY UNDER CENTRAL GST (CGST) AND STATE GST (SGST)?

Keeping with the Constitutional requirement of fiscal federalism, Dual GST has been proposed to be implemented in the country where both the Centre and the States have been assigned the powers to levy and collect taxes.

- The GST to be levied by the Centre on intra-State supply of goods and / or services would be called the Central GST (CGST) and GST to levied by the States would be called the State GST (SGST).
- The Central GST and the State GST would be levied simultaneously on supply of goods and services
- Both CGST and SGST would be levied on the basic price. This is unlike State VAT as the same is levied on the value of the goods inclusive of CENVAT.
- SGST would be chargeable when the supplier and the recipient are both located within the State. While, CSGT will be chargeable irrespective of the location of the supplier and the recipient within the country.
- Integrated GST (IGST) will be levied by Centre on every inter-state supply of goods and services.

Illustration: Suppose the rate of CGST is 10% and that of SGST is 10%.

A dealer of steel in UP supplies steel bars of Rs 100 to a construction company in UP. He will charge CGST of Rs. 10 and SGST of Rs. 10. He will deposit the CGST to Central Government account and SGST to State Government account. He is entitled to set-off this Rs 20 against the CGST or SGST paid on his purchases/inputs.

However, CGST credit cannot be used for payment of SGST and also SGST credit cannot be used for payment of CGST.

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TAX CALENDAR

Due date	COMPLIANCES FROM 25th Sep, 2016 to 1st Oct, 2016	STATUTE
25th Sep	Filing of monthly/quarterly VAT return (VAT Act)	Jharkhand (Monthly)
	Issuance of WCT certificate (VAT Act)	West Bengal, Mizoram
28th Sep	Deposit of VAT of previous month (VAT Act)	Arunachal Pradesh
	Filing of monthly/quarterly VAT return (VAT Act)	Arunachal Pradesh (Monthly, if turnover>Rs. 1 crore)
30th Sep	Deposit of VAT of previous month (VAT Act)	Tripura, Jammu & Kashmir, Himachal Pradesh Punjab (if payment otherwise than by cheque) Goa (if Tax < Rs. 1 lac), Mizoram
	Filing of monthly/quarterly/annual VAT return (VAT Act)	Himachal Pradesh (Monthly, if PY turnover is>5 cr), Tripura (Monthly), Bihar (Monthly) Punjab (if payment otherwise than by cheque)
	VAT Audit (VAT Act)	Karnataka, Sikkim (If Gross Turn > 30 lacs), Tripura (If Gross Turn > 40 lacs), Manipur (If Gross Turn > 60 lacs), Meghalaya (If Gross Turn > 40 lacs), Mizoram (If Gross Turn > 30 lacs), Arunachal Pradesh (If Gross Turn > 50 lacs), Nagaland (If Gross Turn > 40 lacs)
	Deposit of WCT of previous month (VAT Act)	Goa (Monthly, if Tax< Rs. 1 lac)
	Filing of monthly/quarterly WCT return(VAT Act)	Rajasthan (Monthly), Bihar (Monthly) Chandigarh (Monthly), Tamil Nadu (Monthly)
	Deposit of Entry tax of previous month (Entry Tax Act)	Maharashtra (For unregistered dealers) Goa, Assam
	Issuance of WCT certificate (VAT Act)	Assam (Monthly)
	Deposit of P tax of previous month (Commercial Tax Act)	Maharashtra, Assam, Mizoram, Manipur, Meghalaya, Nagaland, Tripura
	Filing of income-tax return for audit cases (Income Tax Act)	All India*

*** CBDT vide order dated 9th September, 2016, has extended the 'due date' for filing of income tax returns by the taxpayers whose accounts are audited u/s 44AB to 17th October, 2016.**

SERVICE TAX

NOTIFICATIONS/CIRCULARS

SERVICE PROVIDED BY STATE GOVERNMENT INDUSTRIAL DEVELOPMENT CORPORATIONS/ UNDERTAKINGS BY WAY OF GRANTING LONG TERM LEASE OF INDUSTRIAL PLOTS TO INDUSTRIAL UNITS EXEMPTED FROM SERVICE TAX LEVIABLE ON THE ONE TIME UPFRONT AMOUNT

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 41/2016 – Service Tax dated 22.09.2016** has exempted taxable service provided by State Government Industrial Development Corporations/ Undertakings to industrial units by way of granting long term (thirty years, or more) lease of industrial plots from so much of service tax leviable thereon under section 66B of the said Act, as is leviable on the one time upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for such lease.

COURT DECISIONS

SUKHMANI SOCIETY FOR CITIZEN SERVICES VERSUS C.C.E & S.T., CHANDIGARH [CESTAT CHANDIGARH]

BRIEF: SUWIDHA services to public to facilitate Government department/agencies (which are not engaged in Business but in public services) does not fall under Business Auxiliary Service, hence, not taxable u/s 65(105)(zzb) of the Finance Act, 1994.

OUR COMMENTS: In the above case, the assessee is a society registered under Society Registration Act XXI of 1860 and is running SUWIDHA (Single User-friendly Window Disposal and Help-line for Applicants) Centers at various towns of the district.

It is engaged in facilitation of issue of different kinds of licenses, permissions and registrations by the Govt. of Punjab such as registration of Births and deaths, Marriages, Vehicles, Driving Licenses, Ration Cards, Arms Licenses etc. on behalf of Government agencies/departments. It receives prescribed fees as statutory charges for such work and additional amounts towards their service charges.

The Department upheld Service Tax demand on the assessee for rendering Business Auxiliary Service under Section 65(105)(zzb) of the Finance Act, 1994.

The Hon'ble CESTAT held that the business auxiliary service is rendered in relation to the business of the recipient. In the present case, the service of facilitization has been rendered to the Govt departments, which are engaged not in business but in rendering public services.

Therefore, the basic test prescribed by CBEC in the circular dated 23.08.2007 that for charging service tax, the service should not be in the nature of statutory duties of the government, has failed in the given case.

Hence, the impugned order was set aside.

In Ideal Road Builders P. Ltd. case, the Tribunal held that toll collection on behalf of the NHAI and retaining a portion as commission cannot be considered as rendering Business Auxiliary Service.

Similarly, **In United telecom Ltd. case**, service tax demand on e-sevakendra facilities for payment of electricity bill, telephone bill, birth or death certificate etc were set aside.

In smart Chip Ltd. case, the services rendered to the Transport Department to facilitate issue of driving licenses etc was held to be not covered under the Business Auxiliary Service.

[Decided in favour of assessee]

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

AMENDMENT IN FORM A.R.E. 2

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 44/2016 - Central Excise (N.T.) dated 16.09.2016** has amended **notification No 21/2004-CE (N.T.) dated 06.09.2004 and made changes in Form A.R.E 2.**

The readers may refer the aforesaid notification for details.

PHOTOCOPIES OF THE RAILWAY RECEIPTS (RRS) ARE NO MORE REQUIRED TO BE ENCLOSED WITH THE STTG CERTIFICATE FOR CLAIMING CENVAT CREDIT

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 45/2016 - Central Excise (N.T.) dated 20.09.2016** has amended **Cenvat Credit Rules, 2004.**

Vide the new rules which may be called the CENVAT Credit (Tenth Amendment) Rules, 2016, photocopies of the railway receipts (RRG) are no more required to be enclosed with the STTG certificate for claiming cenvat credit.

COURT DECISIONS

CCE, JAIPUR VERSUS M/S SAMCOR GLASS LTD. [CESTAT NEW DELHI]

BRIEF: Cenvat credit being a substantial benefit cannot be disallowed on the technicalities.

OUR COMMENTS: In the above case, the assessee is engaged in the manufacture of glass shell and was availing credit of service tax paid on various input services.

During audit, it was found that a portion of the input services credit was taken before making payment of the value of the input service and of service tax.

However, as per Rule 4 (7) of Cenvat Credit Rules, 2004 credit can be availed only on or after the day on which the payment is made by an assessee.

Revenue contended that credit availed pre-mature i.e. prior to making payment of services and service tax, cannot be allowed to the assessee.

The Hon'ble CESTAT, held that merely because the assessee has made an entry in their records prior to the date when the credit became due to them, would not result in denial of the credit.

Similarly, if the credit has not been utilized by them prior to the said date of admissibility; no demand of interest can be made against them and no penalty can be imposed.

The appeal of the Revenue was accordingly set aside.

[Decided in favour of assessee].

CUSTOMS

NOTIFICATIONS/CIRCULARS

INCREASE IN RATE OF BASIC CUSTOMS DUTY FOR MARBLE AND TRAVERTINE BLOCKS, MARBLE SLABS AND GRANITE SLABS W.E.F. 01.10.2016

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 49/2016-Customs 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.

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. 122/2016-Customs (N.T.) dated 22.09.2016 & in supersession of Notification No. 121/2016-Customs (N.T.) dated 15.09.2016** 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. **23.09.2016** 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)
12.	South African Rand	5.10	4.75

COURT DECISIONS

M/S. NEW DRUG & CHEMICAL CO. VERSUS UNION OF INDIA AND ANOTHER [BOMBAY HIGH COURT]

BRIEF: Speed-Post is not mentioned under Section 37-C of the Central Excise Act, hence, service of notice by Speed-Post is not valid in law.

OUR COMMENTS: In the above case, the assessee imported Bronopol between May 2004 to January 2007.

A show cause notice was served on the assessee and an order in original came to be passed In August 2007. The copy of the order was not served to the assessee and he came to know about passing of the order only after he was served with recovery notice. The assessee immediately filed an appeal along with the application for condonation of delay but the same was rejected on the grounds that the order was served on the assessee by Speed- Post.

The **Hon'ble High Court** held that the order was not served upon the assessee by the registered post as required under clause (a) of Section 153. Speed-Post is not mentioned under Section 37-C of the Central Excise Act, hence, service of notice by Speed-Post is not valid in law.

The impugned order was set aside and the application filed by the appellant for condonation of delay was allowed.

[Decided in favour of assessee]

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INCOME TAX

NOTIFICATIONS & CIRCULARS

CANCELLATION OF NOTIFICATION PROVIDING TAX BENEFIT U/S 35(1)(II) ON SUM PAID TO M/S. SCHOOL OF HUMAN GENETICS AND POPULATION HEALTH, KOLKATA

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 82/2016 dated 15.09.2016** has cancelled the notification No. 4/2010 dated 28.01.2010 with effect from 1st April, 2007 providing tax benefit u/s 35(1)(ii) on sum paid to M/s. School of Human Genetics and Population Health, 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.

M/S. INDIA INFRADEBT LIMITED NOTIFIED AS AN INFRASTRUCTURE DEBT FUND FOR ASSESSMENT YEAR 2013-14 AND ONWARDS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 83/2016 dated 16.09.2016** has notified M/s. India Infradebt Limited as an infrastructure debt fund for the purposes of section 10(47) for the assessment year 2013-14 and onwards subject to the following conditions:

(i) that fund shall comply with
- the provisions of the Income-tax Act, 1961
- Rule 2F of the Income-tax Rules, 1962 and
- the conditions provided by the Reserve Bank of India

(ii) the fund shall file its income tax return as per section 139(4C) on or before the due date.

DUE DATE FOR FILING OF INCOME TAX RETURNS AND GETTING THE ACCOUNTS AUDITED U/S 44AB EXTENDED TO 17.10.2016

OUR COMMENTS: The Central Board of Direct Taxes, vide order u/s 119 dated 9th September, 2016 extended the due date for filing of income tax returns by the taxpayers whose accounts are audited u/s 44AB and who are required to furnish the returns of income for AY 2016-17 as per section 139(1) from 30th September, 2016 to 17th October, 2016.

Now, **vide F.No.225/195/2016-ITA II dated 14.09.2016** it has been clarified that the extended 'due date' as per CBDT order dated 9th September, 2016 would also apply for the purpose of section 44AB of the Act i.e. the said extension would also apply for getting the accounts audited as per section 44AB.

MAXIMUM COST FOR DEDUCTION U/S 35AC FOR PROJECTS/SCHEMES SPECIFIED VIDE NOTIFICATION DATED 12.07.2016 HAS BEEN REVISED

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 62/2016 dated 14.09.2016** has revised the maximum cost to be allowed as deduction u/s 35AC for the projects/schemes specified vide notification dated 12.07.2016.

The readers may refer the aforesaid notification for details.

STATE TAXES

HARYANA

EXEMPTED 'TECHNETIUM 99M GENERATORS' USED IN DIAGNOSIS OF CANCER FROM VAT

OUR COMMENTS The Excise and Taxation Department, Government of Haryana, vide **Notification No. Web. 20/ST-1/H.A. 6/2003/S.59/2016 dated 21.09.2016** has exempted 'Technetium 99M Generators' used in diagnosis of Cancer from VAT.

The readers may refer the notification for the details.

UTTAR PRADESH

ENTRY TAX EXEMPTION TO NATURAL GAS BASED ELECTRIC UNITS, FOR SPECIFIED PURPOSE

OUR COMMENTS The Sansthagat Vitta, Kar Evam Nibandhan Anubhag-2, Uttar Pradesh Shasan, vide **Notification No.-KA.NI.-2-1343/XI-9(159)/15-U.P.Act-30-2007-Order-(167)-2016 dated 21.09.2016** has exempted all supplier dealers from the payment of tax from 22.03.2016 to 31.03.2017, on entry of the natural gas into the local area from any place outside that local area, for use in gas based Power Stations/Projects of NTPC Limited Dadri and NTPC Limited Auraiya, only for incremental generation of electricity over and above the base PLF, under the Scheme issued by the office memorandum no.-4/2/2015-Th-1 dated 27 March, 2015 of the Ministry of Power, Government of India.

ENTRY TAX ON TRANSPORTATION FOR ONLINE SHOPPING GOODS

OUR COMMENTS The Sansthagat Vitta, Kar Evam Nibandhan Anubhag-2, Uttar Pradesh Shasan, vide **Notification No. KA.NI.-2-1341/XI-9(107)/07-U.P.Act-30-07-Order-(165)-2016 dated 21.09.2016** has imposed entry tax on transportation for online shopping.

The notification is applicable w.e.f 22.09.2016 on all goods (except Schedule-I goods) purchased/ordered through online shopping or E-Commerce and consigned or brought into local area from outside the State, otherwise than in connection with business or for personal use.

The rate of entry tax has been fixed at 5% vide No.- **KA.NI.-2-1342/XI-9(107)/07-U.P.Act-30-07-Order-(166)-2016 dated 21.09.2016.**

WEST BENGAL

AMENDMENTS IN RULE 152A AND NEW RULE 157(A)

OUR COMMENTS The Finance Department, Government of West Bengal, **vide Notification No. 1198-F.T.dated 16.08.2016** has amended Rule 152A and inserted a new Rule 157A vide which the Commissioner may, by general or special order, extend the due date of submission of return by a dealer.

The readers may refer the notification for the details.

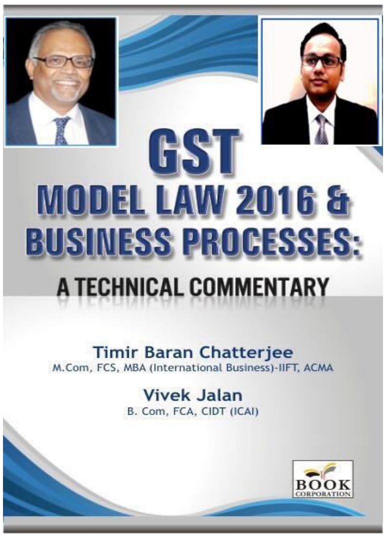
AMENDMENT IN NOTIFICATION 2372 DATED 02.08.2002

OUR COMMENTS The Finance Department, Government of West Bengal, **vide Notification No. 1196-F.T.dated 16.08.2016** has amended Notification No 2372-F.T. dated 02.08.2002 and has extended the date in the TABLE in column (3)(c)(ii) against serial No. 1 in column (1) from 31.03.2016 to 31.03.2017 w.e.f. 01.04.2016.

AMENDMENT IN NOTIFICATION 2373 DATED 02.08.2002

OUR COMMENTS The Finance Department, Government of West Bengal, **vide Notification No. 1195-F.T.dated 16.08.2016** has amended Notification No 2373-F.T. dated 02.08.2002 and has extended the date in the TABLE in column (3) against serial No. 6 in column (1) from 31.03.2016 to 31.03.2017 w.e.f. 01.04.2016.

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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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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