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TAX CONNECT

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INCOME TAX

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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,

We had alerted in our Editorial of the 69th Issue of Tax Connect that The 9 Member Bench of The Supreme Court may vacate some portion of The Entry Tax Stay. Hence Trade & Industry must look at the provisions in their books. Now it is official!

Yesterday, the nine member constitutional bench of Supreme Court has upheld the Constitutional validity of Entry Tax. It has been held that the constitutional validity of individual State Entry Tax Acts would be decided by the Divisional Bench of Supreme Court.

Hence now Trade & Industry who had filed writ petitions against the constitutional validity of Entry Tax should look at the provision in their books for Entry Tax & Interest.

Further, the biggest crackdown on black money since India's Independence came last week when, on November 8, 2016, the PM in his address to the nation declared that Rs 500 and Rs 1000 would no more be a legal tender after 12 PM that day. Since then, our citizens are looking for answers to various questions. The RBI has issued Notification No RBI/2016-17/112 dated 08.11.16 on FAQs, etc and various other notifications for understanding. Rumour mongers are making hay in this short term panic situation.

Demonetization does not mean that the currency notes available with the people are worthless. They still have equivalent worth as they had before. The only thing which has happened is that they have lost their legal tender for transactions in the market. The transactions through net banking, RTGS, NEFT and mobile wallets etc are still unaffected.

We have published a book on Demonetization, which will be available across the country from tomorrow. In this publication we have provided a Roadmap of The Scheme of The Government of India, an analysis of the reasons behind this decision and its impact on The Indian Economy. We also have a section on "What is to be done by Citizens" where in we have dwelt on some of the actions we think are required at this stage.

This publication has been divided into 3 Broad Parts as follows:

1. PART – A: SYNOPSIS – This Covers a summary of Government's Decision, Reason for Demonetisation, What is to be done by YOU, How the Common Man would be affected by this decision in Short Term, Impact On Sectors and The Economy and Appeal against the Scheme. This Part should provide you with an overall understanding into the roadmap and guide on the same.

2. PART – B: DETAILED ANALYSIS – This Part Covers extensive discussion on the roadmap and guide to the Scheme.

3. PART – C: ANNEXURES – This Part provides all the relevant publications by The Government on The Scheme.

We hope this publication will provide with an understanding into the Scheme and the steps to be taken.

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

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GOODS & SERVICE TAX (GST)

IMPACT ON GST: WITHDRAWL OF RS.1000/- & RS.500/- NOTES AS LEGAL TENDER

The assessees shall look into the following points while accounting for their cash:

- The unaccounted cash by the assesses may be accounted for as Consideration for Sale of Goods and/or Sale of Services. This will make such persons liable for payment of the following Indirect Taxes as on date -

  Manufacture – Increase in Central Excise Revenue

  Sale of Goods – Increase of VAT/ Sales Tax Revenue

  Sale of Services - Increase of Service Tax Revenue

- It may be noted that the Indirect Taxes paid on the above Sales is available as CENVAT Credit or ITC subject to rules in this regard.

- Many persons who were not assesses due to under reporting of Revenues and availing threshold Exemption would have to now come within the fold of Central Excise/ VAT/ Service Tax. These persons would have to avail of Central Excise/ VAT/ Service Tax Registration. Such assesses will be automatically be migrated into GST.

- The Threshold Exemption Limit as it stands today is as follows –

  For Central Excise (Incase of Manufacture) - Rs. 150 Lakhs

  For Service Tax (Incase of Sale Of Services) - Rs. 10 Lakhs

  For VAT (Incase of Sale of Goods) - Rs.10 Lakhs

- **D**ue to a Disruption in the Cash Economy, now most of the persons would disclose their correct Revenues and would be required to Register themselves under GST Regime. The Threshold Exemption Limit under GST is as follows –

  For North Eastern States - Rs. 10 Lakhs

  For Other States - Rs. 20 Lakhs

- The assessee shall also consider its impact on their Central Excise, Service Tax and VAT returns.

TAX CALENDAR

Due date	COMPLIANCES FROM 13th Nov to 19th Nov, 2016	State/Region
14th August, 2016	Deposit of Entry tax of previous month (Entry Tax Act)	Rajasthan
	Deposit of VAT of previous month (VAT Act)	Rajasthan
15th August, 2016	PF deposit of previous month (EPF Act)	All India
	Deposit of WCT of previous month (VAT Act)	Bihar, Chandigarh, Delhi , Haryana, Jharkhand , Punjab Rajasthan , Himachal Pradesh
	Filing of WCT return (VAT Act)	Punjab
	Issuance of WCT certificate (VAT Act)	Haryana, Jharkhand, Himachal Pradesh, Sikkim
	Deposit of VAT of previous month (VAT Act)	Bihar, Jharkhand, Kerala , Sikkim, Haryana (if Tax> Rs. 1 lac)
	Filing of VAT return (VAT Act)	Kerala
	Deposit of Ptax of previous month (Commercial Tax Act)	Gujarat, Sikkim
	Deposit of Entry tax of previous month (Entry Tax Act)	Bihar

NOTIFICATIONS/CIRCULARS

AMENDMENT IN PLACE OF PROVISION OF SERVICES RULES, 2012

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 46/2016- Service Tax dated 09.11.2016 has amended** Place of Provision of Services Rules, 2012.

As per the amended Rules, the place of provision of online information and database access or retrieval services has been amended w.e.f. 01.12.1016.

SERVICE TAX EXEMPTION WITHDRAWN ON ONLINE INFORMATION AND DATABASE ACCESS OR RETRIEVAL SERVICES RECEIVED BY SPECIFIED PERSON FROM A PERSON IN NON-TAXABLE TERRITORY

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 47/2016- Service Tax dated 09.11.2016 has amended notification No. 25/2012-ST dated 20th June , 2016 and** withdrawn exemption from service tax on online information and database access or retrieval services provided by a person in non-taxable territory to Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory w.e.f. 01.12.2016.

The readers may also refer **Circular No. 202/12/2016- Service Tax dated 09.11.2016.**

AMENDMENT IN SERVICE TAX RULES, 1994

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 48/2016- Service Tax dated 09.11.2016 has amended Service Tax Rules, 1994 and prescribe that** the person located in non-taxable territory providing online information and database access or retrieval services to non-assesse online recipient , as defined therein, is liable to pay service tax. The procedure for payment of service tax has also been prescribed.

AMENDMENT IN NOTIFICATION NO. 30/2012- ST, DATED THE 20TH JUNE, 2016

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 49/2016- Service Tax dated 09.11.2016 has amended notification No. 30/2012- ST, dated the 20th June, 2016** in order to put compliance liability of service tax payment and procedure on the service provider located in the non-taxable territory for providing online information and database access or retrieval services in the taxable territory to non-assesse online recipient.

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

COMBINED ANNUAL RETURN FORM FOR CENTRAL EXCISE AND SERVICE TAX TO BE FILED BY 30.11.2016 FOR 2015-16 IS NOT REQUIRED TO BE FILED

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 1050/38/2016-CX dated 08.11.2016** has clarified as follows:

In Central Excise, Vide Notification No. 8/2016-CE(N.T.) (SI.NO.5) dated 01.03.2016 and Notification No.13/2016-CE(N.T.) (Sl.NO.9) dated 01.03.2016, Rule 12 of Central Excise Rules, 2002 and Rule 9A of CENVAT Credit Rules, 2004, respectively, were amended to replace the existing Central Excise Forms ER-4 to ER-7 with an Annual Return form.

In Service Tax, Vide Notification No. 19/2016-ST dated 01/03/2016, Rule 7 of the Service Tax Rules, 1994 was amended to prescribe an annual return.

The above Annual Return was required to be filed by 30th day of November.

However, due to impending implementation of Goods & Services Tax (GST,) it has been decided that, the aforesaid Annual Return shall not be required to be filed for the year 2015-16.

After GST implementation, Annual Return for non-GST goods may be required.

COURT DECISIONS

HEMARUS INDUSTRIES LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, KOLHAPUR [CESTAT MUMBAI]

BRIEF The assessee is not liable to pay interest for wrongful availment of Cenvat Credit if it has been reversed before utilization.

OUR COMMENTS: In the above case, the assessee is engaged in the manufacture of sugar molasses. It availed cenvat credit on certain imported goods and on certain structural items**.**

Based on intelligence report, Central excise officers visited their factory and on scrutiny of the documents, it was revealed that cenvat credit on these items was not admissible.

The assessee accordingly reversed the inadmissible cenvat credit availed on the basic customs duty and cess and also reversed the credit availed on the structural items.

The dispute is whether interest is liable on the cenvat credit which was reversed and whether the assessee is liable to penalty under Rule 15(1) of the Cenvat Credit rules, 2004.

The Hon'ble CESTAT held tha the unit had not commenced production when the investigation started and there was no clearance from the factory. As there was no clearance from the factory, there was no question of utilization of the cenvat credit availed by the party.

Hence, the assessee is not liable to pay interest for wrongful availment of Cenvat Credit which has been reversed before utilization by the appellant

Ref:

- **GTL Infrastructure Ltd. Vs. CCE [CESTAT MUMBAI]**
- **CCE Madurai Vs. M/s Strategic Engineering (P) Ltd. [MADRAS HIGH COURT]** It was held that mere taken of CENVAT credit facilities is not at all sufficient for claiming of interest as well as penalty - the appellants are not liable to penalty.

[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. 136/2016-Customs (N.T.) dated 03.11.2016 & in supersession of Notification No. 127/2016-Customs (N.T.) dated 20.10.2016** 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. **04.11.2016** 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	52.05	50.25
2.	Bahrain Dinar	183.20	171.10
3.	Canadian Dollar	50.70	49.10
4.	Danish Kroner	10.15	9.80
5.	EURO	75.50	73.00
6.	Hong Kong Dollar	8.70	8.50
7.	Kuwait Dinar	228.10	213.10
8.	New Zealand Dollar	49.65	47.95
9.	Norwegian Kroner	8.30	8.00
10.	Pound Sterling	83.65	80.90
11.	Singapore Dollar	48.95	47.50
12.	South African Rand	5.10	4.80
13.	Saudi Arabian Riyal	18.40	17.20
14.	Swedish Kroner	7.60	7.35
15.	Swiss Franc	70.05	67.60
16.	UAE Dirham	18.80	17.60
17.	US Dollar	67.60	65.90
18.	Chinese Yuan	10.05	9.70

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	66.15	63.95
2.	Kenya Shilling	67.95	63.55

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REVISION OF RATES OF REBATE OF STATE LEVIES ON EXPORT OF GARMENTS

OUR COMMENTS: The Central Government (Ministry of Textile) has issued Notification No. 12020/03/2016-IT dated 04.11.2016 revising rates of rebate in Schedule I and Schedule II for the ROSL Scheme

The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 51/2016-Customs dated 09.11.2016** has made the above rates applicable to exports with Let Export Order dates from 15.11.2016 onwards

INCOME TAX

NOTIFICATIONS & CIRCULARS

AMENDMENT IN DTAC BETWEEN GOVERNMENT OF INDIA AND JAPAN

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 102/2016 dated 28.10.2016** has amended the Convention between the Government of the Republic of India and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income w.e.f 29th October, 2016.

As per Press Release dated 09.11.2016 the Protocol amending the DTAC aims transparency and cooperation between the two countries.

It provides for internationally accepted standards for effective exchange of information on tax matters including bank information and information without domestic tax interest.

Now, the information received from Japan in respect of a resident of India can be shared with other law enforcement agencies with authorization of the Competent Authority of Japan and vice versa.

It further provides for exemption of interest income from taxation in the source country with respect to debt-claims insured by the Government/Government owned financial institutions.

Also, India and Japan shall now lend assistance to each other in the collection of revenue claims.

INCOME-TAX (29TH AMENDMENT) RULES, 2016

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of Indi vide **Notification No. 103/2016 dated 07.11.2016** has amended Income-tax Rules, 1962 and has provided that a domestic company which has exercised option under sub-section (4) of section 115BA, the allowance under section 32(1)(ii) in respect of depreciation of any block of assets entitled to more than 40%; shall be restricted to 40% on the written down value of such block of assets.

Also, in the New Appendix I, in the Table, , for the figures " '50', '60', '80', '100' ", , the figure "40" shall be substituted with effect from the 1st day of April, 2017.

CHAPTER VI-A DEDUCTION ON ENHANCED PROFITS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of Indi vide **CIRCULAR NO. 37/2016 dated 02.11.2016,** has settled that the disallowances made under sections 32, 40(a)(ia), 40A(3), 43B, etc. of the Act and other specific disallowances, related to the business activity against which the Chapter VI-A deduction has been claimed, result in enhancement of the profits of the eligible business, and that deduction under Chapter VI-A is admissible on the profits so enhanced by the disallowance.

Accordingly, henceforth, appeals may not be filed on this ground by officers of the Department and appeals already filed in Courts/ Tribunals may be withdrawn/ not pressed upon.

STATE TAXES

GUJARAT

REDUCTION IN INPUT TAX CREDIT ON PAN MASALA, BEVERAGES, MOBILE PHONE AND GOODS TAXABLE @20%

OUR COMMENTS The Finance Department, Government of Gujarat, **vide Notification No. (GHN-68)VAT-2016-S.11(6)(6)-TH-. dated 10.11.2016** has reduced input tax credit on pan masala, beverages, mobile phone and goods taxable @20% to the extent tax exceeds 2% on the taxable turnover of purchases within the State in case of inter-state sales and no input tax credit is available on the same in case of branch transfer/transfer to agent outside the state.

JHARKHAND

ENHANCEMENT IN TAX RATE FROM 5% TO 5.5% IN PART-B OF THE SCHEDULE-II AND FROM 14% TO 14.5% IN PART-D OF THE SCHEDULE-II EFFECTIVE FROM 04.11.2016

OUR COMMENTS The Government of Jharkhand, **vide Public Notice dated 04.11.2016** has notified that enhancement in tax rate from 5% to 5.5% in Part-B of the Schedule-II and from 14% to 14.5% in Part-D of the Schedule-II shall be effective from 04.11.2016.

WEST BENGAL

AMENDMENT IN WEST BENGAL VALUE ADDED TAX RULES, 2005

OUR COMMENTS: The Finance Department, Government of West Bengal, **vide NOTIFICATIONNo. 1559-F.T. dated 24.10.016** has made various amendments in the West Bengal Value Added Tax Rules, 2005.

The readers may refer the aforesaid notification for details.

DEDUCTION FROM TURNOVER OF SALES FOR SALE OF SUPERIOR GRADE KEROSENE OIL (PDS) SOLD BY IOCL TO OIL MARKETING COMPANIES

OUR COMMENTS: The Finance Department, Government of West Bengal, **vide NOTIFICATIONNo. 1479-F.T. dated 03.10.016** has inserted a **new rule 26KC** in the West Bengal Value Added Tax Rules, 2005.

Superior Grade Kerosene Oil (PDS) sold by Indian Oil Corporation Limited to Oil Marketing Companies. in West Bengal during 01.04.2005 -31.08.2010, may be deductec from the taxable turnover of sales u/s16(1)(c)to the extent of 68% provided it has the relevant tax invoice or invoice or cash memo, or bill and other related documents evidencing such sales.

The readers may refer the aforesaid notification for details.

EXTENSION OF THE LAST DATE OF FILING WBST & VAT RETURN FOR Q.E. 30/09/2016

OUR COMMENTS: The Finance Department, Government of West Bengal, **vide Memo No. 918 CT and 919 CT dated 09.11.016** has extended the last date of filing WBST and VAT return for Q.E. 30.09.2016 as follows:

Form	Last date of payment of tax, interest, if any,	Extended date of transfer of data electronically	Last date of receipt of ack/Form 14e/15e
14/14D	31.10.2016	16.11.2016	01.12.2016
15	31.10.2016	16.11.2016	01.12.2016
25E	As per Rule 163	16.11.2016	01.12.2016

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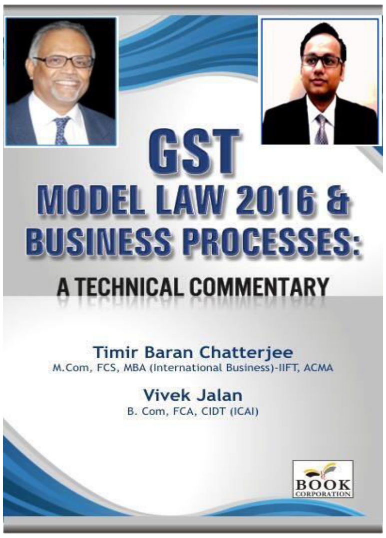
IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



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
Phones: (033) 64547999, 22306669, 22205367
Cell : 9830010297, 9331018333
Order by email: bookcorporation@gmail.com
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BOOK EXCLUSIVELY ON WORKS CONTRACT (SERVICE TAX AND VAT)

AVAILABLE IN ALL LEADING LEGAL BOOK SHOPS INCLUDING BOOK CORPORATION

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.

Authors:

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

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

Published *by:*

BOOK CORPORATION

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