TAX CONNECT
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TAX CONNECT

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The Bengal Chamber of Commerce & Industry

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INCOME TAX

CUSTOMS

CENTRAL EXCISE

SERVICE TAX

STATE TAXES

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EDITORIAL

Friends,

The GST Council, is **scheduled to meet today to** held its **10th meeting** where it is expected to finalise the draft model GST law (the central GST bill, the state GST bill, the integrated GST bill and the bill to compensate states for revenue losses arising from a transition to GST) and the final drafting of the anti-profiteering clause so that the benefit of lower taxes gets shared with consumers.

In the meeting, the definition of 'agriculture' and 'agriculturist' and constitution of a 'National Goods and Services Tax Appellate Tribunal' to adjudicate disputes is also likely to get finalised.

Now coming to the present taxes,

In Service Tax, a clarification has been issued on service tax on services of transportation of goods by a vessel from outside India to the customs station in India w.r.t. goods intended for transhipment to any country outside India.

In Customs, exchange rate of foreign currencies into Rupee & vice versa has been revised w.e.f. 17.02.2017.

In Central Excise, it has been held that the activity of conversion of edible oil from tanker to retail pack does not amount to conversion from bulk pack to retail pack, hence, does not amounts to manufacture.

In Income Tax, the following processes forming a part of the Assessment module are now available to the users in ITBA:

(A) Issue of Summon u/sec 131.

(B) Issue of Notice u/sec 133 and

(C) Reference for Audit u/sec 142(2A).

The above instruction has been discussed in detail in the relevant section of 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)

REVISED DRAFT MODEL GST LAW (NOVEMBER 2016): WORKS CONTRACT

The definition of Works Contract in revised GST Model Law in November 2016 can be summarized as follows:

As per the Old Law [Sec 2(107)] "works contract" means an agreement for carrying out for cash, deferred payment or other valuable consideration, building, construction, fabrication, erection, installation, fitting out, improvement, modification, repair, renovation or commissioning of any moveable or immovable property;

As per the New Law [Sec 2(110)]: "works contract" means a contract wherein transfer of property in goods is involved in the execution of such contract and includes contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property;

The term Works Contract has been overhauled in The Revised November 2016 Law. It has been taken substantially from Sec(54) of The Finance Act 1994 with certain differences. The following are the key points in the definition –

1. Works contract is a contract for transfer of property in goods is involved in the execution of such contract

2. Works contract include the following works on an immovable property –
    a. Building
    b. Construction
    c. Fabrication
    d. Completion
    e. Erection
    f. Installation
    g. fittingout
    h. improvement
    i. modification
    j. repair
    k. maintenance
    l. renovation
    m. alteration
    n. commissioning

3. However the above is inclusive and not exhaustive

Hence even though, the inclusion part is only for works on an immovable property, yet incase transfer of property also takes place in the execution of a contract for moveable property, it would also be treated as a works contract.

Further, it is clear that it shall be treated as service inspite of it also involves a transfer of property in goods. So the provisions of place of supply and time of supply pertaining to service will only be applicable.

However, the current issues pertaining to works contract will come to an end provided under GST regime, one standard rate is notified for the supply of all goods and services.

TAX CALENDAR

Due date	COMPLIANCES FROM 19th Feb, 2017 to 25th Feb, 2017	State/Region
20th Feb, 2016	Deposit of WCT of previous month (VAT Act)	Karnataka, Uttar Pradesh , Uttarakhand , Tamil Nadu, Kerala Goa (if Tax> or = Rs. 1 lac),
	Filing of WCT return (VAT Act)	Karnataka, Andhra Pradesh, Tamil Nadu
	Issuance of WCT certificate (VAT Act)	Uttar Pradesh, Manipur
	Deposit of VAT of previous month (VAT Act)	Andhra Pradesh , Chandigarh, Tamil Nadu , Uttar Pradesh, Uttarakhand, Manipur, Goa (if Tax> or = Rs. 1 lac), Karnataka, Punjab (if payment by cheque)
	Filing of VAT return (VAT Act)	Manipur, Uttar Pradesh, Tamil Nadu, Andhra Pradesh (Monthly), Karnataka , Punjab (if payment by cheque)
	Deposit of Ptax 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, Tamil Nadu
21st Feb, 2016	Deposit of VAT of previous month (VAT Act)	Assam , Delhi , Maharashtra , Odisha , Nagaland, Meghalaya
	Filing of VAT return (VAT Act)	Assam , Maharashtra Odisha , Meghalaya
	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 Feb, 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
25th Feb, 2016	Filing of VAT return (VAT Act)	Jharkhand
	Issuance of WCT certificate (VAT Act)	West Bengal, Mizoram, Nagaland
	Deposit of Entry tax of previous month (Entry Tax Act)	Maharashtra (if registered dealer)

SERVICE TAX

NOTIFICATIONS/CIRCULARS

CLARIFICATION ON SERVICE TAX ON SERVICES OF TRANSPORTATION OF GOODS BY A VESSEL FROM OUTSIDE INDIA TO THE CUSTOMS STATION IN INDIA W.R.T. GOODS INTENDED FOR TRANSHIPMENT TO ANY COUNTRY OUTSIDE INDIA

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 204/2/2017-Service Tax dated 16.02.2017** has clarified that goods imported into a customs station in India intended for transhipment to any country outside India, the destination of goods is not a place in taxable territory in India but a country other than India

-if the same is mentioned in the import manifest or the import report and,

- the goods are transhipped in accordance with the provisions of the Customs Act, 1962 and rules made there under.

Hence, services of transportation of goods by a vessel from a place outside India to the customs station in India are not taxable in India as the destination of such goods is a country other than India.

COURT DECISIONS

COMMISSIONER OF CENTRAL EXCISE, KANPUR VERSUS M/S P.K. CAPITAL SERVICES PVT. LTD. [CESTAT ALLAHABAD]

Brief: The sub-broker who received commission from the main broker while main broker has paid the service tax on commission received by him cannot be once again subjected to service tax.

OUR COMMENTS: In the above case, the assessee is sub-broker of a broker of Bombay Stock Exchange. They were issued with a show cause notice for the commission received as sub-broker.

The show cause notice was issued on the decision held by this Tribunal in the case of Unique Investment Centre Vs. Commissioner of Central Excise, Chandigarh reported at 2009 that the activity of sub-broker in relation of sale or purchase of security comes under Business Auxiliary Service.

The Hon'ble CESTAT noted that L in the case of Commissioner of Central Excise, Kanpur Vs P.K. Khandelwal & Company , it was held that when the main broker has paid service tax then the commission received by the sub-broker shall not be subjected to levy of Service Tax and that while deciding the said case this Tribunal has taken into consideration the said case law relied upon by respondent in the ground of appeal.

The facts of the given case are similar to the above case. Accordingly, it was held that the sub-broker who received commission from the main broker while main broker has paid the service tax on commission received by him cannot be once again subjected to service tax.

[Decided against Revenue]

COURT DECISIONS

M/S GHODAWAT FOODS INTERNATIONAL PVT. LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, PUNE [CESTAT MUMBAI]

Brief: The activity of conversion of edible oil from tanker to retail pack and labelling does not amounts to manufacture and repacked refined edible oil is therefore not liable to duty.

OUR COMMENTS: In the above case, the dispute is if the activity of conversion of edible oil from tanker to retail pack and labelling amounts to manufacture and accordingly, the repacked refined edible oil is liable to duty or not.

The Hon'ble CESTAT noted that Tribunal vide **Order No. A/ 90742/16/EB dated 01.09. 2016**, has held that repacking of RBB Palmolien Oil received in tanker in bulk and repacking them into smaller packs does not amount to manufacture.

Same issue has been considered by Tribunal in case of Commissioner of Central Excise, Pune-II Vs. Anwar Oils 2016 (335) ELT 177 (Tri-Mum).

The Revenue raised demand holding the process of conversion of edible oil from tanker to retail pack is manufacture by applying the Chapter Note 4 to Chapter 15 of the Central Excise Act, 1944, which is as follows:

"4. In relation to products of sub-heading Nos. 1502.00, 1503.00, 1504.00 and 508.90, labelling or relabellig of containers and packing from bulk packs to retails packs or the adoption of any other treatment to render the product marketable to consumer, shall amount to manufacture."

As per the above note if the goods are repacked from bulk pack to retail packs and also labelled then the activity shall amount to manufacture.

However, in the given case, the edible oil received in the tanker was unloaded and then converted into retail pack and labelled, the conversion of the product from tanker to retail pack is not conversion of bulk packs to retail packs because the tanker is not bulk pack, therefore, **one** limb of the Chapter Note that packing from bulk pack to retail pack does not satisfy.

The activity of repacking from bulk pack to retail pack and also labelling both should be carried out in order to hold manufacture under Note 4 to the Chapter 15.

Other references:

(a) CCE Vs. M/s Amritlal Chemaux Ltd. 2015 (SC)

(b) CCE Vs. Ammonia Supply Co. 2011, CESTAT-MUM

(c) Ruchi Health Foods Ltd. 2007 ((Tri)

(d) Deepak Trading Co. 2008 (Tri)

The impugned order was accordingly set aside.

[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. 12/2017-Customs (N.T.) dated 16.02.2017 & in supersession of Notification No. 09/2017-Customs (N.T.) dated 02.02.2017** 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. **17.02.2017** 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	52.60	50.80
2.	Bahrain Dinar	184.05	171.75
3.	Canadian Dollar	52.10	50.50
4.	Danish Kroner	9.75	9.40
5.	EURO	72.45	69.95
6.	Hong Kong Dollar	8.75	8.50
7.	Kuwait Dinar	226.90	212.30
8.	New Zealand Dollar	49.35	47.50
9.	Norwegian Kroner	8.20	7.90
10.	Pound Sterling	85.00	82.05
11.	Singapore Dollar	47.95	46.50
12.	South African Rand	5.35	5.00
13.	Saudi Arabian Riyal	18.45	17.30
14.	Swedish Kroner	7.65	7.40
15.	Swiss Franc	67.85	65.70
16.	UAE Dirham	18.85	17.65
17.	US Dollar	67.85	66.15
18.	Chinese Yuan	9.95	9.60
19.	Qatari Riyal	18.95	17.90

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	59.85	57.90
2.	Kenya Shilling	66.90	62.55

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. 11/2017-Customs (N.T.) dated 15.02.2017** 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.

NOTIFICATIONS & CIRCULARS

INCOME TAX (2ND AMENDMENT) RULES, 2017

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 09/2017 dated 09.02.2017**

-has amended proviso to Rule 114(1) with respect to application for allotment of a permanent account number.

Now applicant may apply for allotment of PAN through a common application form notified by the Central Government in the Official Gazette, and the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify the classes of persons, forms and formats along with procedure for safe and secure transmission of such forms and formats in relation to furnishing of permanent account number.

-has amended proviso to Rule 114A(1) with respect to application for allotment of a tax deduction and collection account number.

Now, an applicant may apply for allotment of a tax deduction and collection account number through a common application form notified by the Central Government in the Official Gazette, and the Principal Director General of Income-tax (Systems) or Director General of Income-tax(Systems) shall specify the classes of persons, applicable forms and formats along with procedure for safe and secure transmission of such forms and formats in relation to furnishing of tax deduction and collection account number.

LAUNCH OF INCOME TAX BUSINESS APPLICATION (ITBA)

OUR COMMENTS: As per **ITBA-ASSESSMENT INSTRUCTION NO.3 dated 03.02.2017**, the following processes forming a part of the Assessment module are now available to the users in ITBA:

(A) Issue of Summon u/sec 131.

(B) Issue of Notice u/sec 133 and

(C) Reference for Audit u/sec 142(2A).

-There shall be a facility for viewing and generating various MIS in respect of the aforesaid processes.

-Functionality for issue of summons by the Investigation Wing Users under sec 131(1A) is under development

-Training material including user manual, help content and frequently asked questions (FAQs) are available on the Assessment module Home Page and also on ITBA Portal → Online Training on ITBA.

The functionality for generating the Central Scrutiny Report (CSR) on orders of CIT(A)/ITAT/High Court was made available (vide INSTRUCTION dated 03.02.2017) in Appeal Register & CSR module of ITBA.

Access via: https://itba.incometax.gov.in

Path: ITBA Portal → Login → Modules → Appeal Register & CS

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STATE TAXES

DELHI

DUE DATE OF FILING OF THIRD QUARTER RETURN FOR THE YEAR 2016-17, IN FORM DVAT-16, DVAT-17 AND DVAT-48 EXTENDED TO 28/02/2017

OUR COMMENTS: The Department Of Trade And Taxes, Government Of National Capital Territory Of Delhi, **vide CIRCULAR No. 23/2016-17** dated 13.02.2017 has extended the last date of filing of online/hard copy of third quarter return for the year 2016-17, in Form DVAT-16, DVAT-17 and DVAT-48 to 28/02/2017.

The tax shall be paid in the usual manner as per Sec 3(4) of the Delhi Value Added Tax Act, 2004.

Also, the dealers filing the returns through digital signature need not file hard copy of the return/Form DVAT-56.

KERALA

CLARIFICATION ON WITHDRAWL OF NOTIFICATION EXMPTING NATURAL RUBBER AND ITS VARIANTS

OUR COMMENTS: The Office of the commissioner of Commercial Taxes, Government Of Kerala **vide CIRCULAR No. 02/2017 dated 14.02.2017** has instructed officers to assess the turnover of natural rubber and its variants for the period from 20-12-2014 to 31-03-2015 as the Notification **S.R.O.No.796/2014 dtd.20-12-2014** exempting these commodities became infructuous and void vide Govt. **Lr.No.705098/B3/2016/TD dtd.21-11-2016.**

TIME FOR FILING AUDIT REPORT AND STATEMENTS FOR THE YEAR 2015-16 EXTENDED TO 31.03.2017

OUR COMMENTS: The time limit for filing certified audited report in Form No.13 and statement of particulars in Form No.13A by the companies for the AY 2015-16 was on or before 31st January, 2017 and for other dealers was on or before 31st December, 2016.

The Office of the commissioner of Commercial Taxes, Government Of Kerala vide C**IRCULAR No. 03/2017 dated 14.02.2017** has extended the time limit **upto 31st March, 2017** for companies and other dealers taking into account the representation from All Kerala Chartered Accountants' Association.

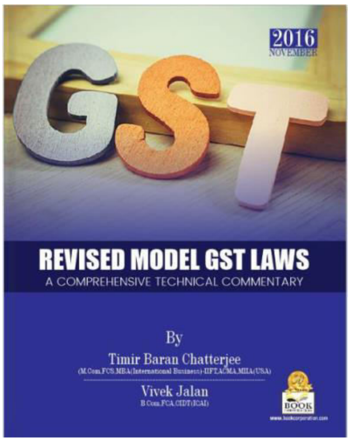
SUBMISSION OF ANNUAL FINANCIAL STATEMENTS AND CLOSING STOCK INVENTORY

OUR COMMENTS: The Office of the commissioner of Commercial Taxes, Government Of Kerala vide C**IRCULAR No. 04/2017 dated 14.02.2017** has instructed to ensure that their assessing authorities initiate steps to get all the pending annual statement of accounts and closing stock inventory filed within the next 15 days.

Further, it may be ensured that all statutory documents get filed of the financial year 2011-12 as these will become time bar.

By 1st March, 2017, all shall submit the pending audited annual statement of accounts, profit and loss accounts, trading accounts (wherever applicable) and balance sheet .

IN STANDS: REVISED MODEL GST LAWS : A COMPREHENSIVE TECHNICAL COMMENTARY



ABOUT THE BOOK: While the Government is moving at a rapid pace, yet it is still a question whether the Corporates are GST Ready or not. It is high time that the law needs to be analysed and implemented into every facet of the business including sales and marketing, Logistics, procurement, HR, IT and of course Finance and Taxation. The book contains an exhaustive coverage of the Revised Model GST in the form of a Section wise technical commentary. It provides an insight into the following:

1. Brief about the major changes between the Revised law and the earlier law.
2. Revised Model GST Law November 2016
3. Revised Model IGST Law November 2016
4. GST Compensation Law
5. GST Return Rules
6. GST RefundRules
7. GST Registration Rules
8. GST Payment Rules
9. GST Invoice Rules

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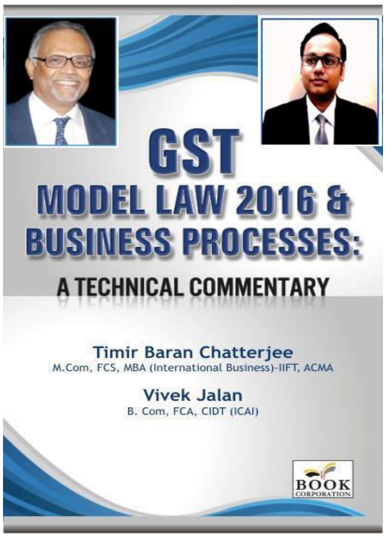
IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



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

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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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