TAX CONNECT
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TAX CONNECT

Knowledge Partner:

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 comprising representatives of all states, in its 10th meeting at Udaipur has approved the Draft Compensation Bill.

However, the three crucial draft laws — Central GST (CGST), Integrated GST (IGST) and State GST (SGST) again got caught in a tussle between the states and the Centre. The vetted draft law of the same will be presented in the next meetings scheduled on March 4 and 5.

Once the Bills are cleared by the Council, the next step is to fit the items into the various tax slabs.

As discussed in the meeting, a separate draft GST Bill may be floated for Union territories, mirroring the draft model GST law.

The Council also decided against giving additional powers to the Comptroller and Auditor General of India (CAG) under the indirect tax act as CAG already has powers to scrutinise the finances.

It also expected to get clearance on issue of formation of a GST Appellate Tribunal, which will discuss matters related to GST implementation and suggestions.

Now coming to the present taxes,

In Service Tax, it has been notified that service tax is not required to be paid on services by the operators of common effluent treatment plant from 01.07.2012 to 31.3.2015

In Central Excise, the Government has instructed that CAS-4 certificate of the financial year ending on 31st March shall be issued by 31st December of the next financial year.

In Income Tax, M/S Jawaharlal Institute Of Postgraduate Medical Education And Research (JIPMER) has been approved for the purpose of Sec 35(1) (Ii).

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

Truly Yours

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REVISED DRAFT MODEL GST LAW (NOVEMBER 2016): TRANSITIONAL PROVISIONS

The transitional provisions in the revised draft law are comprehensive and is expected to clear several difficulties which remained ambiguous in the previous draft.Clearly, industry's concerns have been heard.

(i) The transition provisions deals with situations of first and second stage dealers and dealer importers to maintain the credit chain. Benevolent provisions have been introduced with respect to dead credit due to exemptions and abatements in the earlier regime.

(ii) A one-month window would be allowed for claiming credit of taxes, paid under old regime, on the goods and services in transit. The status quo with respect to inputs, semi-finished goods and finished goods removed from the factory to a job worker's premise has been maintained.

(iii) The complication of sold goods being returned and return of goods sent on 'sale on approval basis' has also been adequately catered.

(iv) The CENVAT credit reversal due to non-payment of consideration to the service provider, would be allowed as credit in the GST regime once the payment is made.

(v) The centrally registered service providers would be able to carry over the accumulated credit into appropriate registrations across different states.

Supplies spreading across the present regime and GST regime would be taxed in the present regime to the extent point of taxation has arisen pre-GST appointed date and the remainder would be taxed in the GST regime.

TAX CALENDAR

Due date	COMPLIANCES FROM 26th Feb, 2017 to 4th Mar, 2017	State/Region
28th Feb 2017	Deposit of VAT of previous month (VAT Act)	Arunachal Pradesh , 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)	Arunachal Pradesh (if turnover>Rs. 1 crore), Himachal Pradesh (if PY turnover is>5 cr), Tripura, Bihar, Punjab (if payment otherwise than by cheque)
	Deposit of WCT of previous month (VAT Act)	Goa (if Tax< Rs. 1 lac)
	Filing of monthly/quarterly WCT return(VAT Act)	Rajasthan, Bihar Chandigarh, Tamil Nadu
	Deposit of Entry tax of previous month (Entry Tax Act)	Maharashtra (For unregistered dealers) Goa, Assam
	Issuance of WCT certificate (VAT Act)	Assam
	Deposit of P tax of previous month (Commercial Tax Act)	Maharashtra, Assam, Mizoram, Manipur, Meghalaya, Nagaland, Tripura

NOTIFICATIONS/CIRCULARS

SERVICE TAX NOT TO BE PAID ON SERVICES BY THE OPERATORS OF COMMON EFFLUENT TREATMENT PLANT FROM 01.07.2012 TO 31.3.2015

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No.08/2017-Service Tax dated 20.02.2017** has directed that the service tax payable on the services by the operators of Common Effluent Treatment Plant, under section 66B of the Finance Act, 1994 shall not be required to be paid for the period from 01.07.2012 to 31.03.2015, as according to a practice that was generally prevalent, there was non levy of service tax, on the said services.

COURT DECISIONS

M/S HYDUS TECHNOLOGIES INDIA PVT LTD. VERSUS CCE, C & ST, HYDERABAD-II [CESTAT HYDERABAD]

Brief: Although the definition of input services excludes life insurance, health insurance etc., it is subject to the condition that such services are primarily for personal use or consumption of employee.

OUR COMMENTS: In the above case, the assessee is a 100% EOU engaged in the activity of providing integrated solutions to develop the integrated IT solutions to the clients abroad. They are registered with the service tax department as service provider under Information Technology Software Services.

The assessee claimed refund of service tax paid on Employee Deposit Linked Insurance Scheme, Employee Health Insurance, Group Gratuity Scheme.

The Revenue rejected the refund of service tax paid in respect of the above services for the reason that the services do not have nexus with the output services provided by the assessee. The submission stated that the services relating to life insurance and health insurance are excluded as per the definition in 2(l) of input service. These services are for personal use and consumption of the employees and therefore are not eligible for credit.

The Hon'ble CESTAT noted that there is no document to establish that the said services are availed for personal use or personal consumption of the employee.

Further, the group gratuity scheme is a gratuity policy for the employees of the company taken under Gratuity Act, 1972 as per which gratuity is payable if an employee has rendered minimum 5 years of service at the time of exit. The scheme is to meet the company's obligation for statutory gratuity payments.

The Employees Deposit Linked Insurance is a part of provident fund scheme and provides maximum payment to the insured person's nominated beneficiary in the event of death due to natural cause, accident or illness. That the employees of the organization are not covered under the Employees Provident Fund Act and hence it makes obligatory to provide the provident fund to the employees for which appellants has taken the insurance policy.

Though in the definition of input services it is mentioned that life insurance, health insurance etc., are excluded it is subject to the condition that such services are primarily for personal use or consumption of employee.

None of the above insurance services can be said to be used primarily for personal use or consumption of employee. All the above insurance services are availed under various Labour Legislations enacted for the welfare of employees/workers.

Accordingly, the impugned order was set aside and the refund was granted.

[Decided in favour of assessee]

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

CAS-4 CERTIFICATE OF THE FINANCIAL YEAR ENDING ON 31ST MARCH SHALL BE ISSUED BY 31ST DECEMBER OF THE NEXT FINANCIAL YEAR

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **F. NO. 206/01/2017-CX 6 dated 16.02.2017** has given instructions with respect to periodicity of CAS-4 certificates.

As per Board's **Circular No. 692/08/2003-CX dated 13th February, 2003**, it was clarified that cost of production of captively consumed goods shall be done strictly in accordance with CAS-4.

However, during C &AG audit it was found that assessees are not preparing CAS-4 certificates even after substantial time lapse from end of financial year and filing of Tax Audit reports and therefore these assessees could not calculate the differential duty.

Hence, it is directed that assessees should be requested that CAS-4 certificate of the financial year ending on 31st March shall be issued by 31st December of the next financial year e.g. for FY 2016-17, CAS-4 certificate should be issued by 31.12.2017.

CLASSIFICATION OF 'SAREE' UNDER CETA

OUR COMMENTS: The members of the trade have requested clarification regarding classification of 'Saree' which has undergone further processing such as embroidery, stitching of lace and tikki etc. and stitched with two or more kinds of fabrics is classifiable as 'Saree' under Chapter 54 or as made-ups under Chapter 63 of the Central Excise Tariff Act, 1985.

The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **F. No. 116/31/2016-CX.3 dated 20.02.2017** has proposed to issue a circular in this regard and requested that the comments/ inputs on the draft circular may be provided on or before 10.03.2017 on the email id: rohan.choudhary@nic.in.

COURT DECISIONS

COMMISSIONER OF CENTRAL EXCISE, ALLAHABAD VERSUS M/S HINDALCO INDUSTRIES LTD. [ALLAHABAD HIGH COURT]

Brief: A mere minor loss in transit or a difference in the weight due to differences in weighing scale or in dip reading, would not lead to the conclusion that there was any illegal diversion or that the assessee was claiming Cenvat credit on any item on which it sought the credit.

OUR COMMENTS: In the above case, the **Hon'ble High Court noted and held that**

-The tribunal has rightly concluded that the assessee was entitled to Cenvat credit in respect of the goods received called C.P. Coke, Hard Pitch, Silicon Metal, Furnace Oil and Light Diesel Oil as there was a variation of 0.08%to 0.38%, which is minimal.

-The tribunal has clearly recorded that there was no record to suggest that any illicit diversion of the Cenvated inputs had been made for uses other than use in the manufacture of the finished goods.

-The tribunal recorded that there was no illegal diversion of the items received and a mere minor loss in transit or a difference in the weight due to differences in weighing scale or in dip reading, would not lead to the conclusion that there was any illegal diversion or that the assessee was claiming Cenvat credit on any item on which it sought the credit.

Hence, the cenvat credit claim of assessee were only in respect of the materials received and used for manufacture of goods.

In such circumstances, the Cenvat credit was allowed to the assessee.

The impugned order was accordingly set aside.

[Decided in favour of assessee]

CUSTOMS

NOTIFICATIONS/CIRCULARS

EXPANSION OF 24X7 CUSTOMS CLEARANCE AND CLARIFICATION OF LEVY OF MOT CHARGES IN CFSS ATTACHED TO 24X7 PORTS

OUR COMMENTS: As on date no MOT charges are required to be collected in respect of the services provided by the customs officers at 24x7 customs ports and airports.

The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 04/2017-Customs dated 16.02.2017** has clarified that no MOT charges would be collected at CFSs attached exclusively to 24x7 ports in lieu of services rendered within the CFS. This will bring the MOT collection norms at par with the situation on the air side which cover all shipping bills free or otherwise.

INSTALLATION AND COMMISSIONING OF CUSTOMS RAPISCAN 620 DV FACILITY FOR CHECKPOINT SCREENING SYSTEM AT NEW CUSTOM HOUSE

OUR COMMENTS: The Office Of The Principal Commissioner Of Customs (General) vide **PUBLIC NOTICE NO. 19/2017 dated 10.02.2017** has requested all stake holders, general public to enter Custom House premises from the main entrance of the old building only and the entry will be regulated through a metal detector and screening of hand baggage through the RAPISCAN 620 DV screening machine.

GRANTING CABOTAGE RELAXATION PERMISSION TO FOREIGN FLAG SHIPS CARRYING PASSENGERS TO CALL AT MORE THAN ONE INDIAN PORT

OUR COMMENTS: The Office Of The Principal Commissioner Of Customs (General) vide **PUBLIC NOTICE NO. 17/2017 dated 13.02.2017** has issued clarifications regarding customs regulations pertaining to International Cruise vessels.

For passengers travelling in International cruise vessel following procedure will be adopted:-

(i) No Customs officer will escort the ship on the domestic legs viz. Mumbai-Cochin or Goa-Mumbai..

(ii) No exemption from customs duty on any alcohol or products consumed on board the ship in Indian customs waters. i.e. when the ship is within Indian territorial waters.

(iii) A domestic passenger sailing on domestic sector is not entitled to buy any duty free products on the ship. Any on board purchases, will attract appropriate customs duty on disembarkment at the next port.

(iv) International passengers and tourists will be entitled to avail baggage allowance as per the Baggage Rules, 2016.

INCOME TAXES

NOTIFICATIONS & CIRCULARS

DTAA BETWEEN INDIA AND ISRAEL SIGNED ON 14.10.2015 TO BE EFFECTED IN UNION OF INDIA

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 10/2017 dated 14.02.2017** has notified that all the provisions of the Agreement entered into between the Government of the Republic of India and the State of Israel for the prevention of fiscal evasion with respect to taxes on income and on capital signed on the 14th day of October, 2015 shall be given effect to in the Union of India.

M/S JAWAHARLAL INSTITUTE OF POSTGRADUATE MEDICAL EDUCATION AND RESEARCH (JIPMER) APPROVED U/S 35(1) (II) OF IT ACT 1961

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 11/2017 dated 17.02.2017** has notified that the organization M/s Jawaharlal Institute of Postgraduate Medical Education and Research (JIPMER), Puducherry has been approved by the Central Government for section 35(1)(ii) of the Income-tax Act, 1961, read with Rules 5C and 5E of the Income-tax Rules, 1962, from Assessment year 2016-2017 onwards in the category of ''University, College or other Institution', subject to specified conditions.

AMENDMENT IN NOTIFICATION NO. 137 DATED 23.05.2003 SO(E)-576

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 12/2017 dated 21.02.2017.**

In the said notification, in the proviso, in clause (ii), for the words, 'the notifications issued under section 138 from time to time", the words, "provisions of sub-section (1) of section 138 of the Act" shall be substituted w.e.f. 23rd May, 2003.

NATIONAL IRANIAN OIL COMPANY U/S 10(48)

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 13/2017 dated 23.02.2017** has u/s 10(48), the National Iranian Oil Company, as the foreign company and the Memorandum of Understanding entered between the Government of India in the Ministry of Petroleum and Natural Gas and the Central Bank of Iran on 20.01.2013 as modified by the minutes of meeting signed on the 16th August, 2016 between the Government of India, Ministry of Finance, Department of Economic Affairs and Bank Markazi Jomhouri Islami Iran, provided that the said foreign company shall not engage in any activity in India, other than the receipt of income under the agreement aforesaid w.e.f. 16.08.2016.

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.

ORISSA

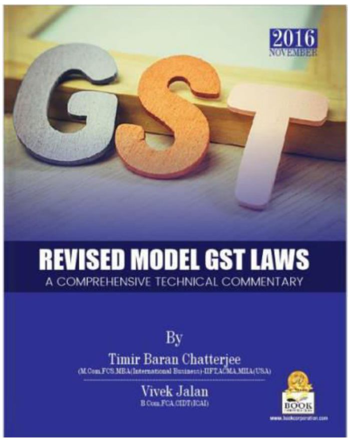
RESCINDMENT OF NOTIFICATION ALLOWING DEFERMENT OF TAX ON SALE OF FINISHED PRODUCTS MANUFACTURED OR PROCESSED BY PARADEEP REFINERY OF IOCL

OUR COMMENTS: The Finance Department, Government Of Odisha **vide Notification No. 4978-FIN-CT1-TAX-0027-2016 dated 22.02.2017** has rescinded the notification No. 24092-CTA--117/2002(Pt.)-F, dated the 1st June, 2004 allowing deferment of tax on sale of finished products manufactured or processed by Paradeep Refinery of IOCL.

WITHDRAWAL OF FISCAL INCENTIVE GIVEN TO IOCL RELATING TO INTEREST FREE LOAN EQUIVALENT TO THE SALES TAX PAYABLE ON THE FINISHED PRODUCTS OF PARADEEP REFINERY

OUR COMMENTS: The Finance Department, Government Of Odisha **vide Notification No. No.FIN-CT1-TAX-0027/2016/4974/F dated 22.02.2017** has withdrawn Clause-1 of ARTICLE-II of the MoU dated 16.02.2004 executed between the Government of Odisha and the IOCL with respect to grant of interest free loan equivalent to the Sales Tax payable to the State of Odisha in the finished products of Paradeep Refinery during first 11 (eleven) years from the commencement of the commercial production.

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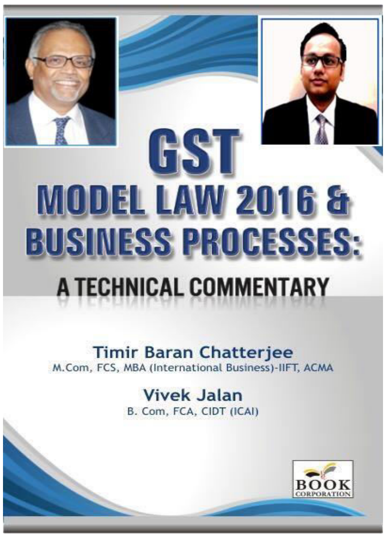
IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



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)

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.

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