TAX CONNECT
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TAX CONNECT

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EDITORIAL

Friends,

The GST Council has decided to peg the peak GST rate at 40% in the legislation instead of 28%, giving it the flexibility to raise rates without having to reach out to Parliament. This is only an enabling provision and the highest rate levied on goods will still be 28%. This provision will also allow the government to remove the cess at some stage and instead have a higher GST rate

Further, in a recent meeting held by representatives of All India Association of Central Excise Gazetted Executive Officers and from Customs and Central Excise, it was decided that **each employee working under CBEC will write a letter (at least 50,000) to the Prime Minister seeking his intervention for successful roll-out of GST.**

The industry and the experts have pointed out that the proposed GST law denies tax credit in relation to input services for which payments are made after 3 months of the date of invoice of the supplier. In addition, it also mandates payment of interest.

The industry has raised concern that there can be several genuine reasons for which payments can get delayed such as delay in sending invoice by the supplier or time taken for processing invoice etc. This will result in increase in cost on one hand and on the other hand it may not align with the GST regime which aims to eliminate double taxation and minimise cascading of tax.

Now coming to the present taxes,

In Service Tax, a format has been provided in which an undertaking has to be provided for Appeal/ applications before CESTAT.

In Central Excise, a circular has been issued for clarification on classification of articles of paper and printing industry.

In Customs, exchange rate of foreign currencies into Rupee & vice versa has been revised wef 03.03.2017

In Income Tax, a clarification has been issued with respect to issue of notice under section 133(6) for verification of cash deposits under 'operation clean money.

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

Truly Yours

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SYNOPSIS

MAHARASHTRA: LAST DATE FOR DISABLING PROVISIONAL ID OF NON-COMPLIANT PHASE 1 AND PHASE 2 DEALERS

Maharashtra Sales Tax Department (MSTD) has shared data of Active dealers, having valid PANs, with GSTN in two Phases. Accordingly, GSTN has created Provisional Ids and Access Token (Temporary Passwords) and MSTD is distributing these Provisional Ids and Access Tokens to the dealers from its Portal www.mahavat.gov.in from last three and half month.

All dealers, willing to continue their business after implementation of GST and willing to enroll for GST, are expected to take Provisional Ids and Access Token from MSTD's Portal www.mahavat.gov.in and complete their enrollment on GST Portal www.gst.gov.in which includes activation of account on GST Portal, filling of required information in the application on GST Portal, uploading of necessary documents and final submission of signed application using Digital Signed Certificate (DSC) or e-Sign.

During the period of last three and half month, around 85% of the dealers of Phase 1 and Phase 2 have collected provisional Ids from MSTD, around 79% of the dealers of Phase 1 and Phase 2 have activated their accounts on GST Portal whereas only 11% of the dealers of Phase 1 and Phase 2 have submitted signed applications on GST Portal.

Even after wide publicity and continuous communication by Nodal Officers with such dealers , they are delaying for any reason like,

1. They are anticipating that their turnover will remain below prescribed limit as per Model
2. They are dealing or planning to deal in commodities which will be either Tax free or out of the purview of GST as per Model GST Law, or
3. They might be planning to close their business before implementation of GST, etc.

All those active dealers from Phase 1 and Phase 2, who are willing to enroll for GST but have not collected Provisional Id from MSTD or who have collected Provisional Id from MSTD but have not activated account on GST Portal are hereby requested to collect Provisional Id from MSTD and activate their account on GST Portal on or before 06-03-2017.

If any active dealer from Phase 1 and Phase 2, who will not collect Provisional Id from MSTD and will not activate their account on GST Portal on or before 06-03-2017, then it will be assumed that, this dealer is not willing to enroll for GST for any reason and his Provisional Id and Access Token will be disabled/deleted permanently.

If, in future, such dealers, wants registration under GST Act, they may apply for the same but will **not be eligible for the benefits of transitional Provisions under the GST Act.**

TAX CALENDAR

Due date	COMPLIANCES FROM 5th Mar, 2017 to 11th Mar, 2017	STATUTE
5th Mar, 2017	Service Tax deposit of previous month (Company/ Society), Finance Act	All India (The due date is 6th September for online payment)
	Deposit of WCT of previous month (VAT Act)	Kerala
7th Mar, 2017	Deposit of WCT of previous month (VAT Act)	Tripura
	TDS/TCS deposit of previous month (Income Tax Act)	All India
10th Mar, 2017	Deposit of WCT of previous month (VAT Act)	Chhattisgarh Madhya Pradesh West Bengal Nagaland Meghalaya Mizoram Arunachal Pradesh Assam Manipur
	Issuance of WCT certificate (VAT Act)	Chhattisgarh Karnataka Kerala Madhya Pradesh Manipur
	Deposit of Ptax of previous month (Commercial Tax Act)	Andhra Pradesh Madhya Pradesh
	Deposit of Entry tax of previous month (Entry Tax Act)	Chhattisgarh Madhya Pradesh
	Deposit of VAT of previous month (VAT Act)	Chhattisgarh Madhya Pradesh

NOTIFICATIONS/CIRCULARS

RETROSPECTIVE EXEMPTION ON SERVICE TAX LIABILITY ON ADMISSION TO A MUSEUM 31.07.2012 TO 31.03.2015

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No.09/2017-Service Tax dated 28.02.2017** has directed that the service tax payable on the services services by way of admission to a museum, 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.

APPEAL/ APPLICATIONS BEFORE CESTAT HAVE TO GIVE AN UNDERTAKING IN THE FOLLOWING FORMAT

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **01(0S)/Circular/CESTAT/2017 dated 27.02.2017** has directed that while filing appeal/ applications before the Customs, Excise & Service Tax Appellate Tribunal have to give an undertaking in the following format along with the appeals/applications to be filed before CESTAT.

"Matter not previously filed or pending before any other legal forum including Hon'ble High Courts/Supreme Court.

The appellant/ applicant further declares that he has not previously filed any appeal, writ petition or suit regarding the impugned order, before any court or any other authority or any other Bench of the Tribunal.”

COURT DECISIONS

M/S. SERVICE CARE PVT. LTD. VERSUS THE DEPUTY COMMISSIONER (SIR-II) , SERVICE TAX, THE COMMISSIONER OF SERVICE TAX, THE SUPERINTENDENT (SIR-II, GR. III) , SERVICE TAX, UNION OF INDIA, [MADRAS HIGH COURT]

Brief: Garnishee order cannot be passed without first passing an assessment order.

OUR COMMENTS: In the above case, the assessee has filed a petition that the garnishee order has been issued, qua its customer without any basis in law.

The assessee’s contention is that no tax is due on its account and tax, if any due, was payable, if at all, by the erstwhile proprietorship concern whose proprietor has died leaving behind no estate. Hence, no recovery could be made from the assessee by the erstwhile customers of the proprietorship concern.

The Hon’ble High Court has held that the respondents could not have, willy-nilly, passed the garnishee orders without first passing an assessment order and has accordingly set aside the garnishee order.

.

[Decided in favour of assessee]

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

CLASSIFICATION OF ARTICLES OF PAPER AND PRINTING INDUSTRY

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 1052/01/2017-CX dated 23.02.2017** has issued following clarification with respect to classification of certain articles of paper and printing industry as follows:

- **Railway/ bus/ other tickets/ passes**
  - Explanatory note to heading 49.11 specifically covers these goods. Therefore, these goods are classifiable under heading 4911.
  - Railway ticket rolls, bus ticket rolls and like goods, which have cut/ identifiable marks for separation of railway tickets/ bus tickets therefrom and tickets are easily identifiable therein, are also classifiable under heading 49.11.
- **Mark sheets/ certificates**- In view of explanatory notes to heading 4907 (F) they are classifiable under heading 4907.
- **OMR sheets-** Like mark sheets and certificates these are loose sheets cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. In view of explanatory note to heading 4911 they are classifiable under heading 4911.
- **Answer books with or without OMR, answer booklets and passbooks-**. Provisions of Chapter note 12 and 14 of Chapter 48 and provisions of Rule 4 of General Interpretative Rules are applicable in the matter and therefore these are classifiable under heading 4820.
- **Inland letter cards-** In the situation, where printing on inland letter cards is not merely incidental, goods are classifiable under heading 4911. However, plain letter cards are classifiable under heading 4817, which reads as "envelopes, letter cards, plain postcards and correspondence cards, of paper or paper boards..."
- **Application forms B**ank account opening forms, forms of telecom companies, education institutions, insurance company forms and similar forms printed on specific order of the concerned bank, telephone companies etc are loose sheets, cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. Printing on these forms is not merely incidental. In view of explanatory note to heading 4901 and 4911 these forms are classifiable under heading 4911.
- **Paper outer strip seals** are classifiable under heading 4911 in view of printing not merely incidental and decision of Hon'ble Apex Court in the matter of Holostick India Ltd
- **Railway Receipts (RRs**) are classifiable under heading 4907 in view of Rule 3 (c) of General Rule for the interpretation of the Schedule, Hon'ble Apex Court decision in the case of Holostick India Ltd.
- **Practical notebook** containing some texts, questions and spaces for exercises under heading 4901. However, practical notebook which have merely certain questions followed by blank spaces for writing are classifiable under heading 4820 only.

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. 14/2017-Customs (N.T.) dated 02.03.2017 & in supersession of Notification No. 12/2017-Customs (N.T.) dated 16.02.2017** 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. **03.03.2017** 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	52.10	50.30
2.	Bahrain Dinar	183.50	171.25
3.	Canadian Dollar	80.90	49.25
4.	Danish Kroner	9.65	9.30
5.	EURO	71.55	69.10
6.	Hong Kong Dollar	8.70	8.50
7.	Kuwait Dinar	226.05	211.65
8.	New Zealand Dollar	48.55	46.85
9.	Norwegian Kroner	8.05	7.80
10.	Pound Sterling	83.40	80.65
11.	Singapore Dollar	48.10	46.65
12.	South African Rand	5.30	4.95
13.	Saudi Arabian Riyal	18.40	17.25
14.	Swedish Kroner	7.50	7.25
15.	Swiss Franc	67.35	65.00
16.	UAE Dirham	18.80	17.60
17.	US Dollar	67.65	66.00
18.	Chinese Yuan	9.85	9.55
19.	Qatari Riyal	18.90	17.85

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	59.65	57.65
2.	Kenya Shilling	67.25	62.90

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. 13/2017-Customs (N.T.) dated 28.02.2017** 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.

INCOME TAXES

NOTIFICATIONS & CIRCULARS

ASSAM ELECTRICITY REGULATORY COMMISSION, NOTIFIED U/S 10(46) FOR SPECIFIED INCOME

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION No. 14/2017 dated 23.02.2017** has notified Assam Electricity Regulatory Commission, constituted by the Government of Assam in respect of the specified income arising to the Commission subject to the following conditions:

(a) They shall not engage in any commercial activity;

(b) Activities and the nature of the specified income remain unchanged throughout the financial years; and

(c) They shall file return as per Section 139(4C)(g) of the Income-tax Act, 1961.

M/S. ASCENDAS IT PARK (CHENNAI) LTD. NOTIFIED AS AN INDUSTRIAL PARK FOR THE PURPOSES OF SECTION 80-IA(4)

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION No. 15/2017 dated 23.02.2017** has notified the undertaking, being developed and being maintained and operated by M/s. Ascendas IT Park (Chennai) Ltd, as an industrial park for the purposes of the clause (iii) of sec 80(IA)(4) subject to the terms and conditions mentioned in the annexure of the notification

ISSUE OF NOTICE UNDER SECTION 133(6) OF THE INCOME-TAX ACT, 1961 FOR VERIFICATION OF CASH DEPOSITS UNDER 'OPERATION CLEAN MONEY

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Instruction No. 4/2017 dated 03.03.2017** has issued an instruction with respect to Issue of notice under section 133(6) of the Income-tax Act, 1961 for verification of cash deposits under 'Operation Clean Money

CBDT earlier issued a SOP Vide Instruction No. 3/2017 dated 21.02.2017 to be followed by the Assessing Officer(s) for Online Verification of Cash Transactions pertaining to the demonetisation period. In continuation, a Template (enclosed as annexure to the clarification) has been issued for notices under section 133(6) in appropriate cases, for Online Verification of Cash Deposits. Following issues may kindly be kept into consideration:

i. Notice under section 133(6) of the Act is required to be issued, after obtaining prior approval of Pr. CIT/CIT/Pr. DIT/DIT as provided in the Act, in cases where the 'person under verification' fails to file Online response in a timely manner in spite of issue of reminder by the Assessing Officer. The approval would be taken Online once the facility in ITBA module gets operationalised;

ii. Notice shall be generated through the ITD System only.;

iii. Response to notice has to be furnished by the 'person under verification' only through the Online mode;

iv. Verification under 'Operation Clean Money' is to be made through the Online Verification Portal only in accordance with SOP dated 21.02.2017;

v. In case no response is furnished within the specified timeframe, Assessing Officer may form a view that 'person under verification' has no plausible explanation to offer regarding the cash deposits in his/her bank account(s) and consequentially, the case may be escalated as 'Not-Acceptable' for further action in accordance with the procedure prescribed in the SOP of CBDT vide Instruction No. 3/2017 dated 21.02.2017.

STATE TAXES

JHARKHAND

AMENDMENTS IN THE JHARKHAND VALUE ADDED TAX RULES, 2006

OUR COMMENTS: The Commercial Taxes Department, Government Of Jharkhand, **vide Notification No. 23S.O. NO.4** dated 14.02.2017 has made amendments in the Jharkhand Value Added Tax Rules, 2006 in Rule 3, 14, 18, 22, 26, 31, 32, 35, 38, 43, 45, 60 and inserted new Rule 65A & have also amended and inserted various Forms.

The readers may refer the notification for details.

GUJARAT

DELEGATION OF POWER FOR INSTALLMENTS UNDER SAMADHAN YOJNA

OUR COMMENTS: The Commissioner Of Commercial Tax, Gujarat State, Ahmedabad **vide Order No.GVL/VAT/Act/Sec.16 (6)/ ( )dated 21.02.2017** has delegated the duties of Commissionser under Sec 42(2) of the Gujarat Vat Act, 2003, to the Commercial Tax Officer and Assistant Commissioner of Commercial Tax

The powers delegated by this order shall be utilized for allowing the installments only for the payment under the VAT/ Sales Tax Amnesty Scheme 2016 subject to the conditions provided therein.

RAJASTHAN

LAST DATE FOR FILING OF ANNUAL RETURN AND REVISED QUARTERLY RETURNS FOR FY 2015-16 EXTENDED TO 15TH MARCH 2017

OUR COMMENTS: The Commercial Taxes Department, Government Of Rajasthan, **vide Notification No. F26 (315) CCT/MEA/2016/2376] dated 28.02.2017** has extended the last date for filing of Annual Return and Revised Quarterly Returns for FY 2015-16 to 15th March 2017.

LAST DATE FOR FILING OF QUARTERLY RETURN FOR 3RD QUARTER FY 2016-17 IS EXTENDED UPTO 15TH MARCH 2017

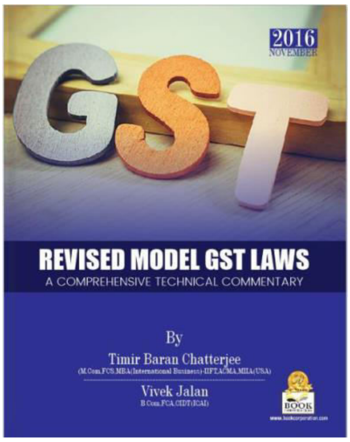
OUR COMMENTS: The Commercial Taxes Department, Government Of Rajasthan, **vide Notification [No. F26 (315) CCT/MEA/2014/2364]] dated 28.02.2017** has extended last date for filing of Quarterly Return for 3rd quarter FY 2016-17 to 15th March 2017.

WEST BENGAL

DEADLINE TO COMPLETE MIGRATION OF VAT DEALERS IS ON 15-03-2017

OUR COMMENTS: The Directorate of Commercial Taxes, Government Of West Bengal **has provided an urgent message that** the GSTN authority has set the deadline on 15-03-2017 to complete the entire exercise of migration of VAT dealers (Activation of ID followed by uploading of Application Form).

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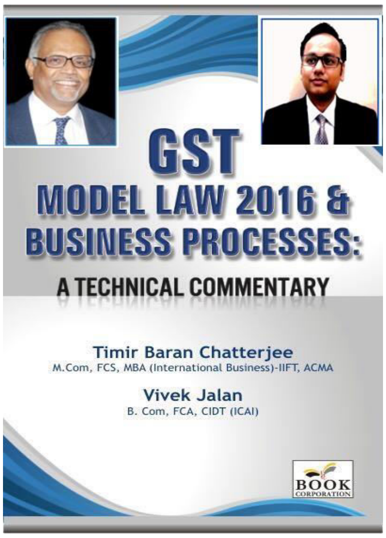
IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



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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