TAX CONNECT
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TAX CONNECT

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CENTRAL EXCISE

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EDITORIAL

Friends,

The GST has entered its last phase with the approval of the **4 supplementary GST bills last week i.e. determination of GST rate structure** which involves the challenging task of assignment of the items to the different GST slabs. The decision with respect to the above is expected in the next meeting scheduled in the second half of May.

The GST Network (GSTN) is expecting to start live testing of the IT infrastructure to be put in place for the GST regime, in May so that the teething problems are resolved at the earliest.

Further, **CBEC has issued 19 FAQs on migration to GST** and has clarified that GST registration is based on PAN and State, hence only one Provisional ID and password will be issued to a given PAN for a given State, irrespective of number of registrations on that PAN within the State. For applying for other registrations, the details may be included as 'Additional Place of Business'.

Now coming to the present taxes,

In Service Tax, it has been held that for authorized service stations, the cost of the spare parts and cost of handling of spare parts are not to be included in the value of the services rendered.

In Customs, exchange rate of foreign currencies into Rupee & vice versa have been revised w.e.f. 07.04.2017.

In Income Tax, Section 269ST (inserted by the Finance Act 2017 restricting cash transaction to the tune of Rs. 2 lakhs) shall not apply to receipt by any person from an entity referred in the proviso to section 269ST (B)(I) i.e. banks, post offices etc.

Further, Procedure, Formats and Standards have been prescribed for ensuring secured transmission of Electronic Communication.

For WBVAT, now all new registration applications are to be made using PAN based digital signature of the business w.e.f. the 1st April, 2017. The digital signature should be of Class 2 or Class 3 'Business Type'

The above notifications/circulars 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

CGST BILL INTRODUCED IN LOK SABHA: NEW/AMENDED DEFINITIONS

AMENDED DEFINITIONS

- **Agriculture:** The definition in the Revised Model GST Law u/s2(7) has been removed from CGST Bill

- **Agriculturist:**

  Definition as per Revised Model GST Law

  A person who cultivates land personally, for the purpose of agriculture

  Definition as per CGST Bill

  An individual or a Hindu Undivided Family Who undertakes cultivation of land—
  (a) by own labour, or
  (b) by the labour of family, or
  (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family

- **Manufacture:**

  Definition as per Revised Model GST Law

  The meaning assigned to it by the Central Excise Act, 1944 (1 of 1944)

  Definition as per CGST Bill

  The processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly.

NEW DEFINITIONS

- **Appellate Authority [Section 2(8)]:** An authority appointed or authorized to hear appeals as referred to in section 107.

- **Existing law [Section 2(48)]:** Any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation.

- **Family [Section 2(49)]:** i. the spouse and children of the person, ii. the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

- **India [Section 2(56)]:** The territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters.

- **Non-taxable supply [Section 2(78)]:** A supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act.

- **Union territory [Section 2(114)]:** The territory of— (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c)
  Dadra and Nagar Haveli; (d) Daman and Diu (e) Chandigarh; and (f) other territory.
  Explanation. — For the purposes of this Act, each of the territories specified in subclauses (a) to (f) shall be considered to be a separate Union territory.

- **Voucher [Section 2(118)]:** An instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

TAX CALENDAR

Due date	Compliances from 09th Apr, 2017 to 15th Apr, 2017	State/Region
10th Apr, 2017	Deposit of WCT of previous month (VAT Act)	Chhattisgarh, Madhya Pradesh, West Bengal, Nagaland, Meghalaya, Manipur, Assam, Mizoram, Arunachal Pradesh
	Filing of monthly/quarterly WCT return (VAT Act)	Kerala
	Issuance of monthly/quarterly WCT certificate (VAT Act)	Madhya Pradesh, Manipur, Karnataka, Kerala
	Deposit of VAT of previous month (VAT Act)	Chhattisgarh
	Deposit of Ptax of previous month (Commercial Tax Act)	Andhra Pradesh , Madhya Pradesh
14th Apr, 2017	Deposit of VAT of previous month (VAT Act)	Rajasthan
	Filing of monthly/quarterly WCT return (VAT Act)	Odisha
	Deposit of Entry tax of previous month (Entry Tax Act)	Rajasthan
15th Apr, 2017	Deposit of VAT of previous month (VAT Act)	Bihar, Jharkhand, Sikkim, Kerala Haryana (if Tax> Rs. 1 lac), Karnataka (Quarterly, if total turnover of previous year is less than Rs. 25 lacs)
	Filing of monthly/quarterly VAT return (VAT Act)	Kerala (Monthly, Annual tax if> 10 lacs) Karnataka (Quarterly, if total turnover of previous year is less than Rs. 25 lacs)
	Deposit of WCT of previous month (VAT Act)	Bihar, Chandigarh, Delhi, Haryana Jharkhand, Punjab, Rajasthan Himachal Pradesh
	Filing of monthly/quarterly WCT return (VAT Act)	Punjab, Kerala
	Issuance of monthly/quarterly WCT certificate (VAT Act)	Punjab, Chandigarh, Goa, Haryana, Jharkhand, Himachal Pradesh
	PF deposit of previous month (EPF Act)	All India
	Deposit of Ptax of previous month (Commercial Tax Act)	Sikkim, Gujarat, Jharkhand
	Deposit of Entry tax of previous month (Entry Tax Act)	Bihar, Jharkhand

SERVICE TAX

NOTIFICATIONS/CIRCULARS

SERVICE TAX (ADVANCE RULINGS) AMENDMENT RULES, 2017

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 12/2017- Service Tax (N.T.) dated 31.03.2017** has amended the Service Tax (Advance Rulings) Rules, 2003. The new rules may be called Service Tax (Advance Rulings) Amendment Rules, 2017 and it shall be effective from 01.04.2017.

As per the amended rule, Rule 2(b) shall be read as

"Authority" means the Authority for Advance Rulings as defined in clause (e) of section 28E (earlier section 28F) of the Customs Act, 1962 (52 of 1962).

.

COURT DECISIONS

M/S JAY CEE MOTORS VERSUS CCE, LUDHIANA [CESTAT CHANDIGARH]

BRIEF: For authorized service stations, the cost of the spare parts and cost of handling of spare parts are not to be included in the value of the services rendered.

OUR COMMENTS: In the above case, the assessee has Authorized Service Station and during the course of audit it was found that the he has charged handling charges from clients and have not paid service tax thereon. They issued a show cause notice with demand of service tax on handling charges.

The matter was adjudicated. The adjudicating authority confirmed the demand of service tax on handling charges along with interest and imposed penalty under Section 78 of the Finance Act, 1994. The Revenue filed the appealed on the ground that the adjudicating authority has not imposed penalty under Section 76 of the Act. The appellant also filed cross objection to the appeal filed by the Revenue praying that penalty under Section 76 is not imposable as penalty under Section 78 has already been imposed on the appellant.

The **Hon'ble CESTAT** held that the demand against the assessee cannot be confirmed in the light of the decision of this Tribunal Seva Automotive Pvt. Ltd. reported in 2016 (46) STR 428 (Tri. Mumbai) wherein this Tribunal observed as under:

"Section 67 as stood in the relevant time provided for exclusion of cost of spare parts sold while rendering repair services of automobiles. If that be so, the cost of handling of such spare parts incurred by the respondent would also not form part of the taxable value of the service rendered. Therefore, we do not find any infirmity in the reasoning adopted by the lower appellate authority. Accordingly, we dismiss the appeal filed by the Revenue as devoid of merits."

Therefore penalties are also not imposable on the assessee.

[Decided in favour of assessee]

NOTIFICATIONS/CIRCULARS

CENTRAL EXCISE (ADVANCE RULINGS) AMENDMENT RULES, 2017

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 08/2017-Central Excise (N.T.) dated 31.03.2017** has amended the Central Excise (Advance Rulings) Rules, 2002. The new rules may be called Central Excise (Advance Rulings) Amendment Rules, 2017 and it shall be effective from 01.04.2017.

As per the amended rule, Rule 2(b) shall be read as

"Authority" means the Authority for Advance Rulings as defined in clause (e) of section 28E (earlier section 28F) of the Customs Act, 1962 (52 of 1962).

COURT DECISIONS

M/S SAURAV CHEMICALS LTD. VERSUS CCE, CHANDIGARH [CESTAT CHANDIGARH]

Brief: The assessee cannot be denied Cenvat Credit as final goods which are exempt but has been cleared on payment of duty as payment of duty shall amount to reversal of Cenvat Credit on inputs.

OUR COMMENTS: In the above case, the assessee is a manufacturer of Homatropine Methyl Bromide (HMB). He use to export goods under LUT and also clear goods on payment of duty in DTA. The good is exempt from duty, however assessee availed Cenvat Credit on inputs used in manufacturing of said goods.

The Revenue disallowed the Cenvat Credit on the ground that as goods manufactured by the assessee are exempt under Notification No. 4/2006 dt. 01.03.2006, he is not required to pay duty, and is not entitle to avail Cenvat Credit on inputs used in manufacture of final exempted goods.

Therefore, two question arises here:

1. Whether the assessee is entitled for Cenvat Credit on inputs used in manufacture of final product which has been exempted by exemption Notification No. 4/2006 dt. 01.03.2006 which has been cleared under domestic tariff area on payment of duty.

2. Whether the assessee is entitled to avail the Cenvat Credit on inputs which has been used in manufacture of export goods which has been cleared under LUT/rebate after payment of duty.

The Hon'ble CESTAT held that:

1. In the first case, the assessee cannot be denied Cenvat Credit as final goods which are exempt has been cleared on payment of duty. The said payment of duty shall amount to reversal of Cenvat Credit on inputs.

   Ref: Polyrub Extrusions (I) Pvt. Ltd. Vs. CCE, Belapur (supra), Anutone Acoustics Ltd. Vs. CCE, Thane-I (supra), and R.B. Steel Services Vs. Commissioner of Central Excise & Service Tax, Rohtak (supra),

2. In the second case, the assessee again cannot be denied Cenvat Credit as the goods have been exported under LUT, in that circumstances, in terms of Rule 6(6) of Cenvat Credit Rules, 2004, the assessee is entitle to avail Cenvat Credit. Therefore, I hold that appellant is correctly taken the Cenvat Credit.

   Ref: CCE Vs. Drish Shoes Ltd. (supra)

[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. 32/2017-Customs (N.T.) dated 05.04.2017 & in supersession of Notification No. 22/2017-Customs (N.T.) dated 16.03.2017** 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. **06.04.2017** 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)
15.	South African Rand	4.95	4.60

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. 33/2017-Customs (N.T.) dated 06.04.2017 & in supersession of Notification No. 22/2017-Customs (N.T.) dated 16.03.2017** 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. **07.04.2017** 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	49.90	48.15
2.	Bahrain Dinar	178.70	166.65
3.	Canadian Dollar	49.15	47.65
4.	Chinese Yuan	9.60	9.25
5.	Danish Kroner	9.50	9.15
6.	EURO	70.65	68.20
7.	Hong Kong Dollar	8.50	8.25
8.	Kuwait Dinar	220.60	206.25
9.	New Zealand Dollar	46.10	44.45
10.	Norwegian Kroner	7.70	7.40
11.	Pound Sterling	82.50	79.75
12.	Qatari Riyal	18.40	17.40
13.	South Arabian Riyal	17.95	16.80
14.	Singapore Dollar	47.15	45.70
15.	South African Rand	4.85	4.55
16.	Swedish Kroner	7.35	7.10
17.	Swiss Franc	65.90	63.70
18.	UAE Dirham	18.30	17.15
19.	US Dollar	65.90	64.20

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	59.90	57.85
2.	Kenya Shilling	65.15	60.90

CHANGE IN 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. 23/2017-Customs (N.T.) dated 31.03.2017** has amended **Notification No.36/2001-Customs, dated 03.08.2001** and changed 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

INCOME TAX (4TH, 5TH, 6TH & 7TH AMENDMENT) RULES, 2017

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION No. 21, 25, 26, 27/2017 dated 30.03.2017, 31.03.2017, 03.04.2017 and 05.04.2017 has** amended various Rules of Income-tax Rules, 1962.

One of the key changes is that Government has notified New ITR Forms applicable for AY 2017-18. A new column has been inserted in all ITR Forms to report cash deposits in banks above 2 lakhs during the demonetisation period,i.e., from November 9, 2016 to December 30, 2016.

The readers may refer the aforesaid notifications for details.

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, SCIENCE AND ENGINEERING RESEARCH BOARD NOTIFIED U/S 10(46) FOR SPECIFIED INCOME

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION No. 23, 24/2017 dated 31.03.2017** has notified Madhya Pradesh Electricity Regulatory Commission and Assam Electricity Regulatory Commission, Science and Engineering Research Board in respect of the specified income on fulfillment of 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.

SECTION 269ST SHALL NOT APPLY TO RECEIPT BY ANY PERSON FROM AN ENTITY REFERRED IN THE PROVISO TO SECTION 269ST (B)(I)

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION NO. 28/2017 dated 05.04.2017** has notified that the provision of section 269ST shall not apply to receipt by any person from an entity referred to in sub-clause (b) of clause (i) of the proviso to section 269ST banks, post offices etc. with effect from 1st day of April, 2017.

PROCEDURE, FORMATS AND STANDARDS FOR ENSURING SECURED TRANSMISSION OF ELECTRONIC COMMUNICATION

OUR COMMENTS: The Directorate of Income Tax (Systems), CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION No. 4/2017 dated 03.04.2017 has** specified additional procedures, formats and standards for ensuring secured transmission of electronic communication and authentication of electronic communication of notice or other document through the E-filing account of the taxpayer on the Designated Website https://incometaxindiaefiling.gov.in.

The readers may refer the aforesaid notification for details.

STATE TAXES

ASSAM

AMENDMENT OF SECTION 10 & FOURTH SCHEDULE

OUR COMMENTS: The Government of Assam vide **Notification No. LGL.64/2017/5 dated 01.04.2017** has notified The Assam Value Added Tax (Amendment) Act, 2017 and amended Section 10 and Fourth Schedule.

The readers may refer the aforesaid notification for details.

JHARKHAND

1% TAX ON AVIATION TURBINE FUEL (ATF)

OUR COMMENTS: The Commercial Taxes Department, Government of Jharkhand vide **Notification S.O. No. 7 dated 21.03.2017** has notified that Aviation Turbine Fuel (ATF) used for Regional Connectivity Scheme (RCS) Airports and RCS Flights from airports owned by private/PSU operators shall be taxed at 1% from the date of publication in the official Gazette and shall remain effective for 10 years.

VAT EXEMPTION PROVIDED TO 'CELL PHONES NOT EXCEEDING THE SALE PRICE OF RS. 5000/- AND P.O.S. MACHINES UPTIL 30TH JUNE 2017

OUR COMMENTS: The Commercial Taxes Department, Government of Jharkhand vide **Notification S.O. No. 8 dated 31.03.2017** has amended Notification No. S.O. 98 dated 13th December, 2016, and has notified that the VAT exemption provided to 'Cell Phones not exceeding the sale price of Rs. 5000/- and P.O.S. Machines commonly known as Debit / Credit Swipe Machines' vide Departmental Notification No. S.O. 98 dated 13 December, 2016 shall remain effective till 30 June, 2017.

ODISHA

REDUCTION OF VAT ON DAL & PULSES TO 1% EXTENDED TILL 30.06.2017

OUR COMMENTS: The Finance Department, Government of Odisha vide **Notification [No.8784-FIN-CT1-TAX-0029-2014] dated 31.03.2017** has amended Notification No. 18756-FIN-CTI-TAX-0029/2014/FIN, dated the 30th June, 2016 and extended the reduction in vat on dal and pulses to 1% uptil 30th June 2016.

WEST BENGAL

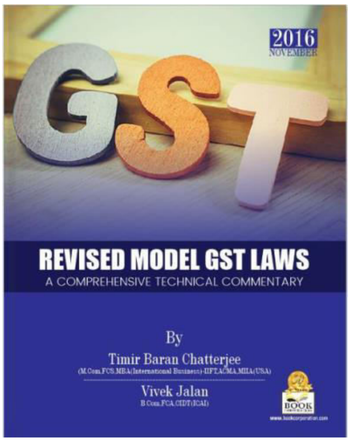
COMPULSORY USE OF DIGITAL SIGNATURE FOR FILING ONLINE APPLICATION FOR REGISTRATION

OUR COMMENTS: The Directorate of Commercial Taxes, Government of West Bengal vide **TRADE CIRCULAR NO. 02/2017 dated 28.03.2017** has incorporated changes in online e-service module of the Directorate of Commercial Taxes.

All new registration applications are to be made using PAN based digital signature of the business w.e.f. the 1st April, 2017. The digital signature should be of Class 2 or Class 3 ‘Business Type’.

The applicant shall also upload the scanned copies of the required documents as earlier, but there will be no need to send or submit any printed copy of the uploaded documents where the application is submitted using digital signature.

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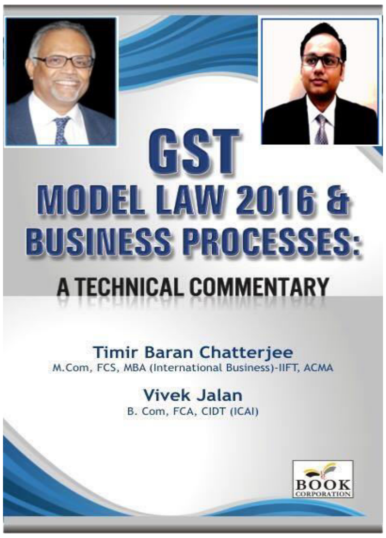
IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



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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