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EDITORIAL

Friends,

While, Telangana, Bihar, Rajasthan and Jharkhand have already passed the GST Bill, all other states are expected to pass the GST Bill by end of May.

The GST Council is next set to meet on May 18-19 to discuss fitment of commodities in the four-tier tax structure under GST.

On the other hand, GSTN chairman Navin Kumar says that the system which is designed to be the common interface for federal and state governments, taxpayers, tax authorities and banks, is expected to process 3.5 billion invoices every month, with 8 million direct taxpayers required to file up to 37 tax returns in a year.

In Maharashtra, distribution of GST provisional ID and access token of Phase 4 dealers has been announced covering dealers registered till 31-03-2017, RC restored cases till 31-03-2017 and PAN amendment cases till 31-03-2017.

Now coming to the present taxes,

In Service Tax, FORM ST-3 submission date for the period 1st October 2016 to 31st March 2017 has been extended from 25th April 2017 to 30th April 2017.

In Customs, goods under the First Schedule when imported by or along with a unit of the Army, the Navy, the Air Force or the Central Paramilitary Forces while return to India after a tour of service abroad has been exempted from basic customs duty (BCD), CVD and SAD.

Also, exemption from additional duty of customs has been provided to specified jute products when imported from Nepal.

In Income Tax, time for filing declaration under the Taxation And Investment Regime For Pradhan Mantri Garib Kalyan Yojana (PMGKY), 2016 has been extended to 10th May, 2017 subject to certain conditions.

Further, it has been decided that lease rent from letting out buildings/developed space with other amenities in an industrial park/SEZ is to be treated as business income.

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: ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT, APPORTIONMENT OF CREDIT AND BLOCKED CREDITS

- **ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT**

As per the Revised Model GST Law:

Where a recipient fails to pay to the **supplier of services**, the value of supply of services along with tax payable **within a period of 3 months** from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest.

As per the CGST Bill introduced in Lok Sabha

Where a recipient fails to pay to the **supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis**, the value of supply along with tax payable **within a period of 180 days** from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest.

Provided also that the recipient shall be entitled to avail the credit on payment of the same.

- **APPORTIONMENT OF CREDIT AND BLOCKED CREDITS**

As per the Revised Model GST Law:

Exempt supplies shall include supplies on which recipient is liable to pay tax on reverse charge basis u/s 8(3). No Input Tax on rent-a-cab, life insurance and health insurance except where the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force.
Plant and Machinery' means apparatus, equipment, machinery, **pipelines, telecommunication tower** fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation and structural supports but excludes land, building or any other civil structures.

As per the CGST Bill introduced in Lok Sabha

The value of exempt supply under subsection (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. No Input Tax on rent-a-cab, life insurance and health insurance except where —

(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply;

The expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but **excludes—**

(i) land, building or any other civil structures; (ii) **telecommunication towers; and (iii) pipelines** laid outside the factory premises.

Earlier Credit on Telecommunication towers and pipelines were allowed in RMGL on which credit now has been denied.

TAX CALENDAR

Due date	COMPLIANCES FROM 30th Apr, 2017 to 05th May, 2017	Region/State
30th Apr, 2017	Deposit of VAT of previous month (VAT Act)	Punjab (if payment otherwise than by cheque), Chandigarh Tripura, Himachal Pradesh, Madhya Pradesh Goa & Haryana (if Tax < Rs. 1 lac), Chattisgarh, Mizoram, Jammu & Kashmir
	Filing of monthly/quarterly VAT return (VAT Act)	Chandigarh, Chattisgarh, Punjab (if payment otherwise than by cheque), Himachal Pradesh, Madhya Pradesh, Goa, Bihar, Haryana, West Bengal, Jammu & Kashmir , Mizoram, Nagaland, Sikkim, Tripura, Madhya Pradesh, Uttar Pradesh, Meghalaya
	Deposit of WCT of previous month (VAT Act)	Goa (Monthly, if Tax< Rs. 1 lac), Jammu & Kashmir
	Filing of monthly/quarterly WCT return (VAT Act)	Rajasthan, Chhattisgarh, Gujarat, Himachal Pradesh, Goa, Bihar, Chandigarh, Haryana, Jammu & Kashmir, Tamil Nadu
	Issuance of WCT certificate (VAT Act)	Rajasthan, Assam, Gujarat, Kerala, Jammu & Kashmir
	Deposit of Entry tax of previous month (Entry Tax Act)	Goa, Maharashtra (if unregistered), Assam
	Deposit of P tax of previous month (Commercial Tax Act)	Maharashtra
	TDS/TCS deposit of March month (Income Tax Act)	All India
5th May, 2017	Service Tax deposit of previous month (Company/ Society), Finance Act	All India (The due date is 6th May for online payment)
	Deposit of WCT of previous month (VAT Act)	Kerala

SERVICE TAX

NOTIFICATIONS/CIRCULARS

FORM ST-3 SUBMISSION DATE FOR THE PERIOD 1ST OCTOBER 2016 TO 31ST MARCH 2017 EXTENDED FROM 25TH APRIL 2017 TO 30TH APRIL 2017

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **ORDER NO: 1 /2017-Service Tax dated 25.04.2017** has extended the date of submission of the Form ST-3 for the period from 1st October 2016 to 31st March 2017, from 25th April, 2017 to 30th April, 2017 because of the difficulties faced by assessees in accessing the ACES website on 25th April 2017.

COURT DECISIONS

M/S. EX MAHARANI MAHENDRA KUMARI VERSUS CCE & ST, JAIPUR [CESTAT NEW DELHI]

BRIEF: Buildings used for or as hotels do not amount to immovable property for the purpose of service tax. The presence of other incidental facilities relating to entertainment, personal care, etc. does not exclude the building from the category of "hotel".

OUR COMMENTS: In the above case, the assessee entered into a contract with the Indian Hotel Company Ltd. (IHCL) and allowed them to use their premises for running hotel business. The assessee received consideration in the form of percentage of gross income + gross operational profit or minimum guaranteed profit.

The Revenue took the view that the assessee has provided taxable services under the category of "renting of immovable property services" and accordingly, raised service tax demand.

Therefore, the dispute in the present appeal relates to service tax liability under the category of "renting of immovable property services" in terms of Section 65(90c) read with Section 65(105)(zzzz) of Finance Act, 1994.

The assessee contended that they provided land, and building premises to IHCL for running a hotel after due modification and upgradation.

In terms of statutory definition as per above mentioned section, "immovable property" does not include buildings used for the purposes of accommodation including hotels, hostels, etc. As such, there is no service tax liability on the assessee.

Further, the agreement provides for sharing a profit arising out of hotel business and which cannot be considered as a rent for the purpose of service tax levy.

The Revenue has wrongly considered that since the hotel has got other facilities apart from accommodation the same cannot be considered as "hotel" and excluded from levy.

The Hon'ble CETSTAT in agreement with assesses contention held that the main purpose of the hotel is for accommodation of the guests, however, in any good quality hotel various other incidental facilities like restaurant, room service, conference hall, swimming pool, etc. will be provided. Presence of these facilities and commercial activities in these facilities by itself will not make the building as anything other than hotel building.

Accordingly, the demand of the Revenue was set aside.

[Decided in favour of assesse]

NOTIFICATIONS/CIRCULARS

EXCISE DUTY NOT TO BE PAID ON HEENA POWDER AND PASTE FROM 01.01.2007 TO 01.3.2013

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 11/2017- Central Excise (N.T.) dated 24.04.2017** has directed that the excise duty payable under section 3 of the Central Excise Act, 1944 on Heena Powder and Paste falling under Chapter 33 of the First Schedule to the Central Excise Tariff Act, 1985 shall not be required to be paid for the period from 01.01.2007 to 01.03.2013, as according to a practice that was generally prevalent, there was non levy of excise duty, on the said goods.

COURT DECISIONS

M/S EXECUTIVE ENGINEER (WORKSHOP DIV.) VERSUS C.C.E., BHOPAL [CESTAT NEW DELHI]

BRIEF: If the assessee is not in a position to utilize the credit, the refund is to be paid in cash.

OUR COMMENTS: In the above case the assessee is a Government undertaking and is engaged in the production and distribution of electricity and the work of erection of towers for drawing transmission lines.

Initially, the department took the view that activities such as cutting, drilling, punching, bending, welding, assembling and painting etc on duty paid iron and steel products such as angles, channels and plates etc. carried out by the assessee would amount to manufacture and the assessee paid the applicable Excise duty under protest in cash and also by utilizing the modvat credit availed on the inputs.

Finally, the aforesaid activities were held to be not amounting to manufacture. The assessee received a refund of duty paid in cash but not for the credit utilized. The present dispute is with reference to the refund claim of paid by utilization of Cenvat credit.

The Hon'ble CESTAT held that it is settled law that there is no prohibition under Central Excise Act, 1944 or the rules made there-under for cash refund of duty paid by utilization of Modvat/Cenvat credit.

Section 11B of the CEA does not make any distinction between duty paid in cash and that by utilization of credit.

Ref: Commissioner of Central Excise, Jalandhar Vs. Kochar Sung-UP Acrylic Ltd.-2010 (259) ELT 713 (Tri. Del.)

In the given case, the assessee is not undertaking any activity at the moment requiring the payment of Excise duty. So, no useful purpose will be served by re-crediting the refund to the modvat account.

In view of the fact that the assessee is not in a position to utilize the credit, the refund is to be paid in cash.

The impugned order was accordingly set aside.

[Decided in favour of assesse]

CUSTOMS

NOTIFICATIONS/CIRCULARS

AMENDMENT IN NOTIFICATION NO. 41/1999-CUSTOMS DATED THE 28TH APRIL, 1999 W.R.T. EXEMPTION TO CONSUMABLES FOR MANUFACTURE OF GEM & JEWELLERY OR CUT & POLISHED DIAMONDS TO HOLDERS OF REPLENISHMENT LICENCE

OUR COMMENTS: The CEBC, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 14/2017-Customs dated 18.04.2017 amended Notification No. 41/1999-Customs dated the 28th April, 1999** with respect to Exemption to consumables for manufacture of Gem & Jewellery or cut & polished diamonds to holders of Replenishment Licence

The readers may refer the aforesaid notifications for details.

EXEMPTION OF ADDITIONAL DUTY OF CUSTOMS TO SPECIFIED JUTE PRODUCTS IMPORTED FROM NEPAL

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 15/2017-Customs dated 20.04.2017 amended Notification No. 8/2011-Customs dated the 14th February, 2011 and** has extended the exemption of additional duty of Customs to specified jute products imported from Nepal.

EXEMPT GOODS FALLING UNDER CHAPTER 30 OF FIRST SCHEDULE OF CUSTOMS TARIFF ACT 1975, FOR SUPPLY UNDER PATIENT ASSISTANCE PROGRAMME RUN BY SPECIFIED PHARMACEUTICAL COMPANIES

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 16 /2017-Customs dated 20.04.2017** has exempted goods falling under chapter 30 of first schedule of Customs tariff Act 1975, for supply under Patient Assistance Programme run by specified pharmaceutical companies subject to specified conditions.

EXEMPTION TO GOODS UNDER THE FIRST SCHEDULE WHEN IMPORTED BY OR ALONG WITH A UNIT OF THE ARMY, THE NAVY, THE AIR FORCE OR THE CENTRAL PARAMILITARY FORCES WHILE RETURN TO INDIA AFTER A TOUR OF SERVICE ABROAD, FROM BASIC CUSTOMS DUTY (BCD), CVD AND SAD

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 17 /2017-Customs dated 21.04.2017** has exempted goods exempt goods, falling under the First Schedule to the Customs Tariff Act, 1975, when imported into India by or along with a unit of the Army, the Navy, the Air Force or the Central Paramilitary Forces on the occasion of its return to India after a tour of service abroad, from basic customs duty (BCD), CVD and SAD subject to specified conditions.

AIR OF DUTY DRAWBACK WITH RESPECT TO GUAR AND ITS PRODUCTS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 41/2017-CUSTOMS (N.T.) dated 26.04.2017** has amended Notification no. 131/2016-Customs (N.T.) dated 31.10.2016 relating to AIR of duty drawback with respect to Guar and its products.

The readers may refer the aforesaid notifications for details.

INCOME TAXES

NOTIFICATIONS/CIRCULARS

METHOD OF VALUATION FOR THE PURPOSES OF SECTION 115TD(2): SPECIAL PROVISIONS RELATING TO TAX ON ACCRETED INCOME OF CERTAIN TRUSTS AND INSTITUTIONS

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 32/2017 dated 21.04.2017 has** inserted a new rule Rule 17CB: "Method of valuation for the purposes of sub-section (2) of section 115TD".

Sec 115TD(2) talks about special provisions relating to tax on accreted income of certain trusts and institutions.

TIME FOR FILING DECLARATION UNDER THE TAXATION AND INVESTMENT REGIME FOR PRADHAN MANTRI GARIB KALYAN YOJANA (PMGKY), 2016 EXTENDED

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No.14 of 2017 dated 21.04.2017 has** decided that if due tax, surcharge and penalty under PMGKY, has been received on or before the 31st March, 2017, and deposit in the Bond Ledger Account under the Deposit Scheme has been received on or before the 30th April, 2017, the declaration in Form No.1 under PMGKY can be filed by 10th May, 2017.

REMOVAL OF CYPRUS FROM THE LIST OF NOTIFIED JURISDICTIONAL AREAS UNDER SECTION 94A

OUR COMMENTS: Cyprus was specified as a "notified jurisdictional area" (NJA) under section 94A of the Income-tax Act, 1961 vide Notification No.86/2013 dated 01.11.2013 which was subsequently rescinded vide Notification No.114 dated 14.12.2016 and Notification No.119 dated 16.12.2016.

There was a doubt if the rescission of Notification No. 86/2013 was with retrospective effect from 01.11.2013.

Hence, The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No.15 of 2017 dated 21.04.2017 has** clarified that Notification No. 86/2013 has been rescinded with retrospective effect from 01.11.2013 removing Cyprus as a notified jurisdictional area.

LEASE RENT FROM LETTING OUT BUILDINGS/DEVELOPED SPACE WITH OTHER AMENITIES IN AN INDUSTRIAL PARK/SEZ TO BE TREATED AS BUSINESS INCOME

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No.16 of 2017 dated 25.04.2017** has decided in the case of an undertaking which develops, develops and operates or maintains and operates an industrial park/SEZ in accordance with the scheme framed and notified by the Government, the income from letting out of premises/ developed space along with other facilities in an industrial park/SEZ is to be charged to tax under the head 'Profits and Gains of Business'.

STATE TAXES

MAHARASHTRA

REVISION IN TAX RATE ON PETROL

OUR COMMENTS: The Finance Department, Government of Maharashtra vide Notification **No. VAT.1517 /C.R.44/Taxation-1 dated 21.04.2017** has increased the tax rate on petrol as follows:

The tax rate for petrol has been increased from 26%+ Rs.6/litre to 26% + Rs. 9/litre in Mumbai, Navi Mumbai and Thane, and,

The tax rate for petrol has been increased from 25%+ Rs.6/litre to 25% + Rs. 9/litre in rest of the state.

DISTRIBUTION OF GST PROVISIONAL ID AND ACCESS TOKEN OF PHASE 4 DEALERS

OUR COMMENTS: The Office Of The Special Commissioner Of Sales Tax, Government of Maharashtra vide **Trade Circular No. 12T of 2017 dated 25.04.2017** has announced that Provisional Ids and Access Token of Phase 4 dealers, are now made available by GSTN at department's portal www.mahavat.gov.in. The following types of dealers are covered in Phase 4:

-The dealers registered till 31-03-2017

-RC restored cases till 31-03-2017

-PAN amendment cases till 31-03-2017

The new dealers registered after 31-03-2017, RCs restored after 31-03-2017 and PAN amended cases after 31-03-2017 will be considered for GST enrollment in subsequent Phase.

EXTENSION IN DATE FOR FILING OF MONTHLY/QUARTERLY RETURNS

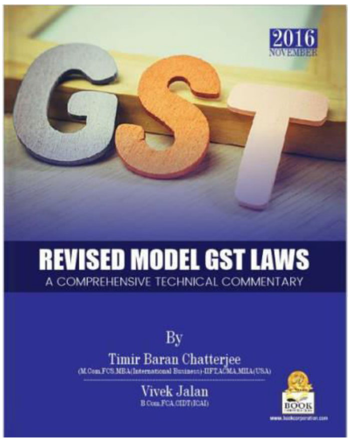
OUR COMMENTS: The Office Of The Special Commissioner Of Sales Tax, Government of Maharashtra vide **Trade Circular No. 14T of 2017 dated 26.04.2017** has extended the date for monthly/quarterly returns as follows:

Period	Start Date	Last date
Month- March 2017	01-04-2017	03-05-2017 (earlier 30-04-17)
Quarter - Oct-2016 to Dec 2016	01-04-2017	29-04-2017 (earlier 21-04-17)
Quarter - Jan-2017 to Mar2017	11-04-2017	15-05-2017 (earlier 10-05-17)

EXEMPTION FROM PURCHASE TAX ON SUGARCANE FOR THE YEARS 2015-16 AND 2016-17

OUR COMMENTS: The Finance Department, Government of Maharashtra vide **Notification No. SCPT-1117/CR-03/Taxation-3.— dated 19.04.2017** has exempted exempts the whole of the sugarcane purchase tax paid or payable by the sugar factories in the State for the year 2015-16 and 2016-17, to give the fair and remunerative price to the farmers.

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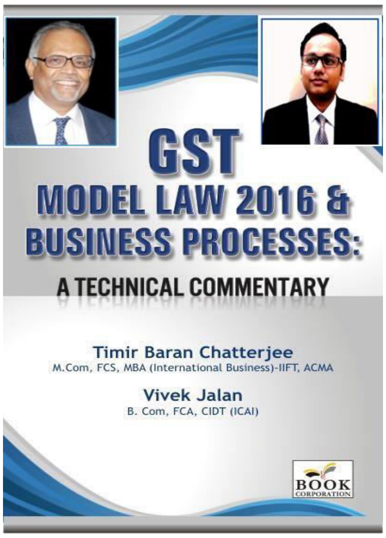
IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



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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