TAX CONNECT
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TAX CONNECT

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INCOME TAX

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CENTRAL EXCISE

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TAX CONNECT
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EDITORIAL

Friends,

The GST enrolment window will open again on June 1 for 15 days to give opportunity to the taxpayers who have not enrolled earlier.

Earlier, Goods and Services Tax Network (GSTN) portal was closed on April 30 with 60.5 lacs enrolment out of 85 lacs taxpayers.

Further, about 25k tax officials have been given hands-on training on the application software on live system on Registration, Returns and Payment Modules developed by GSTN. The remaining 38k officials will be trained by mid of June.

Odisha government has approved a proposal to enact new legislation for levy and collection of tax on supply of Goods and Service (GST).

Arunachal Pradesh became the 12th state to pass the GST Bill.

Also, it is expected that bidis, which are currently exempt, may be brought under the net as they are sin goods, like cigarettes, which will face a cess.

Now coming to the present taxes,

In Service Tax, it has been held that the amount collected under the name of registration charges or handling charges from the customers over and above the legal charges, viz., smart card and vehicle registration fees for getting the vehicle registered with the RTO authorities, etc. is not chargeable to service tax.

In Income Tax, Allahabad High Court has held that the determination of tax under Section 115J of the Act upon a company is only after the end of relevant year and interest cannot be levied in such a case under Section 234B and 234C of the Act (prior to enforcement of Section 115JA and Section 115JB).

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 ACT: REFUND OF TAX, INTEREST ON DELAYED REFUNDS

- **REFUND OF TAX**

As per the Revised Model GST Law:

No refund of unutilized input tax credit shall be allowed in cases other than exports including zero rated supplies or in cases where the credit has accumulated on account of tax rate on inputs being higher than the tax rate on output supplies (other than nil rated or fully exempt supplies).

Provided that if amount claimed as refund is less than Rs 5 lac, it shall not be necessary for the applicant to furnish any documentary and other evidences and instead, he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

As per the CGST Act

No refund of unutilised input tax credit shall be allowed in cases other than—

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of tax rate on inputs being higher than the tax rate on output supplies (other than nil rated or fully exempt supplies), **except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:**

Provided further that **no refund** of unutilized input tax credit shall be allowed **in cases where the goods exported out of India are subjected to export duty**:

Provided also that no refund of input tax credit shall be allowed, if the supplier avails of drawback of central tax or claims refund of the integrated tax paid on such supplies.

Where the amount **claimed as refund is less than Rs 2 lakh,** the applicant may not furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

- **INTEREST ON DELAYED REFUNDS**

As per the Revised Model GST Law:

If any tax refund u/s 48 is not refunded within 60 days from the date of receipt of application u/s 48(1), interest at a specified rate shall be payable from the date after the expiry of 60 days from receipt of application the date of refund of such tax.

As per the CGST Act

If any tax refund u/s 54(5) is not refunded within 60 days from the date of receipt of application, interest at max 6% shall be payable from the date after the expiry of 60days from the date of receipt of application till the date of refund of such tax,

Provided that if refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within 60 days from the date of receipt of application filed consequent to such order, interest at max 9% shall be payable in respect of such refund from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund.

TAX CALENDAR

Due date	COMPLIANCES FROM 14th May to 20th May, 2017	State/Region
14th May, 2017	Deposit of Entry tax of previous month (Entry Tax Act)	Rajasthan
	Deposit of VAT of previous month (VAT Act)	Rajasthan
15th May, 2017	PF deposit of previous month (EPF Act)	All India
	Deposit of WCT of previous month (VAT Act)	Bihar, Chandigarh, Delhi , Haryana, Jharkhand , Punjab Rajasthan , Himachal Pradesh
	Filing of WCT return (VAT Act)	Punjab
	Issuance of WCT certificate (VAT Act)	Haryana, Jharkhand, Himachal Pradesh, Sikkim
	Deposit of VAT of previous month (VAT Act)	Bihar, Jharkhand, Kerala , Sikkim, Haryana (if Tax> Rs. 1 lac)
	Filing of VAT return (VAT Act)	Kerala
	Deposit of Ptax of previous month (Commercial Tax Act)	Gujarat, Sikkim
	Deposit of Entry tax of previous month (Entry Tax Act)	Bihar
	Filing of TDS/TCS return for 4th quarter	All India
20th May, 2017	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

COURT DECISIONS

WONDER CARS PVT. LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE [CESTAT MUMBAI]

BRIEF: The amount collected by the appellant under the name of registration charges or handling charges from the customers over and above the legal charges, viz., smart card and vehicle registration fees for getting the vehicle registered with the RTO authorities, etc. is not chargeable to service tax.

OUR COMMENTS: In the above case, the issue involved is that whether the amount collected by the appellant under the name of registration charges or handling charges from the customers over and above the legal charges, viz., smart card and vehicle registration fees for getting the vehicle registered with the RTO authorities, etc. is chargeable to service tax or not.

The assessee is a car dealer and is receiving an amount from their customers who purchase cars from them, an amount which is RTO registration charges, Smart Card Fees, Vehicle Registration Fees and other extra charges. The Revenue is of the view that these extra charges collected by the appellant are taxable under the category of Business Support Services except for actual RTO registration charges.

The definition of Business Support Services as per Section 65(104c) of the Finance Act reads as under:

"support services of business and commerce means services provided in relation to business or commerce and includes evaluation of prospective customers, telemarketing, processing of purchase orders and fulfillment services, information and tracking of the delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, operational assistance for marketing, formulation of customer service and pricing policies, infrastructural support services and other transaction processing..

In the case in hand, the amount collected as extra charges is not for any of the services which are enumerated in the said definition.

Ref:

Sehgal Wheels Pvt. Ltd. 2017-TIOL-564-CESTAT MUM

My Car Pune Pvt. Ltd. 2016 (46) STR 655 (Tri-Mum)

2016-TIOL-190-CESTAT-MUM

The appeal of the assessee was accordingly allowed.

[Decided in favour of assesse]

CENTRAL EXCISE

COURT DECISIONS

CST, DELHI - I VERSUS M/S MAYFAIR INDUSTRIES [CESTAT NEW DELHI]

BRIEF: Payment of some amount during investigation by itself cannot be held as admission of duty evasion.The evasion has to be decided based on material evidence collected during investigation.

OUR COMMENTS: In the above case, the assessee is a manufacturer of plastic parts for motor vehicles liable to Central Excise duty.

The Department initiated proceedings against the assessee on the premise that the appellants have evaded payment of Central Excise duty on the goods cleared by them. The searches conducted in various business and residential premises, documents recovered and statements recorded from various persons formed the basis of the premise.

They also contended that the statements given by various persons are admissible evidence against the assessee. Further, it was argued that respondent voluntarily deposited some amount which indicates the acceptance of their clandestine activity

The Hon'ble CESTAT held that statements given before the excise officers are admissible evidence, however, the contents of such statements should clearly bring out the nature of offence with specific details which can be cross verified also.

In the present case specific details and such cross verification and corroboration is lacking.

Mere payment of some amount during investigation by itself cannot be held as admission of duty evasion which has to be decided based on material evidence collected during investigation.

Accordingly, the appeal of the Department was set aside.

[Decided in favour of assessee]

CUSTOMS

NOTIFICATIONS/CIRCULARS

CUSTOMS AND CENTRAL EXCISE SETTLEMENT COMMISSION (AMENDMENT) PROCEDURE, 2017

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION No. 01/2017-S.C. (PB) dated 09.05.2017** has amended Rule 15 with respect to publication of orders in Customs and Central Excise Settlement Commission Procedure, 2007.

The new rules may be called the Customs and Central Excise Settlement Commission (Amendment) Procedure, 2017.

The readers may refer the notification for details.

EFFECTIVE RATES OF BCD ON INDUSTRIAL GRADE PALM STEARIN (CRUDE, RBD OR OTHER)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India Notification No. 18 /2017-Customs **dated 09.05.2017** has amended **notification No. 12/2012 dated 17.03.2012 and has made** effective rates of BCD on industrial grade palm stearin (crude, RBD or other) earlier classifiable under sub-heading 3823 11 and now classifiable under 1511 90 30 consequent to the amendments carried out vide the Finance Act, 2017.

The readers may refer the notification for details.

AMENDMENT IN NOTIFICATION NO. 142/2016-CUSTOMS (N.T.) DATED 29.11.2016

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India Notification No. 45/2017-Customs (N.T.) **dated 11.05.2017** has amended **Notes in notification No. 142/2016-Customs (N.T.) dated 29.11.2016** with respect to Courier Imports and Exports (Clearance) Amendment Regulations, 2016.

The readers may refer the notification for details.

AMENDMENTS IN THE NOTIFICATION NO. 129/2013-CUSTOMS (N.T.) DATED 11.12.2013

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India Notification No. 46/2017-Customs (N.T.) **dated 11.05.2017** has amended **Notification No. 129/2013-Customs (N.T.) dated 11.12.2013** with respect to appointment of Common Adjudicating Authority.

The readers may refer the notification for details.

COURT DECISIONS

J.K. SYNTHETICS LTD. VERSUS COMMISSIONER OF INCOME TAX [ALLAHABAD HIGH COURT]

BRIEF: The determination of tax under Section 115J of the Act upon a company is only after the end of relevant year and interest cannot be levied in such a case under Section 234B and 234C of the Act (prior to enforcement of Section 115JA and Section 115JB)

OUR COMMENTS: In the above case, the Tribunal has upheld the levy of interest under Sections 234B and 234C of the Income Tax Act, 1961 on the income of the appellant assessed and liable to tax as per the provisions of Section 115-J of the Act relying on the following decisions:

Madras High Court in the case of C.I.T. Vs. Holiday Travels Pvt. Ltd.263 I.T.R. 307,

Madhya Pradesh High Court in the case of Itarsi Oils and Flours Pvt. Ltd. Vs. C.I.T.,

250 I.T.R. 686 and the Gauhati High Court in the case of Assam Bengal Carriers Limited Vs. C.I.T. 239 I.T.R. 862.

All the above decisions hold that interest under Sections 234B and 234C of the Act is leviable even if the income of the assessee is assessable and liable to tax as per the provisions of Section 115J of the Act.

However, the assessee has relied on the decision of the Gujarat High Court in the case of Commissioner of Income Tax Vs.Cornerstone Brands Ltd. [2016] 387 ITR 455 (Guj.) wherein it has been held that the determination of tax under Section 115J of the Act upon a company is only after the end of relevant year and interest cannot be levied in such a case under Section 234B and 234C of the Act.

It is pertinent to note here that liability to pay interest under Section 234B and 234C of the Act arises for the default in payment of advance tax liable and therefore, it was held that as taxable income under Section 115J of the Act is computable at the end of the year there is no question of payment of advance tax or interest thereon for non-payment.

In view of above, it was held that income computed under Section 115J for the period prior to enforcement of Section 115JA and Section 115JB would not attract interest under Section 234B and 234C of the Act.

The appeal of the assessee was accordingly allowed.

. **[Decided in favour of assesse]**

STATE TAXES

HARYANA

FILING OF ONLINE QUARTERLY RETURNS FOR THE QUARTER ENDING 31.03.2017 EXTENDED UPTO 15.05.2017

OUR COMMENTS: The Excise & Taxation Commissioner, Haryana vide **Order dated 02.05.2017** has extended the extend the period for filing online quarterly returns for the quarter ending 31.03.2017 by a period of fifteen (15) days i.e. upto 15.05.2017.

MAHARASHTRA

GUIDELINES REGARDING CROSS CHECKING OF INPUT TAX CREDIT

OUR COMMENTS: The Office Of The Commissioner Of Sales Tax, Government Of Maharashtra.vide Internal Circular No. 11A of 2017 dated 03.05.2017 has issued the following guidelines regarding Cross Checking of Input Tax Credit (ITC) for FY 2013-14, 2014-15 and 2015-16:

-Unmatched ITC means ITC not matched due to one of the TIN not being uploaded in either Annexure J1 or Annexure J2. Whereas, mismatched ITC is due to the difference in amounts of transaction in the respective annexures.

-ITC on purchases from non-genuine dealers, RC cancelled dealers and Return Non-filers shall be disallowed after due verification. For this purpose, J2 x J1 utility available on Mahavikas and CDA utility provided by EIU shall be used. If CDA Utility is not made available by the EIU for 2014-15 or 2015-16, then ITC verification utility shall be used for such period.

-If there is un-matched ITC in top 10 suppliers or the suppliers covering at least 50% of the ITC (whichever is more) then such unmatched JTC can be allowed only after filing of Supplementary Annexure J-1 or J-2.

-If there is mismatch in ITC from top 10 suppliers or the suppliers coveting at least 50% of the ITC (whichever is more) then such ITC can be verified through the confirmation o f ledgers of the suppliers

- If ITC claimed per dealer per year is Rs 5 lakhs or more under unmatch/Mismatch category or in top 10 suppliers or 50% ITC (whichever is more) then it shall be verified through SAS report number REP_704_16 or REP_704_19.

-, ledger confirmation shall not be asked if claim of ITC is Rs 5000/- or below per supplier per year.

- If all of the above conditions are satisfied, then officer may assume that the balance ITC has also matched. If any of the condition is not satisfied, then only, matched ITC credit shall be granted.

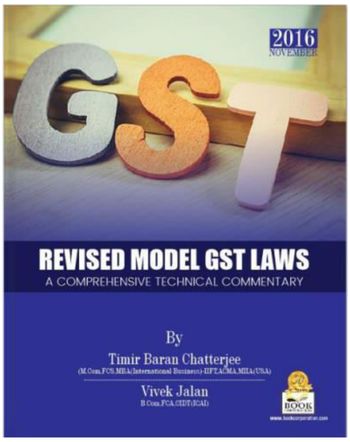
IBA cases: ITC claimed on purchases from non-genuine dealers, RC cancelled dealers, Return Non-filers shall be disallowed after due verification.

TELANGANA

INSTRUCTIONS FOR OBTAINING FORMS LIKE C, F & OTHER STATUTORY FORMS

OUR COMMENTS: The Office Of The Commissioner Of Commercial Taxes, Government Of Telangana vide **CCT's Ref No. A(1)/53/2017 dated 04.05.2017** has issued instructions to the field officers for obtaining all the statutory forms like C, F & Other Statutory Forms at the earliest for finalization of assessments as GST is to be implemented from 01.07.2017.

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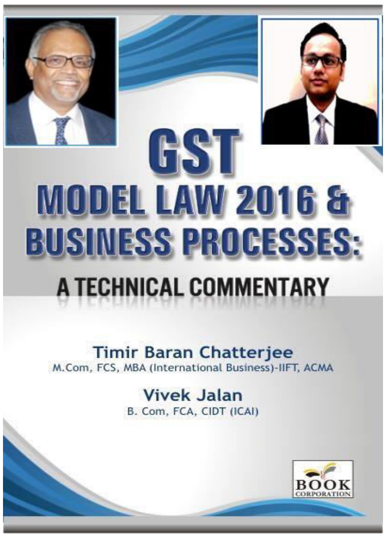
IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



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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