TAX CONNECT
149th Issue: 10th December 2017 – 16th December 2017

TAX CONNECT

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INCOME TAX

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EDITORIAL

Friends,

Calcutta Management Association (CMA) is organizing this Conference to discuss and deliberate on the various issues under GST. The sessions should provide deep insights into the various issues under GST at stake. **We provide the program of the conference in this issue for taking benefit of the same.**

Further, The Mid Term Review of The Foreign Trade Policy 2015-2020 was released by The DGFT.

The following are the highlights of the policy –

There are two schemes for exports of Merchandise and Services respectively:

(i) Merchandise Exports from India Scheme (MEIS).

(ii) Service Exports from India Scheme (SEIS).

Rewards

- Duty Credit Scrips shall be granted as rewards under MEIS and SEIS.
- The Duty Credit Scrips and goods imported / domestically procured against them shall be freely transferable.

Merchandise Exports from India Scheme (MEIS).

Exports of notified goods/products with ITC[HS] code, to notified markets as listed in Appendix 3B, shall be rewarded under MEIS. Appendix 3B also lists the rate(s) of rewards on various notified products [ITC (HS) code wise]. The basis of calculation of reward would be on realised FOB value of exports in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in freely convertible foreign currencies, whichever is less, unless otherwise specified

Service Exports from India Scheme (SEIS)

Service Providers of eligible services shall be entitled to Duty Credit Scrip at notified rates (as given in Appendix 3D) on net foreign exchange earned.

Effective date of schemes (MEIS and SEIS)

The schemes shall come into force with effect from the date of notification of this Policy, i.e. the rewards under MEIS/SEIS shall be admissible for exports made/services rendered on or after the date of notification of this Policy.

DUTY EXEMPTION /REMISSION SCHEMES

The Duty Exemption schemes consist of the following:

- Advance Authorisation (AA) (which will include Advance Authorisation for Annual Requirement).
- Duty Free Import Authorisation (DFIA).

Eligibility Condition to obtain Advance Authorisation for Annual Requirement

- Exporters having past export performance (in at least preceding two financial years) shall be entitled for Advance Authorisation for Annual requirement.
- Entitlement in terms of CIF value of imports shall be upto 300% of the FOB value of physical export and / or FOR value of deemed export in preceding financial year or Rs 1 crore, whichever is higher.

Details of Duties exempted

Imports under Advance Authorisation are exempted from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-dumping Duty, Countervailing Duty, Safeguard Duty, Transition Product Specific Safeguard Duty, wherever applicable. Import against supplies covered under paragraph 7.02 (c), (d) and (g) of FTP will not be exempted frompayment of applicable Anti-dumping Duty, Countervailing Duty, Safeguard Duty and Transition Product Specific Safeguard Duty, if any. However, imports under Advance Authorisation for physical exports are also exempt from whole of the integrated tax and Compensation Cess leviable under sub-section (7) and sub-section (9) respectively, of section 3 of the Customs Tariff Act, 1975 (51 of 1975), as may be provided in the notification issued by Department of Revenue, and such imports shall be subject to pre-import condition. Imports against Advance Authorisations for physical exports are exempted from Integrated Tax and Compensation Cess upto 31.03.2018 only.

Admissibility of Drawback

Drawback as per rate determined and fixed by Customs authority in terms of DoR Rules shall be available for duty paid imported or indigenous inputs (not specified in the norms) used in the export product. For this purpose, applicant shall indicate clearly details of duty paid input in the application for Advance Authorisation. As per details mentioned in the application, Regional Authority shall also clearly endorse details of such duty paid inputs in the condition sheet of the Advance Authorisation.

DUTY FREE IMPORT AUTHORISATION SCHEME (DFIA)

- Duty Free Import Authorisation is issued to allow duty free import of inputs. In addition, import of oil and catalyst which is consumed / utilised in the process of production of export product, may also be allowed.
- Duty Free Import Authorisation Scheme shall not be available for import of raw sugar.

Duties Exempted

(i) Duty Free Import Authorisation shall be exempted only from payment of Basic Customs Duty (BCD).

(ii) Drawback as per rate determined and fixed by Customs authority shall be available for duty paid inputs, whether imported or indigenous, used in the export product. However, in case such drawback is claimed for inputs not specified in SION, the applicant should have indicated clearly details of such duty paid inputs also in the application for Duty Free Import Authorisation, and as per the details mentioned in the application, the Regional Authority should also have clearly endorsed details of such duty paid inputs in the condition sheet of the Duty Free Import Authorisation.

Eligibility

(i) Duty Free Import Authorisation shall be issued on post export basis for products for which Standard Input Output Norms have been notified.

(ii) Merchant Exporter shall be required to mention name and address of supporting manufacturer of the export product on the export document viz. Shipping Bill/ Bill of Export / Tax Invoice for export prescribed under the GST rules.

(iii) Application is to be filed with concerned Regional Authority before effecting export under Duty Free Import Authorisation.

(iv) No Duty Free Import Authorisation shall be issued for an input which is subjected to pre-import condition or where SION prescribes 'Actual User' condition or Appendix-4J prescribes pre import condition for such an input.

We remain available for a discussion on the procedural aspects and intricacies of these schemes.

We do hope that this bulletin adds value to your professional sphere.

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

Truly Yours

Timir Baran Chatterjee
M.Com, FCS, MBA (International Business)-IIFT, ACMA

Vivek Jalan
FCA, LL.B, B. Com (H)

Conference on GST

Calcutta Management Association (CMA) is organizing this Conference to discuss and deliberate on the various issues at stake.

Sessions

The Conference will be based on interactions & discussions on:

- Impact of GST on Indian Economy
- GST – A Preferred Tax Structure in Global Scenario
- GST - Impact on Industry & Capital Market
- Key Role of IT in GST Regime
- Challenges & Issues of GST

Distinguished Speakers:

- Dr Ajitava Raychaudhuri, Prof of Economics, Jadavpur University
- Mr T B Chatterjee, Chief Corporate Officer – Legal & Corp Affairs, DIC India Ltd
- Dr J N Mukhopadhyay, Director, J D Birla Inst – Dept of Management
- Mr Rohit Kr Singh, Head – Operations, GST Business, Karvy Data Management Service Ltd
- Mr Vijay Kr Gupta, Executive, Karvy Data Management Service Ltd

Inauguration by

- Shri Prabal De, WBCTS
- Addl Commissioner of Commercial Taxes & Jt Secretary – Finance (Revenue), Govt of West Bengal

Administrative Details

- Date: Monday, December 11, 2017
- Time: 10.30 am – 5.00pm
- Venue: J.D Birla Institute, Dept of Management, 1, Moira Street, Kolkata - 17

Registration Fee (Incl. of GST)

- Rs 590/- per participant for CMA/ AIMA members
- Rs 1180/- per participant for non-members

Payment: Cash or Cheque / DD to be drawn in favour of Calcutta Management Association/ NEFT Payment (Calcutta Management Association, YES BANK, Stephen House Branch, A/c No 019094600001380. IFSC: YESB0000190, Account Type: Savings)

Please mail your nomination to

Ramen Barua, Director Or Anirban Bhattacharjee, GM Calcutta Management Association6 N S Road, 1st Floor,Kolkata 700001; Phone: 22317496 / 22310455;

Email address :

- calmanage@gmail.com
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SYNOPSIS

TAX CALENDAR

Due date	COMPLIANCES FROM 10th December, 2017 to 16th December, 2017	Description
10th Dec 2017	GSTR 8	GST filing of Returns by an e-commerce operator.
11th Dec 2017	GSTR 5	GST filing of Returns by a NRI taxable person (July-Oct)
15th Dec 2017	GSTR 5A	GST filing of Returns for Non Residents foreign taxpayers
15th Dec 2017	Advance Tax	Advance Tax payment for AY 2018-19
15th Dec 2017	Income Tax	Furnishing of Form 24G by an office of the Government where TDS for the month of November,2017 has been paid without the production of a challan
15th Dec 2017	Provident Fund	Monthly Provident Fund payment for November 2017
15th Dec 2017	TDS	Issue of TDS Certificate for tax deducted U/S 194-IA in the month of October, 2017
15th Dec 2017	ESIC	ESIC payment for the month of November, 2017

GST: CGST

NOTIFICATIONS/CIRCULARS

LIMITING THE MAXIMUM LATE FEE PAYABLE FOR DELAYED FILING OF RETURN IN FORM GSTR-3B FROM OCTOBER, 2017 ONWARDS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 64/2017 - Central Tax dated the 15th November, 2017** hereby waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR-3B for the month of October, 2017 onwards by the due date which is in excess of an amount of twenty five rupees for every day.

Further it is notified that the total amount of central tax payable in the GSTR 3B return is nil, the amount of late fee payable by such registered person for failure to furnish the return for the month of October, 2017 onwards by the due date shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

EXEMPTION FROM OBTAINING COMPULSORY REGISTRATION TO SUPPLIERS OF SERVICES THROUGH AN E-COMMERCE PLATFORM

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 65/2017 - Central Tax dated the 15th November, 2017** hereby notifies that the persons making supplies of services, other than supplies specified under section 9(5) of the CGST Act through an electronic commerce operator who is required to collect tax at source and having an aggregate turnover, not exceeding an amount of twenty lakh rupees in a financial year, as exempted from obtaining registration under the CGST Act.

Further it is notified that the aggregate value of such supplies should not exceed an amount of ten lakh rupees in case of "special category States" other than the State of Jammu and Kashmir.

EXEMPTING ALL TAXPAYERS FROM PAYMENT OF TAX ON ADVANCES RECEIVED IN CASE OF SUPPLY OF GOODS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 66/2017 - Central Tax dated the 15th November, 2017** hereby makes amendments in the **Notification No. 40/2017-Central Tax, dated the 13th October, 2017**, regarding exempting all taxpayers from payment of tax on advances received in case of supply of goods.

It is further notified that the registered person who did not opt for the composition shall pay the central tax on the outward supply of goods at the time of supply and accordingly furnish the details and returns as mentioned in Chapter IX of the CGST Act and the rules made there under and the period prescribed for the payment of tax by such class of registered persons shall be such as specified in the said Act.

REFUND OF UNUTILIZED INPUT TAX CREDIT OF GST PAID ON INPUTS IN RESPECT OF EXPORTERS OF FABRICS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 18/18/2017-GST dated the 16th November, 2017** hereby notifies regarding clarification on refund of unutilized input tax credit of GST paid on inputs in respect to exporters of fabrics.

It is further notified that no refund of unutilised input tax credit shall be allowed in cases other than-

- zero rated supplies made without payment of tax;
- where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax 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.

GST: IGST

ANALYSIS

INPUT TAX CREDIT UNDER GST

Goods and Service Tax (GST) in India provides for seamless and continuous flow of input tax credit (ITC). In the earlier tax regime, cascading of tax is significant due to non-availability of ITC at various stages. Credit of taxes like CST, Entry Tax, and Luxury Tax was not available which became cost of the goods/services. Credit of VAT was not available to manufacturers and service providers and CENVAT credit and credit of Additional Duty of Customs/Countervailing Duty was unavailable to VAT dealers unless registered as First/Second stage dealers.

- The tax not available as credit became part of the cost which adds to the price of goods/service. Ultimate burden of taxes not available as credit fell on the end consumer.
- Under GST, ITC will be available for tax paid at all the stages of supply paid in course or furtherance of business. ITC will flow uninterruptedly not only for intra-State transactions but also for inter-State transactions. Moreover, credit of GST paid on import of goods/services would also be available.

Eligibility of Input Tax Credit

The credit availability under GST is thus more liberal as compared to the earlier indirect system. A registered person can avail the credit of input tax charged on supplies of goods/services made to him if the underlying supplies are used or intended in course or furtherance of business.

ITC to be credited to his electronic credit ledger.ITC can be availed for CGST/SGST/IGST/UTGST charged on any supply of goods or services or both made to him and includes-

- IGST on import of goods;
- CGST/ SGST/ UTGST/ IGST payable under reverse charge.

Manner of taking credit

Amount available in electronic credit ledger (ECRL) can be used only for payment of output tax liability.ITC can be utilized in the following manner sequentially:

- IGST can be set off against IGST, CGST, SGST and UTGST.
- CGST can be set off against CGST and IGST
- SGST can be set off against SGST and IGST
- UTGST can be set off against UTGST and IGST

Conditions for claiming ITC

ITC can be claimed by the registered person if all the following conditions are satisfied:-

- Registered person possesses tax invoice/debit note/other taxpaying document, issued by a registered supplier;
- Goods/services shall have been received by him if goods are delivered on his direction [Bill to ship to scenario] to a third person it would be deemed to have been received by him or where the goods are received in lots or installments, the registered taxable person shall be entitled to the credit upon receipt of the last lot or installment.
- The tax charged on supply has been actually paid to the government either in cash or through utilization of input tax credit;
- The recipient of supply to pay to the supplier the value of supply along with the tax within 180 days for date of invoice. If paid after 180 days than such ITC claimed along with interest will be added to the output liability of the recipient. The recipient will be entitled to ITC when payment is made by him.
- GSTR-3 shall have been furnished by Registered Person.
- ITC on capital goods or plant machinery can be claimed only if depreciation on the tax component has not been claimed under the Income Tax Act, 1961.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

THE SUPPLIES OF GOODS TERMED AS DEEMED EXPORT

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 48/2017-State Tax (Rate) dated 23rd November, 2017,** National Capital Territory of Delhi on recommendation of Council hereby notifies that the following supplies of goods shall be as deemed exports :-

- Supply of goods by a registered person against Advance Authorisation.
- Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation.
- Supply of goods by a registered person to Export Oriented Unit.
- Supply of gold by a bank or Public Sector Undertaking specified in the Notification No. 50/2017-Customs, dated 30th June, 2017 against Advance Authorisation.

For detailed description readers may refer the above mentioned notification.

EVIDENCES REQUIRED TO BE PRODUCED BY THE SUPPLIER OF DEEMED EXPORT FOR CLAIMING REFUND

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 49/2017-State Tax (Rate) dated 23rd November, 2017** hereby notifies that the evidences which are required to be produced by the supplier of deemed export supplies for claiming refund are as follows :-

- Acknowledgment by the jurisdictional Tax Officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorisation or Export Promotion Capital Goods Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
- An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him.
- An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him.

For detailed description readers may refer the above mentioned notification.

EXEMPTION OF INTRA-STATE SUPPLIES OF GOODS

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 35/2017-State Tax (Rate) dated 24th November, 2017** hereby makes the amendments in the **Notification No. 2/2017-State Tax (Rate), dated the 30th June, 2017** regarding exempting the intra state supplies of goods.

For detailed description readers may refer the above mentioned notification.

INTRA-STATE SUPPLY OF GOODS ON REVERSE CHARGE BASIS.

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 36/2017-State Tax (Rate) dated 24th November, 2017** hereby makes the amendments in the **Notification No. 4/2017-State Tax (Rate), dated the 30th June, 2017** regarding intra state supply of goods on reverse charge basis.

It is further notified that any used vehicles, seized and confiscated goods, old and used goods, waste and scrap which are supplied by Central Government, State Government, Union territory or a local authority to any registered person shall be subject to reverse charge.

NOTIFICATIONS/CIRCULARS

SCRUTINY ASSESSMENTS PERTAINING TO FILING OF REVISED/BELATED RETURNS BY ASSESSEES, POST-DEMONETISATION.

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 225/391/2017/ITA.II dated the 24th November, 2017** hereby circulated regarding some of the important issues to be considered while framing scrutiny assessments pertaining to filing of revised/belated returns by assesses, post-demonetisation.

It is notified that the revision of income-tax return is allowed only if any omission or wrong statement is discovered therein by the concerned assessee. Such omission or wrong statement should have occurred due to a bonafide inadvertent error or a mistake on the part of the assessee. Therefore, in situations where enquiries/verification in course of assessment proceedings suggest manipulations made fictitiously merely to build an explanation for cash deposits in bank account(s), the revised return itself becomes questionable and therefore, the transactions disclosed in it which are over and above the original return are liable to be taxed under anti-abuse provisions of the Act. Similarly, in case of a belated return, it would be crucial to examine the trend and business practices of a particular assessee while ascertaining the legitimacy of the transactions disclosed in a belated return, filed post-demonetisation. In such cases already under scrutiny, some instances which might indicate that assessee had filed revised or belated return merely as a cover up to explain the cash deposits in bank accounts are:

- Unsubstantiated reduction in closing stock in the revised return vis-a-vis the figures in original return;
- Reporting of higher sales in the revised return;
- Cash-in-hand as on 31.03.2016 or 31.03.2015 was enhanced in the revised return:
- Additional cash inflow claimed to be out of earlier year savings, receipt of loans/advances/gifts/repayments/sale of capital assets;
- In Some cases, cash outflow might have been reduced by paying some of the liabilities in cash;
- Significantly lower closing stock as on 31.03.2015 or 31.03-2016 as compared to the earlier years in a belated return;
- Significantly higher cash-in-hand as on 31.03.2016 or 31.03.2015 compared to the preceding year in a belated return.

In such scenarios, following issues may be kept in consideration during verification and framing of assessments-

- The claim of enhanced sales may be compared with the Central Excise/VAT returns;
- Whether the parties to whom additional sales were disclosed have identity, creditworthiness and transaction was genuine or not;
- Where the accounts are subjected to tax-audit, whether omission or wrong statement in the original return was pointed out by the audit or not;
- The source of cash in hands of the person who had made payments to the assessee has to be verified carefully;
- The past profile of the concerned assessee should be thoroughly analysed;
- Where as a result of enquiries/investigations it emerges that figures in the revised/belated return are fudged, the figure of manipulated receipts/sales/stock etc. is liable to be taxed as a cash credit under section 68 and not merely on net profit basis;
- Any undisclosed expenditure detected after reduction of cash in hand by the assessee may be verified carefully;
- Unaccounted income so assessed in Scrutiny assessment is liable to be taxed at a higher rate without any set-off of losses, expenses etc.
- In the scenario pertaining to Wealth tax returns of earlier years, it should be examined whether there is an attempt to build cash-in-hand or any other asset so as to justify deposit of cash, post-demonetisation.

CUSTOM

NOTIFICATIONS/CIRCULARS

EFFECTIVE RATES OF CUSTOMS DUTY AND IGST FOR GOODS IMPORTED INTO INDIA.

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 87/2017-Customs dated 17th November, 2017** hereby makes amendments in the **Notification No. 50/2017 Customs, dated 30th June, 2017,** regarding effective rates of customs duty and IGST for goods imported into India.

For detailed description readers may refer the above mentioned notification.

INCREASE OF IMPORT TARIFF

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 88/2017-Customs dated 17th November, 2017** hereby notifies that the import duty leviable on goods falling under First Schedule of the Customs Tariff Act, 1975 should be increased and that circumstances exist which render it necessary to take immediate action.

Further it is notified that the Central Government, hereby notifies that the increase in import tariff rate of soya beans from 30% to 45%.

PROVISIONAL MEGA POWER PROJECTS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 89/2017-Customs dated 24th November, 2017** hereby makes amendments in the **Notification No. 50/2017-Customs, dated 30th June, 2017** regarding amendment in the condition with regard to provisional mega power projects and permitting proportionate release of FDR or BG based on proportionate mega certificate issued by Ministry of Power.

It is further notified that in case of imports for a project for which certificate regarding Mega Power Project status issued by an officer not below the rank of Joint Secretary to the Government of India in the Ministry of Power is provisional, the importer furnishes a security in the form of a Fixed Deposit Receipt or Bank Guarantee from any Scheduled Bank for a term of one hundred and twenty-six months in the name of the President of India for an amount equal to the duty of customs payable on such imports but for this exemption, to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, at the time of importation and if the importer fails to furnish the final mega power status certificate with in a period of one hundred and twenty months from the date of importation, the said security shall be appropriated towards duty of customs payable on such imports but for this exemption

Moreover it is further notified that in case of provisional Mega Power Projects, the security in the form of a Fixed Deposit Receipt or Bank Guarantee may be released proportionately as per the proportionate mega certificate issued by the said Joint Secretary to the Government of India in the Ministry of Power.

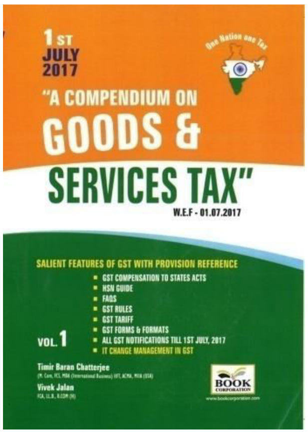
EXEMPTION OF GOLD AND SILVER IMPORTED UNDER SPECIFIED SCHEMES

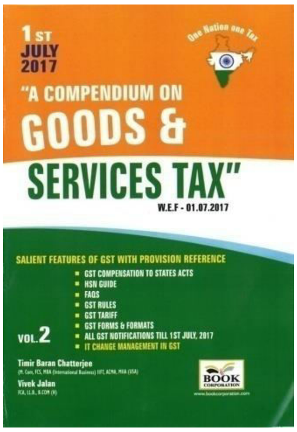
OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 90/2017-Customs dated 27th November, 2017** hereby makes amendments in the **Notification No. 56/2000-Customs, dated 5th May, 2000** regarding exemption of gold and silver imported under specified schemes.

Further it is notified that in the case of import by status holders or exporters of three years standing having an annual average turnover of five crore rupees during the preceding three licensing years, the importer executes a bond in such form and for such sum as may be specified by the Assistant Commissioner of Customs or Deputy Commissioner of Customs, and furnishes a bank guarantee for a sum equivalent to one and half times of the Customs duty leviable on the said goods imported, undertaking himself to export gold/silver/platinum jewellery or articles, as the case may be, including studded articles having gold/silver/platinum content equivalent to the imported gold/silver/platinum within 90 days from the date of import.

AVAILABLE IN STANDS

A COMPENDIUM ON GOODS & SERVICES TAX
(Including ALL Notifications till 09th July, 2017)





ABOUT THE BOOK: PART A of the Book provides a Chapter wise and Topic wise Analysis of the Law. Along with this it provides Section and Rules where in the reader may find the Legal Provisions. It will help the reader to first understand the provision and then to exactly locate the provision. It provides an insight into the following:

1. Section-wise Compilation of IT Changes under GST
2. The GST Rates as finalised by The GST Council along with the HSN Code Referencer.
3. FAQs on GST
4. CGST, IGST, UTGST and The GST Compensation to States Acts
5. The Rules related to GST available in public Domain as on 17th June 2017.
6. The Forms and formats related to GST available in public Domain as on 17th June 2017.

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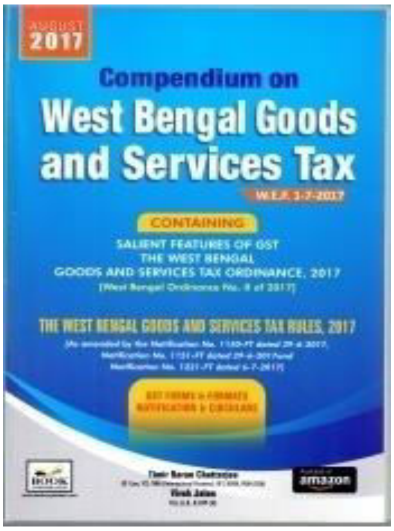
AVAILABLE IN STANDS

A COMPENDIUM ON WEST BENGAL GOODS & SERVICES TAX

(Including ALL Notifications till date)



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1. The Rules related to WBGST available in public Domain till date.
2. The Notifications, Circulars and Orders issued by The SGST Authority till date.
3. The Forms and formats related to GST available in public Domain till date.

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