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TAX CONNECT

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EDITORIAL

Friends,

The Government has turned down the proposal for extension of the **last date for filing of return for availing input tax credit for 2017-18 which is today i.e. 20th October, 2018.**

However, vide Press release dated 18 October, 2018, the Government has been lenient and has clarified that the furnishing of outward details in Form GSTR-1 by the supplier and to view the same in GSTR-2A by the recipient is in the nature of taxpayer facilitation and does not impact the ability of the taxpayer to avail the ITC on self-assessment basis in consonance with the provisions of the Section 16 of the Act. The apprehension that ITC can be availed only on basis of reconciliation between Form GSTR-2A and Form GSTR-3B for September 2018 is "unfounded" as the exercise can be done thereafter also.

Now, let's look at the development around different taxes:

In GST,

- It has been clarified that the officers of both Central tax and State tax are authorized to initiate intelligence based enforcement action on the entire taxpayer's base irrespective of the administrative assignment of the taxpayer to any authority. The initiating authority is empowered to complete the entire process of investigation, issuance of SCN, adjudication, recovery, filing of appeal etc. arising out of such action.

- Further, based on the decision of the **Hon. Supreme Court in the case of TTG. Industries Ltd. Versus Collector Of Central Excise, Raipur, , Authority For Advance Ruling, Rajasthan in the instant case of M/S. Solairedirect India LLP (Solai Redirect India LLP),** held that

  _ **Erection, Procurement and Commissioning of Solar Power Plant falls under the ambit "Works Contract Services" (SAC 9954) and attracts 18% rate of tax under IGST Act, or 9% each under the CGST and SGST Acts.**

  _ It is a single composite turnkey EPC contract of design, engineer, procure, transport, deliver, develop, erect, install, test and commission of project, as there is a single lump sum price for the entire contract. Hence the said EPC contract cannot be split in two separate contracts one of supply of goods and another that of services and taxed accordingly.

  _ The Hon. Supreme Court in the referred case held that the machines could not be shifted without first dismantling it and then re-erecting it as another site. Also, machines cannot be put in the category of 'immovable property' as something attached to the earth.

EDITORIAL

In Income tax,

- **The Hon'ble Gujarat High Court in the case of M/S. Adani Enterprise Limited Versus The Assistant Commissioner Of Income Tax, Circle 1 (1) (1** has decided that AO cannot reexamine the entire issue which would be merely on the change of opinion.

  Therefore, the decision of the Hon'ble **Supreme Court of India in the case of Commissioner of Income Tax, Delhi Versus M/s. Kelvinator of India Limited that the concept of change of opinion prevented the Assessing Officer to reopen the assessment still holds good.**

- Further, Prohibition of Benami Property Transactions (Removal of Difficulties) Order, 2018 has been issued in order to remove difficulties with

- respect to absence of specific reference of the Initiating Officer in section 48(1) of the said Act and in respect of representation by the other parties to the proceedings before the Appellate Tribunal.

- Also, the court(s) of Session has been designated as Special Court(s) for the area(s) specified against the said courts, for the trial of offences punishable under the provisions of the Prohibition of Benami Property Transactions Act, 1988.

The relevant notifications and circulars have been discussed further in the bulletin.

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

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SYNOPSIS

TAX CALENDAR

No Important Due Dates are falling in this week

NOTIFICATIONS/CIRCULARS

BOTH THE CENTRAL AND STATE TAX ADMINISTRATIONS SHALL HAVE THE POWER TO TAKE INTELLIGENCE-BASED ENFORCEMENT ACTION IN RESPECT OF THE ENTIRE VALUE CHAIN

There was ambiguity w.r.t. initiation of enforcement action by the Central tax officers in case of taxpayer assigned to the State tax authority and vice versa.

In the 9th GST Council meeting held on 16.01.2017, recommendation was made regarding administrative division of taxpayers and concomitant issues.

The recommendation for cross-empowerment of both tax authorities for enforcement of intelligence based action is recorded at para 28 of Agenda note no. 3 in the minutes of the meeting as follows:-

"viii. Both the Central and State tax administrations shall have the power to take intelligence-based enforcement action in respect of the entire value chain"

Hence, it has been clarified that the officers of both Central tax and State tax are authorized to initiate intelligence based enforcement action on the entire taxpayer's base irrespective of the administrative assignment of the taxpayer to any authority. The initiating authority is empowered to complete the entire process of investigation, issuance of SCN, adjudication, recovery, filing of appeal etc. arising out of such action.

- **e.g.** if an officer of the Central tax authority initiates intelligence based enforcement action against a taxpayer administratively assigned to State tax authority, the officers of Central tax authority would not transfer the said case to its State tax counterpart and would themselves take the case to its logical conclusions.

Similar position would remain in case of intelligence based enforcement action initiated by officers of State tax authorities against a taxpayer administratively assigned to the Central tax authority.

GSTN is in process of making changes in the IT system in this regard.

INCOME TAX

NOTIFICATIONS/CIRCULARS

PROHIBITION OF BENAMI PROPERTY TRANSACTIONS (REMOVAL OF DIFFICULTIES) ORDER, 2018

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **F. No.370149/170/2018-TPL - S.O. 5194 (E) dated 09.10.2018** has made Prohibition of Benami Property Transactions (Removal of Difficulties) Order, 2018 in order to remove difficulties with respect to absence of specific reference of the Initiating Officer in section 48(1) of the said Act and in respect of representation by the other parties to the proceedings before the Appellate Tribunal.

-In section 48(1) for the words “A person preferring an appeal to”, the words “A person, including the Initiating Officer, who is a party to any proceedings before” shall be substituted,

-In the Explanation, -

(I) in the opening portion, for the words “means a person authorised by the appellant” the following shall be substituted
“in relation to -
(i) the Initiating Officer, means a person authorised by the Central Government;
(ii) any other party to the proceedings, means a person authorised by the party”;

(II) in clause (i) and (ii) for the words, “the appellant” wherever they occur, the words “the party” shall be substituted.

Please refer the above notification for details.

COURT OF SESSION DESIGNATED AS SPECIAL COURT UNDER THE PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification 67/2018 dated 08-10-2018** has designates the court(s) of Session, as Special Court(s) for the area(s) specified against the said courts, for the trial of offences punishable under the provisions of the Prohibition of Benami Property Transactions Act, 1988.

Please refer the above notification for details.

CUSTOMS

NOTIFICATIONS/CIRCULARS

REVISION OF EXCHANGE RATE OF FOREIGN CURRENCIES INTO RUPEE & VICE VERSA

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 87/2018-Customs (N.T.) dated 18.10.2018& in supersession of Notification No. 85/2018-Customs (N.T.) dated 04.10.2018**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. **19.10.2018** 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	53.70	51.35
2.	Bahrain Dinar	201.20	188.70
3.	Canadian Dollar	57.70	55.75
4.	Chinese Yuan	10.75	10.45
5.	Danish Kroner	11.60	11.15
6.	EURO	86.35	83.30
7.	Hong Kong Dollar	9.55	9.20
8.	Kuwait Dinar	250.35	234.60
9.	New Zealand Dollar	49.60	47.35
10.	Norwegian Kroner	9.15	8.85
11.	Pound Sterling	98.45	95.10
12.	Qatari Riyal	20.85	19.55
13.	South Arabian Riyal	20.20	18.95
14.	Singapore Dollar	54.35	52.50
15.	South African Rand	5.35	5.00
16.	Swedish Kroner	8.40	8.10
17.	Swiss Franc	75.60	72.60
18.	UAE Dirham	20.65	19.35
19.	US Dollar	74.30	72.60

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	66.60	64.15

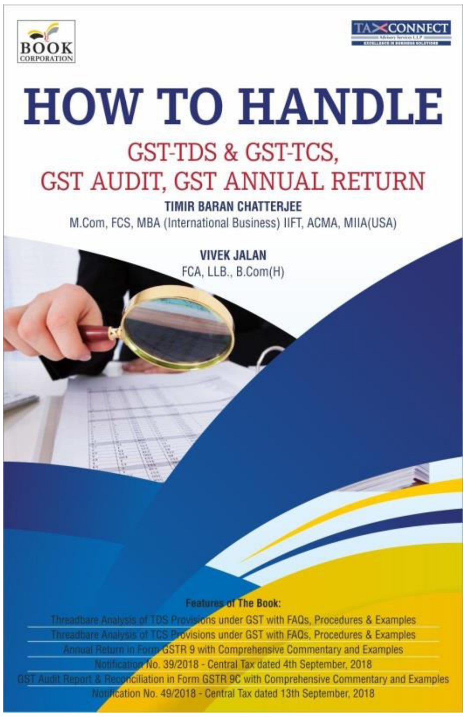
AMENDMENT IN NOTIFICATION NO. 57/2017 DATED 30TH JUNE, 2017 WRT BASIC CUSTOM DUTY ON CERTAIN ELECTRONIC GOODS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 75/2018-Customs dated 11.10.2018** has amended Notifications No. 57/2017-Customs dated 30.06.2017 w.r.t. basic custom duty on certain electronic goods.

Please refer the notification for details.

STOP PRESS

HOW TO HANDLE GST-TDS & GST-TCS, GST AUDIT, GST ANNUAL RETURN



ABOUT THE BOOK: This book provides an insight into the following:

1. Threadbare Analysis of TDS Provisions under GST with FAQs, Procedures & Examples
2. Threadbare Analysis of TCS Provisions under GST with FAQs, Procedures & Examples
3. Annual Return in Form GSTR 9 with Comprehensive Commentary and Examples
4. Notification No. 39/2018 – Central Tax dated 4th September, 2018
5. GST Audit Report & reconciliation in Form GSTR 9C with Comprehensive Commentary and Examples
6. Notification No. 49/2018 – Central Tax dated 13th September, 2018

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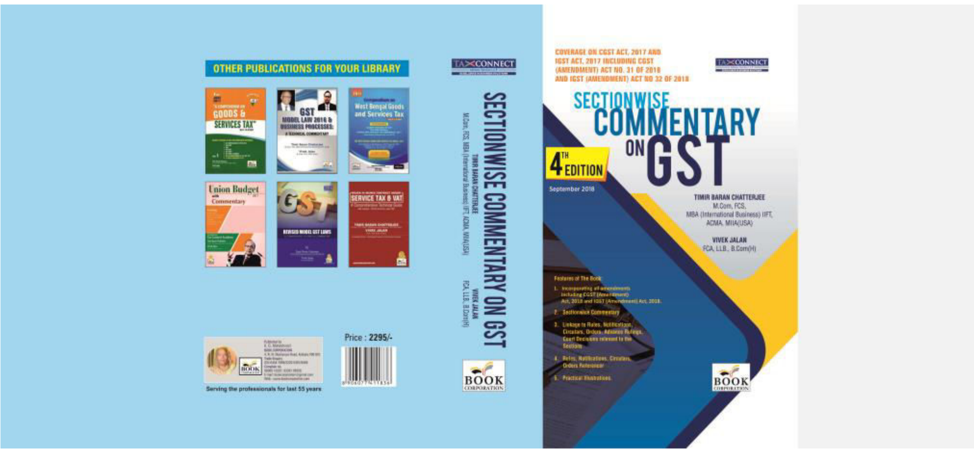
IN STANDS

SECTION WISE COMMENTARY ON GST UPDATED TILL DATE



ABOUT THE BOOK: This book provides an insight into the following:

1. Incorporating all amendments
2. Section wise commentary
3. Linkages to Rules, Notifications, Circulars, Orders, Advance Rulings, Court Decisions relevant to the Sections
4. Rules, Notifications, Circulars, Orders Referencer
5. Practical Illustrations

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