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INCOME TAX

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EDITORIAL

Friends,

On 18th December, Ministry of Finance released **Development of new return filing system by GSTN** which will focus on improving the user interface, and Business Intelligence and Analytics.

As per the Press release, important initiatives/improvements made for better User experience are: -

- Questionnaire for filing GSTR-3B to avoid errors by taxpayers.
- Option to generate pre-populated Challan by the system to avoid depositing Cash in wrong Head by the taxpayers.
- Introduction of one click Nil return filing.
- Suggested utilisation of ITC informed to the taxpayer for discharging tax liability.
- Contextual help for GST transactions like Registration, Returns, Payment, etc.

Further, there was a Twitter announcement by the Ministry on the release:

GSTN has started sharing data with tax authorities on following for taking appropriate action.
a. Mismatch between figures reported in GSTR- 1 & GSTR -3B
b. Mismatch between figures reported in GSTR - 3B & that computed by the system in GSTR-2A
c. Taxpayers who have generated e-waybill but not filed tax returns.

Advance Ruling has been passed by the Authority of **Advance Ruling, Rajasthan that one is eligible to claim the input tax credit (ITC) of IGST paid on 'bill to ship to' model as per the relevant provisions of Section 16 and 17 of Chapter V of CGST Act, 2017.**

Further, Directorate of Commercial Taxes, Government of West Bengal has clarified vide circular dated 19.12.2018 that since the provision of the Income Tax Act, 1961, does not require audit for a single quarter hence submission of statements, accounts, audit reports for the quarter ended 30.06.2017 is not mandatory u/s 30E of the West Bengal Value Added Tax Act, 2003.

The clarification was with respect to confusion amongst dealers regarding submission of statements, etc., under section 30E, for the quarter ended 30.06.2017 after implementation of GST law with effect from the 1st day of July, 2017.

In Income Tax, Government in consultation with the Chief Justice of the Calcutta High Court has designated the 1st Court of Judicial Magistrate in the Headquarters of each district judgeship including Union Territory of Andaman and Nicobar Islands and also the 4th Court of Metropolitan Magistrate in the judgeship of City Sessions Court, Bichar Bhavan, Calcutta, as Special Courts for Section 280A(1) of the Income-tax Act, 1961 and Section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

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

AUTHORITY FOR ADVANCE RULINGS, RAJASTHAN
UMAX PACKING (A UNIT OF UMA POLYMERS LTD.

Question: Whether ITC of IGST paid on bill to ship to' model admissible to the applicant?

Ruling:- One is eligible to claim the input tax credit (ITC) of IGST paid on 'bill to ship to' model as per the relevant provisions of Section 16 and 17 of Chapter V of CGST Act, 2017.

Facts :

- The applicant proposes to purchase goods from M/s Uma Polymers Ltd., Guwahati and further supply the said goods to M/s. Pratap Snacks Ltd., Guwahati.

- The transaction between M/s. Uma Polymers, Guwahati, M/s. Umax Packaging Jodhpur and M/S Pratap Snacks Ltd., Guwahati is a case of 'bill to-ship to'.
- As per section 10 (1) (b) of IGST:

  "where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;"

- So, in the instant case, M/s Umax Packaging Jodhpur is acting as a third party, directing M/S Uma Polymers, Guwahati to despatch the goods directly to M/s. Pratap Snacks Ltd., Guwahati. M/s. Uma Polymers, Guwahati would accordingly 'bill to' the applicant and 'ship to' M/S Pratap Snacks Ltd., Guwahati.
- **As per Explanation to Sec 16 of the CGST Act:**
  "For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;"

- **Further, as per Section 17 (1) of the CGST Act, 2017;**
  "Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business."

Going by the above facts,, the applicant is eligible to claim ITC of IGST paid on 'bill to ship to' model as per Section 16 and 17 of Chapter V of CGST Act, 2017.

INCOME TAX

NOTIFICATIONS/CIRCULARS

CENTRAL GOVERNMENT CONSULTATION SPECIAL COURTS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India in consultation with the Chief Justice of the Calcutta High Court vide **Notification No. 87/2018 dated 11.12.2018** has designated the 1st Court of Judicial Magistrate in the Headquarters of each district judgeship including Union Territory of Andaman and Nicobar Islands and also the 4th Court of Metropolitan Magistrate in the judgeship of City Sessions Court, Bichar Bhavan, Calcutta, as Special Courts for the purposes of **Section 280A(1) of the Income-tax Act, 1961 and Section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015** within their respective jurisdiction in the State of West Bengal and in the Union Territory of Andaman and Nicobar Islands.

INCOME-TAX (14TH AMENDMENT), RULES, 2018

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION NO. 88/2018 dated 18.12.2018** has amended sub- rule (4) in **10DB: Furnishing of Report in respect of an International Group,** as follows:

-The period for furnishing of the report u/s 286(4) by the constituent entity referred to in that sub-section shall be 12 months from the end of the reporting accounting year, provided if the parent entity is resident of a country or territory, where, there has been a systemic failure of the country or territory and the said failure has been intimated to the constituent entity, the period for submission of the report shall be 6 months from the end of the month in which the systemic failure has been intimated.

Case Laws

PRINCIPAL COMMISSIONER OF INCOME TAX 2 VERSUS MOTIF INDIA INFOTECH (P) LTD. [GUJARAT HIGH COURT]

Brief: If the recipient of income of parent company is not chargeable to tax in India, then the question of deduction of tax at source by the payer would not arise.

OUR COMMENTS: The assessee is a software development company engaged in providing software related services to its overseas clients. In the course of business, the assessee paid fees for technical services to one foreign based company M/s. Pacific Hub Corporation, Philippines. The Department was of the view that the assessee should have deducted tax on such payment. However, the assessee argued that such payment received by the nonresident was not taxable and that therefore, there was no requirement for deducting tax at source while making such payment.

It was observed that the fees for technical services was paid by the assessee for the purpose of making or earning any income from any source outside India.

In the case of Commissioner of Income tax, Bangalore v. ITC Hotels Limited, Karnataka High Court held that where the recipient of income of parent company is not chargeable to tax in India, then the question of deduction of tax at source by the payer would not arise.

[Decided against Revenue]

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. 99/2018-Customs (N.T.) dated 20.12.2018 & in supersession of Notification No. 96/2018-Customs (N.T.) dated 06.12.2018** 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. **21.12.2018** 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	51.25	49.15
2.	Bahrain Dinar	193.40	181.40
3.	Canadian Dollar	53.20	51.40
4.	Chinese Yuan	10.40	10.05
5.	Danish Kroner	10.95	10.55
6.	EURO	81.80	78.80
7.	Hong Kong Dollar	9.20	8.85
8.	Kuwait Dinar	239.95	224.70
9.	New Zealand Dollar	48.95	46.75
10.	Norwegian Kroner	8.25	7.95
11.	Pound Sterling	90.75	87.55
12.	Qatari Riyal	20.00	18.80
13.	South Arabian Riyal	19.45	18.20
14.	Singapore Dollar	52.35	50.55
15.	South African Rand	5.05	4.75
16.	Swedish Kroner	7.90	7.60
17.	Swiss Franc	72.35	69.60
18.	Turkish Lira	13.75	12.90
19.	UAE Dirham	19.85	18.60
20.	US Dollar	71.45	69.75

SCHEDULE-II

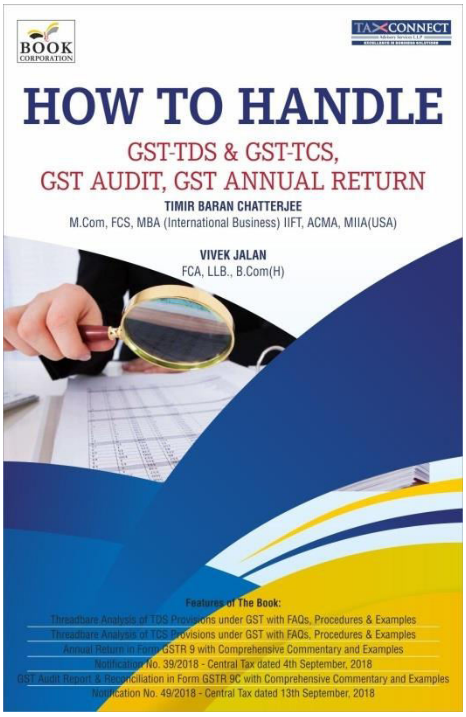
Sl. No	Foreign Currency	Rate of exchange of 100 units of foreign currency equv. to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	64.00	61.65
2.	Korean Won	6.45	6.05

IMPLEMENTATION OF INCREASED CUSTOMS DUTY ON SPECIFIED IMPORTS ORIGINATING IN USA POSTPONED FROM 17TH DECEMBER TO 31ST JANUARY

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 80/2018-Customs dated 15.12.2018** has postponed the implementation of increased customs duty on specified imports originating in USA from 17th December,2018 to 31 January 2019.

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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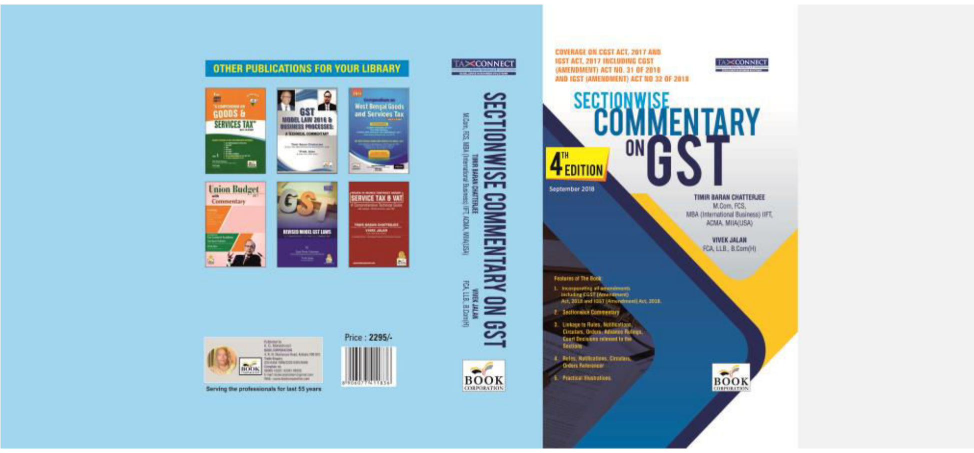
IN STANDS

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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