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EDITORIAL

Friends,

The Calcutta High Court has provided relief to the petitioners by granting stay against audit notices issued by Central Tax officers for conducting audit of the last five years under service tax, after the introduction of GST.

It was pleaded that the provisions of Section 94(2)(k) of the Finance Act, 1994 is unguided and gives uncontrolled power of delegation. It was based on the decision of the **Delhi High Court in Travelite (India) Vs. Union of India** wherein the court held that the provisions are ultra vires.

While granting the order, Justice Debangsu Basak said that *"Since sub-rule 2 of Rule 5A of the Service Tax Rules, 1994, as substituted by notification dated Dec 25, 2014 was declared ultra vires by Mega Cabs (supra), it would be appropriate to grant interim stay of the proceedings. Such stay will continue till November 30 or until further orders whichever is earlier."*

The GST Council has directed **a committee for IT grievance redressal** to give relief to industry to amend GST return mandated for carrying forward tax credit from the previous regime for non-IT related errors as well.

The GST law does not provide for any appeal on issues related to TRAN1 or TRAN2 and thus many taxpayers filed writs in high court holding the view that bona fide errors should be considered by the government.

Further, it has been clarified that the CENVAT credit of service tax paid under section 66B of the Finance Act, 1994 was available as transitional credit under section 140(1) of the CGST Act and the same is available even after amendment.

In Customs, DGFT has informed exporters via tweeter that it is mandatory to record information about transfer of MEIS/SEIS scrips issued on or after 14.01.2019 on the DGFT website. Also, an e-com module for recording the transfer shall be made available on the website.

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

Truly Yours

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SYNOPSIS

TAX CALENDAR

Due date	Form	Description
20th January 2019	GSTR-5	Return for Non-resident taxable person for the month of December,2018.
20th January 2019	GSTR-3B	Summary Return of outward and inward supplies For the month of December, 2018.
20th January 2019	GSTR-5A	Details of supplies for the month of December, 2018 of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India.
21st January 2019	ESIC PAYMENT	ESIC payment for the month of December, 2018
25th January 2019	PF RETURN	PF Return for the month of December, 2018

ARTICLE

MAJOR IMPACT ON RECENT CHANGES IN THE GST LAW- OUR FURTHER EXPECTATION

By -Timir Baran Chatterjee

1	**Increase in turnover limit for the existing composition scheme for goods**	**The limit of annual turnover in the preceding financial year for availing composition scheme for goods shall be increased to Rs 1.5 crore. Special category States would decide, within one week, about the composition limit in their respective States.**
2	**Composition scheme for services**	A composition scheme shall be made available for suppliers of services (or mixed suppliers) with a tax rate of 6% (3% CGST + 3% SGST) having an annual turnover in preceding financial year up to Rs 50 lakhs. The said scheme shall be applicable to both service providers as well as suppliers of goods and services, *who are not eligible for the presently available composition scheme for goods*.
3	**Compliance simplification under composition scheme**	The compliance under composition scheme shall be simplified as now they would need to **file one annual return but payment of taxes would remain quarterly**(along with a simple declaration).
4	**Higher exemption threshold limit for supplier of goods**	There would be two threshold limits for exemption from registration and payment of GST for the suppliers of goods i.e. Rs.40 lakhs and Rs.20 lakhs. States would have an option to decide about one of the limits within a weeks' time. The threshold for registration for service providers would continue to be Rs 20 lakhs and in case of Special category States Rs 10 lakhs.
5	**Effective date**	The decisions at Sl. No. 1 to 3 above shall be made operational from the 1st of April, 2019.
6	**Free Accounting and Billing Software**	Software for Accounting and Billing shall be provided to small taxpayers **by GSTN**.
7	**Matters referred to Group of Ministers**	i. A seven member Group of Ministers shall be constituted to examine the proposal of giving a composition scheme to boost the residential segment of the real estate sector. ii. A Group of Ministers shall be constituted to examine the GST rate structure on lotteries.
8	**Revenue mobilization for natural calamities in the State of Kerala**	GST Council approved levy of cess on intra State supply of goods and services within the State of Kerala at a rate not exceeding 1% for a period not exceeding 2 years.
9	**Approval for amendment in Acts and rules**	Changes made by **CGST (Amendment) Act,2018**, IGST (Amendment) Act, 2018, **UTGST (Amendment) Act, 2018**and GST (Compensation to States) Amendment Act, 2018 along with amendments in CGST Rules, notifications and Circulars issued earlier and the corresponding changes in SGST Acts would be notified w.e.f. 01.02.2019.
10	**Extension of date for Passing GSTP Examination**	The last date for passing the examination for GST Practitioners to be extended till 31.12.2019 for those GST Practitioners who have enrolled under rule 83(1)(b) i.e. who were sales tax practitioner or tax return preparer under the existing law for a period of not less than five years.

ARTICLE

Now, Let us now analysis the major impact of the above changes:

(a) Increase of threshold limit to Rs 40 Lacs for GST Registration

At the outset it is to be noted that the above limit is not automatically increased from Rs. 20 lacs to Rs. 40 Lacs. It is now the option of the States to decide whether they would continue with the existing limit of Rs. 20 lacs or increase it to 40 lacs **. The Government of West Bengal has not yet taken the above decision.**

However, in case the above limit is increased, the small traders and manufacturers will be benefitted since they will not be liable to comply the GST Laws. However, cost wise, they will not be much benefitted since tax paid on their inputs will not be allowed to be set off and it will be a part of their cost. Further many large and medium segment companies don't want to buy any material from unregistered dealer as a matter of their corporate policies. Hence small companies working with the large corporate may not be much benefitted from the above increase.

So far Government revenue is concerned, it will not have any significant impact since more than 90% of the GST revenues is contributed by 10% of the large companies and Small company's contribution is not material.

(b) Increase of threshold limit of Composition Limit for Goods to Rs. 1.50 lacs

This is a significant changes in the GST legislation and the Composition dealers would now be liable to file only one return instead of filing return on a quarterly basis. However, since they need to make GST payment on a quarterly basis, they need to maintain their upto date books of account. Here also, the Composition Dealer will not be eligible to get the input tax credit in respect of their inputs which will increase their manufacturing cost and also working capital cost.

(c) Composition Scheme for Service Providers:

A new Composition Scheme has been provided to the Service Providers with a total service value of Rs. 50 Lacs. Previously, the composition scheme was available only for goods and not for services . However, the service providers will be required to pay 6% of the taxable value of supplies which will not be allowed as credit to the customer. Non-availability of credit is the major disadvantages of any composition scheme.

(d) Intention to have a common and standard GST Law is being defeated

It appeared from the above, respective states have been given the authority to fix the threshold limit of Exemption within 7 days for common Registration as well as Composition Scheme. As a result, each state will fix its OWN limit which may not be standard with other states. As a result we will get a non-standard law which is against the objective of GST and its purpose is defeated. It will now be open to the States to go on changing the law in other areas in future based on their requirement.

(e) Composition Scheme for residential segment

The matter has been referred to the Group of Minister. It is a fact that the present rate of tax of 12%for house property is too high which is over and above the Stamp duty of approx 7-8%. In other words, the Flat owners are now making payment of approx 20% as tax towards purchase of immovable property. It will be our expectation that the above rate be reduced to 5% so that middle class category is highly benefitted . Alternatively, the tax rate may be fixed for two slabs i.e. Property value upto Rs. 75 Lacs (approx 5%) and Property Value above Rs. 75%.(approx 10%).

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS/CIRCULARS

AMENDMENT IN THE MEANING OF ADVANCE AUTHORISATION

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 1/2019-Central Tax dated 15.01.2019** has amended **Notification No. 48/2017 dated 18.10.2017** to amend the meaning of Advance Authorisation.

Please refer the notification for details.

CLARIFICATION REGARDING SECTION 140(1) OF THE CGST ACT, 2017

OUR COMMENTS: Section 28(a) of the CGST (Amendment) Act, 2018 provides that section 140(1) (**Transitional arrangements for input tax credit)** be amended retrospectively to allow transition of CENVAT credit under the existing law viz. Central Excise and Service Tax law, **only in respect of "eligible duties"**.

In this regard, the Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 87/06/2019- GST dated 02.01.2019** has clarified as to **whether the expression "eligible duties" would include CENVAT credit of Service Tax or not:**

The CENVAT credit of service tax paid under section 66B of the Finance Act, 1994 was available as transitional credit under section 140(1) of the CGST Act and the same is available even after amendment.

The intention behind the amendment of section 140(1) to include the expression "eligible duties" has been indicated in the "Rationale/ Remarks" column (at Sl. No. 37) of the draft proposals for amending the GST law which was uploaded in the public domain for comments. Which makes it clear that the specified credit was never intended to be disallowed under section 140(1).

Also, under tax statutes, the word "duties" is used interchangeably with the word "taxes",so the two words should not be read in a disharmonious manner.

"Eligible duties" in section 140(1) would cover duties listed as "eligible duties" at sl. no. (i) to (vii) of explanation 1, and "eligible duties and taxes" at sl. no. (i) to (viii) of explanation 2 to section 140.

Further, no transition of credit of cesses, including cess which is collected as additional duty of customs u/s 3(1) of the Customs Tariff Act, 1975, would be allowed in terms of Explanation 3 to section 140, which shall become effective from the date the same is notified giving it retrospective effect.

Please refer the circular for details.

INCOME TAX

NOTIFICATIONS/CIRCULARS

BROAD SCHEME OF TAX DEDUCTION AT SOURCE FROM "SALARIES"

OUR COMMENTS: In our earlier bulletin we discussed the rates of deduction of income-tax from the payment of income chargeable under the head "Salaries" during the financial year 2018-19 provided vide Circular No : 01/2019 dated 01.01.2019.

The same circular also explains certain related provisions of the Act and Income-tax Rules, 1962.

Here we will discuss some of the provisions with respect to broad scheme of Tax deduction at source from "Salaries:

- Every person responsible for paying income under the head "Salaries" shall deduct income-tax calculated on the basis of the given rates at the time of each payment.
- No tax to be deducted unless the **estimated salary income including the value of perquisites, for the financial year** exceeds the given slab of Rs 2,50,000/- or Rs. 3,00,000/- or Rs. 5,00,000/-, as the case may be, depending upon the age of the employee.
- **The employer may opt to pay the tax himself on non-monetary perquisites** given to an employee at the time when such tax was otherwise deductible i.e. at the time of payment of salary. The tax is to be determined at the average of income tax computed on the basis of rate for the financial year, on "salaries", including the value of perquisites for which tax has been paid by the employer himself.
- **Salary from more than one employer** (where an individual is working under more than one employer or has changed from one employer to another) **[Section 192(2)]:** In such case, the employee is required to furnish to the present/chosen employer details of the income under the head "Salaries" due or received from the former/other employer and also tax deducted at source therefrom, in writing and duly verified by him and by the former/other employer. The present/chosen employer will be required to deduct tax aggregate amount of salary (including salary received from the former or other employer).
- For TDS on **salary payable in foreign currency,** the value in rupees of such salary shall be calculated at the "Telegraphic transfer buying rate" of such currency as on the date on which tax is required to be deducted at source (Rule 26).
- **Section 192(3) allow the deductor to make adjustments** for any excess or shortfall in the deduction of tax already made during the financial year, in subsequent deductions for that employee within that financial year itself.
- **Relief When Salary Paid in Arrear or Advance: Under section 192(2A)** the assessee, being a Government servant or an employee in a company, co-operative society, local authority, university, institution, association or body is entitled to the relief under Section 89 may furnish Form No. 10E and the person responsible shall compute the relief on the basis of such particulars and take the same into account in making the deduction. Also, w.e.f. AY 2010-11, no such relief shall be granted for any amount received or receivable by an assessee on his voluntary retirement or termination of his service, if an exemption has been claimed by the assessee under section 10(10C).

The readers may refer the circular 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. 03/2018-CUSTOMS (N.T.)dated 11.01.2019** hereby amends **Notification No. 02/2019-Customs (N.T.) dated 03.01.2019** w.e.**f. 12.01.2019 a**s follows:

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)
15.	South African Rand	5.25	4.90

REVISION OF EXCHANGE RATE OF FOREIGN CURRENCI ES INTO RUPEE & VICE VERSA

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 05/2019-Customs (N.T.) dated 17.01.2019 & in supersession of Notification No. 02/2019-Customs (N.T.) dated 03.01.2019** has **revised the exchange rate of foreign currencies** w.e.f. **18.01.2019** as follows:

SCHEDULE-I

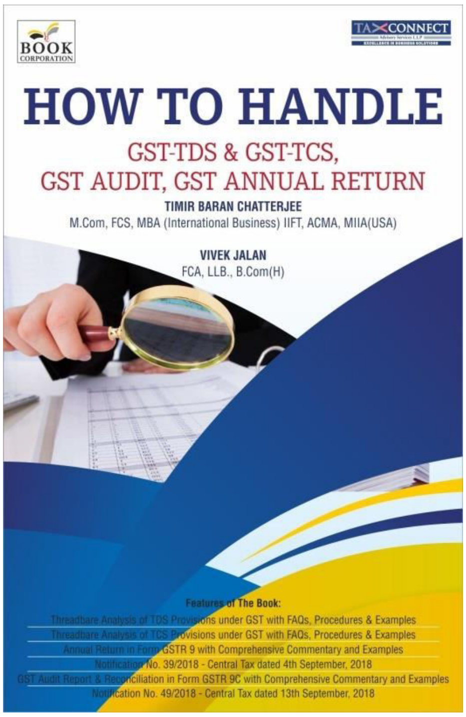
Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	52.25	50.00
2.	Bahrain Dinar	195.10	183.05
3.	Canadian Dollar	54.60	52.75
4.	Chinese Yuan	10.70	10.35
5.	Danish Kroner	11.05	10.65
6.	EURO	82.70	79.70
7.	Hong Kong Dollar	9.25	8.90
8.	Kuwait Dinar	243.00	227.60
9.	New Zealand Dollar	49.40	47.15
10.	Norwegian Kroner	8.50	8.20
11.	Pound Sterling	93.35	90.10
12.	Qatari Riyal	20.20	18.95
13.	South Arabian Riyal	19.60	18.40
14.	Singapore Dollar	53.50	51.65
15.	South African Rand	5.35	5.05
16.	Swedish Kroner	8.05	7.75
17.	Swiss Franc	73.35	70.40
18.	Turkish Lira	13.75	12.90
19.	UAE Dirham	20.05	18.80
20.	US Dollar	72.10	70.40

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
2.	Korean Won	6.55	6.15

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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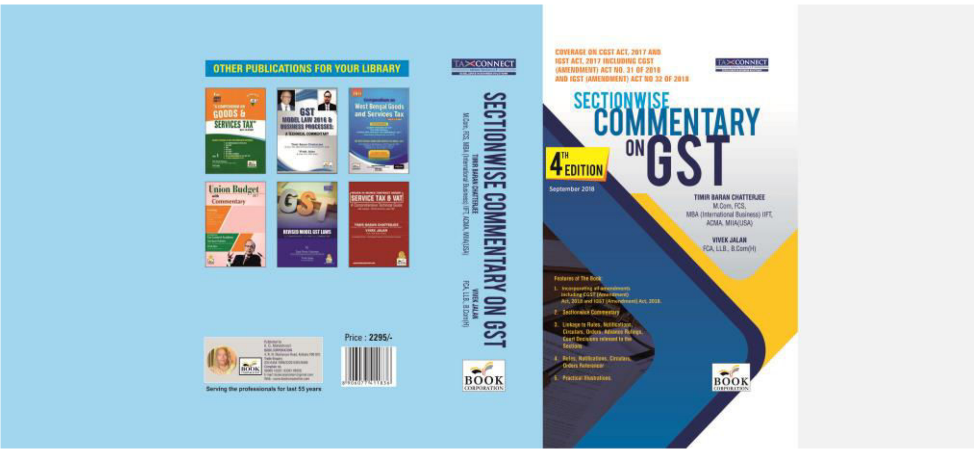
IN STANDS

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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