TAXCONNECT
215th Issue: 17th Mar 2019 - 23rd Mar 2019

TAX CONNECT

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The Bengal Chamber of Commerce & Industry

INCOME TAX

CUSTOMS

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EDITORIAL

Friends,

CBIC has issued long awaited clarification on levy of GST on sales promotion schemes after several representations from the companies in the FMCG and pharma sectors served with notices by tax authorities to reverse input tax credit in case of 'buy one get one free' (BOGO) and similar offers, prompting many to drop such schemes.

Section 17(5)(h) of the CGST Act provides that ITC on the inputs, input services and capital goods shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. i.e. distributed without any consideration (exception provisions contained in Schedule I).

As clarified, in case of **offers like 'Buy One, Get One Free',** taxability will be dependent upon whether the supply is a composite supply or a mixed supply. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

Also, **discounts offered by the suppliers to customers (including staggered discount under 'Buy more, save more' scheme and post supply / volume discounts established before or at the time of supply**) shall be excluded to determine the value of supply. ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts can be availed.

Further, the Government has notified the creation of the National Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) at New Delhi.

In Income tax, the gratuity exemption limit u/s Section 10(10)(iii) has been raised to Rs 25 lacs in relation to the employees who retire or become incapacitated prior to such retirement or die on or after the 29th day of March, 2018 or whose employment is terminated on or after the said date.

In Customs, the Ministry of Textiles (MoT) has notified a new scheme for Rebate of State and Central Taxes and Levies on export of garments and made-ups (RoSCTL)

The related 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

Due date	Form	Description
17th March, 2019	Form 16B	Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of January 2019.
17th March, 2019	Form 16C	Due date for issue of TDS Certificate for tax deducted under Section 194-IB in the month of January 2019.
20th March 2019	GSTR-3B	Summary Return of outward and inward supplies for the month of February, 2019.
20th March 2019	GSTR-5	Return for Non-resident taxable person for the month of February, 2019.
20th March 2019	GSTR-5A	Details of supplies for the month of February, 2019 of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India.

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS/CIRCULARS

ISSUE OF BILL OF SUPPLY IN LIEU OF TAX INVOICE IN CASE OF SERVICE PROVIDER AVAILING BENEFIT OF COMPOSITION

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Order No. 3/2019-Central Tax dated 08.03.2019** & **Order No. 2/2019-Union Territory Tax dated 08.03.2019** has clarified that provisions of section 31(3)(c) shall apply to a person paying tax under **Notification No. 2/2019- Central Tax (Rate) dated 07.03.2019 & Notification No. 2/2019-Union Territory Tax (Rate) dated 07.03.2019 (Composition scheme for supplier of services with a tax rate of 6% having annual turnover in preceding year upto Rs 50 lakhs)**.

NATIONAL BENCH OF THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL (GSTAT) AT NEW DELHI

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide NOTIFICATION NO. 1/2019 dated 13.03.2019** has notified the creation of the National Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) at New Delhi.

CLARIFICATION WITH RESPECT TO NATURE OF SUPPLY OF PRIORITY SECTOR LENDING CERTIFICATES (PSLC)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Circular No. 93/12/2019-GST dated 08.03.2019** has issued a clarification with respect to nature of Supply of Priority Sector Lending Certificates (PSLC).

Earlier, vide Circular No. 62/36/2018-GST dated 12.09.2018 it was clarified that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and GST rate of 12% will be applicable on the supply.

Further, vide **Notification No. 11/2018-Central Tax (Rate) dated 28.05.2018** GST was levied on PSLC trading on reverse charge basis from 28.05.2018 onwards to be paid by the buyer bank.

Now, it has been clarified that nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI for both periods i.e 01.07.2017 to 27.05.2018 and from 28.05.2018 onwards.

However, if the bank has already paid CGST/SGST or CGST/UTGST as the case may be, such banks shall not be required to pay IGST towards such supply.

INCOME TAXES

NOTIFICATIONS/CIRCULARS

M/S INDIAN INSTITUTE OF SCIENCE EDUCATION AND RESEARCH, BHOPAL AND M/S INSTITUTE OF NANO SCIENCE AND TECHNOLOGY, MOHALI NOTIFIED U/S 35(1)(II)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 17/2019 dated 11.03.2019 & Notification No. 18/2019 dated 13.03.2019** has notified M/s Indian Institute of Science Education and Research, Bhopal & M/s Institute of Nano Science and Technology, Mohali u/s 35(1)(ii) from AY 2018-2019 onwards.

The approval shall be withdrawn if the organization:-

a) fails to maintain specified separate books of accounts
b) fails to furnish its audit report as specified
c) fails to furnish its statement of the donations received and sums applied for specified scientific research referred to in the notification
d) ceases to carry on its research activities or its research activities are not found to be genuine; or
e) ceases to confirm to and comply with the provisions of clause (ii) of section 35(1) read with rules 5C and 5E.

M/S ELBIT SYSTEMS LIMITEDNOTIFIED U/S 10(6)(C)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 15/2019 dated 08.03.2019** has specified that any income arising to the foreign company M/s Elbit Systems Limited, Corporate Headquarters, Advanced Technology Center, P.O.B. 539, Haifa 31053, Israel, by way of royalty or fees for technical services received (as per their agreement dated 30th January, 2017 with Ministry of Defence, Government of India) to an extent of USD 30,786,693 shall not be included in computing its total income.

GRATUITY EXEMPTION LIMIT U/S SECTION 10(10)(III) RAISED TO RS 25 LAKHS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 17/2019 dated 11.03.2019 & Notification No. 18/2019 dated 13.03.2019** has specified Rs 25 lacs as the limit u/s Section 10(10)(iii) in relation to the employees who retire or become incapacitated prior to such retirement or die on or after the 29th day of March, 2018 or whose employment is terminated on or after the said date.

CUSTOMS

NOTIFICATIONS/CIRCULARS

ROSCTL - SCHEME FOR REBATE OF STATE AND CENTRAL TAXES AND LEVIES ON EXPORT OF GARMENTS AND MADE-UPS

OUR COMMENTS: The Ministry of Textiles (MoT) notified a new scheme called Scheme for Rebate of State and Central Taxes and Levies on export of garments and made-ups (RoSCTL) vide notification No. 14/26/2016-IT (Vol II) dated 7.3.2019. w.e.f. 7.3.2019.

The Dept. of Revenue, Ministry of Finance, Government of India has issued **Circular No. 10/ 2019-Customs dated 12.03.2019** with respect to the above.

- Rates of rebate under RoSCTL have been notified by MoT vide notification No. 14/26/2016-IT (Vol II) dated 8.3.2019.
- Existing Rebate of State Levies (RoSL) scheme for garments and made-ups has been discontinued w.e.f. 7.3.2019.
- Claims under the erstwhile RoSL scheme are to be processed for shipping bills with Let Export Order (LEO) date upto 6.3.2019 only.
- The Dept. of Revenue, Ministry of Finance, Government of India has issued **Circular No. 10/ 2019-Customs dated 12.03.2019** with respect to the above.
- Under the RoSCTL, the benefit to exporters shall be given by DGFT in form of Merchandise Exports from India Scheme (MEIS) type duty credit scrips. In the transition period, it has been decided that claims filed under the existing scheme codes for the erstwhile RoSL scheme will be treated as claims filed under RoSCTL scheme.

Case Law

PURSHOTTAM DAS GUPTA, VERSUS THE UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF FINANCE, THE COMMISSIONER OF CUSTOMS (IMPORT-I) , TAX RECOVERY CELL [BOMBAY HIGH COURT)

Brief: Dues of the company cannot be recovered from the petitioner personally.

OUR COMMENTS: In the given case, the petitioner was at one time a Director of a limited company and now he ceases to be a Director of the company and has no association with the company.

A demand notice was served on him under which he was directed to pay some outstanding dues of the company along with interest and costs.

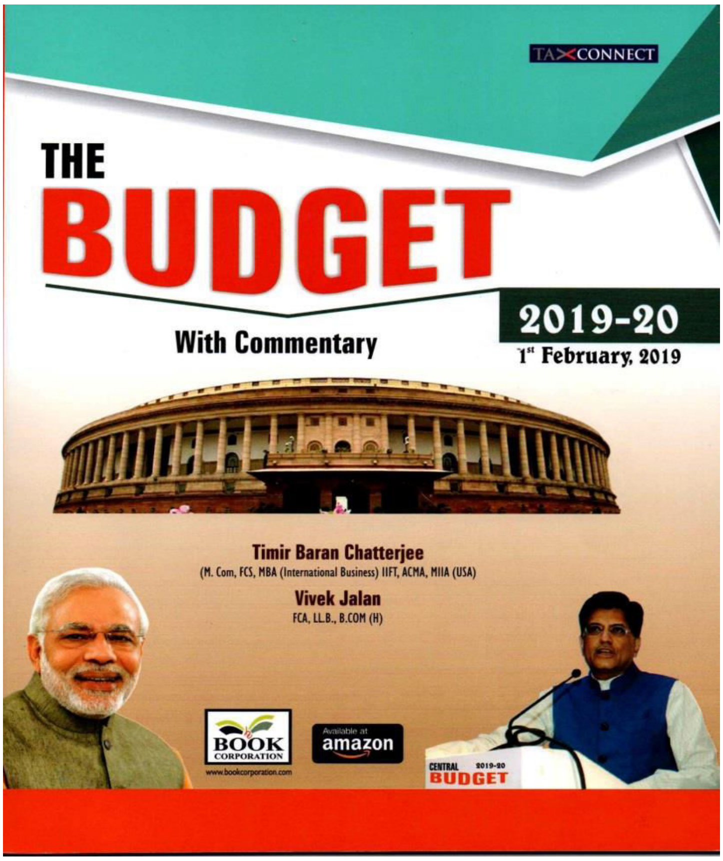
It was held that section 142 of CA enables recovery of sums due to Government. Now, where any sum is payable by any person to the Government, if not paid, may be recovered by deduction of money owing and payable by the Government to such person.

However, merely because the petitioner was associated with the company does not mean that he was in any way liable to meet the outstanding dues which could have only been claimed and recovered from the company.

Asserting the position of a Director qua a company or a limited company, it was held that unlike a partnership, the dues of the company cannot be recovered from its Director, for the company has an existence independent of the Director, in law.

IN STANDS

THE BUDGET 2019-20 WITH COMMENTARY



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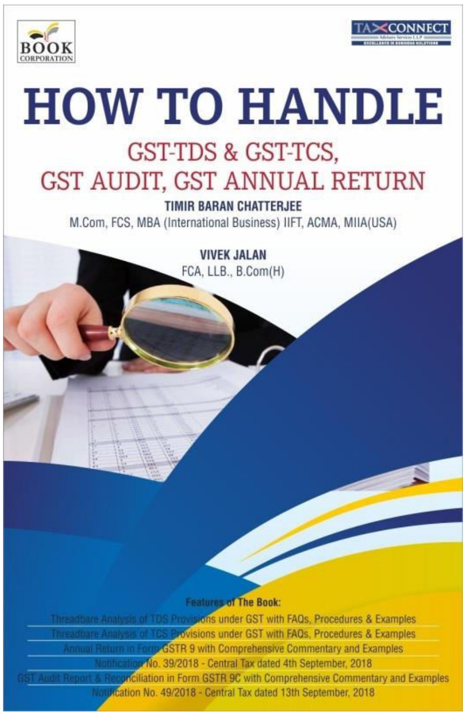
IN STANDS

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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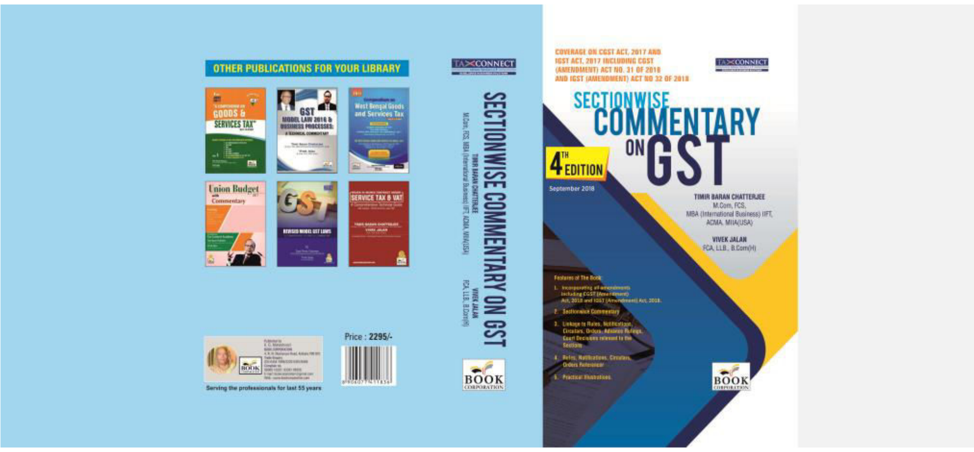
IN STANDS

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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