TAX CONNECT
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TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

INCOME TAX

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Tax Connect Partners in News

Economic Ananlysis by our senior partner *Mr. Timir Baran Chatterjee* on the taxation on Real Estate published in Anand Bazar Patrika.


আনন্দবাজার পত্রিকা

বিষয় ₹ আশয়

কর গুনে ঘর

বাড়ি বা ফ্ল্যাট কিনতে গেলে যে-জিএসটি গুনতে হয়, তাতে চোখে পড়ার মতো বদল এসেছে এপ্রিল থেকেই। করের হার পাল্টে যাওয়া ছাড়াও বদলেছে কম দামি আবাসনের সংজ্ঞা। সেই হিসেব ঠোঁটস্থ না-থাকলে চলবে কেন? লিখছেন **তিমিরবরণ চট্টোপাধ্যায়**

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Views of our partner *[Mr. Vivek Jalan]* on budget & economic survey 2020 covered in various publishing media:

CNBC TV 18

Link: https://www.cnbctv18.com/economy/union-budget-2019-govt-cuts-corporate-tax-rate-to-25-for-firms-with-rs-400-crore-turnover-3910901.htm

Union Budget 2019: Govt cuts corporate tax rate to 25% for firms with Rs 400 crore turnover

A reduction in corporate tax rate has been a long-standing demand of India Inc. Finance minister Nirmala Sitharaman, in her maiden Budget speech, cut the corporate tax rate for companies with an annual turnover of Rs 400 crore to 25 percent.

Currently, only companies with an annual turnover of Rs 250 crore can avail the 25 percent corporate tax rate. The tax rate for all other companies is 30 percent.

“So far as corporate tax is concerned, we continue with the phased reduction in rates,” said Sitharaman in her speech. “I propose to widen this to include all companies having an annual turnover of up to Rs 400 crore. This will cover 99.3 percent of the companies. Now only 0.7 percent of companies will remain outside this rate.”

The move is largely a damp squib for the corporate sector. The demand has been for an across the board cut of the corporate tax rate to 15 percent. While it is true that a majority of companies fall under the Rs 400 crore turnover line, the 25 percent rate in itself would be on the higher side for some companies.

Add to that the exception was that a cut will be applicable to all corporates. So the large-cap companies, the ones that comprise of a bulk of the listed blue chips, would be excluded and will continue to pay 30 percent.

According to Vivek Jalan, co-founder, Tax Connect Advisory Services, “Reduction of the corporate tax rate to 25 percent to all companies with turnover of up to Rs 400 crore will give a boost to the industry. However, it was expected that such relief would be spread across all corporates which is a small dampener.

Rahul Garg, senior tax partner, PwC India also has the same view. “It was expected that corporate tax would have been made more competitive for all businesses, he said.

However, companies can take heart from the FM’s comments on continuing with the phased reduction in rates, which could signify that this government could adopt the strategy of a phased cut in corporate rate over a period of time economy.

Zee Business

Link: https://www.zeebiz.com/india/news-budget-2019-economic-survey-sees-economy-at-5-tn-8-growth-rate-heres-what-fm-sitharaman-can-do-to-boost-gdp-104404

Budget 2019: Economic Survey sees economy at $5 tn, 8% growth rate; here's what FM Sitharaman can do to boost GDP

What shape will the final Budget 2019 take, in the form of reforms and development, is all that most Indians are thinking of right now. Right from common man to companies, all are hopeful for major tax reliefs, investment boost and much more, especially since NDA government has retained power. The interim Budget 2019 announced five months ago was an exciting teaser to what more can be expected in the full Budget for FY20, which is set to be presented tomorrow by

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Finance Minister Nirmala Sitharaman. But before that, in Parliament on Thursday, Sitharaman released the country's economic survey for 2018-19 which lays emphasis on India becoming a $5 trillion economy, and sustaining 8% GDP growth rate.

Interestingly, experts believe a few measures can actually help achieve this target, and one can expect these announcements tomorrow.

Sitharaman-led economic survey states that, its theme is about enabling a “shifting of gears”, “to achieve the objective of becoming USD 5 trillion economies by 2024-25, as laid down by the Prime Minister”.

It added, “India needs to sustain a real GDP growth rate of 8%”. The Survey says that it departs from “traditional thinking by advocating a growth model for India that views economy as being either in a virtuous or a vicious cycle, and thus never in equilibrium”.

Talking about the survey, Vivek Jalan, Co-Founder, Tax Connect Advisory Services said, "This is the First Economic Survey of the new Government envisions India to become a $5 trillion economy by creating an inclusive India and by focussing on nourishing Indian Industry to create jobs and become more productive. It stresses on Private Investment as the Driver of Growth, Jobs, Exports and Demand. It gives the example of China supporting this virtuous cycle view, where the share of Savings/Investments and exports in GDP evolved for China as a function of the log of GDP per capita in recent years."

Further the survey said that it, "makes the case for investment, especially private investment as key driver, that drives demand, creates capacity, increases labour productivity, introduces new technology and generate jobs”.

While the survey also suggests saying, "Exports must form an integral part of the growth model because higher savings preclude domestic consumption as the driver of final demand.”

To achieve these objectives, Jalan says, "The economic survey focuses on a sustained GDP growth of 8% and inflation of sub 4%. To start with, in 2020 it focuses on a GDP growth of 7%. The Survey argues that nudging behaviour change is simplest way to solve many economic issues also."

With that, the Economic Survey thus sets expectations high for Indian Industry.
Interestingly, Jalan states that, the 8% GDP growth rate envisioned would only be achievable in 2020 if the perfect boost is given Indian Industry by the Government by the following –

1. Reducing Corporate Tax rate at least to 25%.

2. Merging various GST Rates into an RNR rate of 15%.

3. After GST, to now push for Income Tax reform in the form of Direct Tax Code.

4. Easing the Tax Department’s (Both Direct & Indirect) “Concurrent Assessment” procedures and time barring reopening of assessments.

5. Assisting in Direct and indirect, collateral-free finance to Industry at subsidized interest rates.

The Economic Survey already reveals a promising growth and suggestions for Indian economy, hence, a lot of expectations has just mounted towards FM Sitharaman.

EDITORIAL

Friends,

Our views on the case of Rajasthan Marbles versus The Assistant State Tax Officer, State GST Department, Kochi:

In the given case, the petitioner challenged Exts.P11 and P12 notices issued by the respondent as illegal and without jurisdiction where Ext.P11 is an order of detention made under Section 129 (1) of KGST Act, 2017 and Ext.P12 is a notice issued under Section 129 (3) of the Act. As per the petitioner the subject matters of the said notices is in full compliant with all the requirements of the said act and that the Part B of the E-Waybill was also generated and produced for inspection.

The government pleader objected that there is an omission or illegality in transportation of goods that the transporter could not produce all the documents required for establishing that the goods is under valid transit as admitted by the petitioner.

Further, since section 129 deals with and provides for detention and release of goods the detention order cannot be treated as final but subject to the fact that the petitioner comply with section 129 of the said act.

Furthermore, the authority can release the detained goods provided the petitioner furnishes the bank guarantee for the tax and penalty amount demanded through Ext.P12.

In response to the above, the petitioner submitted that the transition of goods are in compliance with all the requirements of the said act instead he can furnish the bank guarantee but then the orders shall not be passed in this behalf resulting in the petitioner continuously keeping the bank guarantee alive.

Further, the bank guarantee is also provided at substantial commission by the banker.

On the basis of above submissions, Court is not convinced to entertain the writ petition and adjudicate upon merits at this stage since The issues raised are preliminary. To confirm to the scheme under the Act, the writ petition is disposed of by this order.

Further, the petitioner submitted bank guarantee for the tax and penalty as shown in Ext.P12 and applied for release of goods by enclosing a copy of this order within two days from the date of the order. The respondent shall release the goods detained under Ext.P11 and subjected to enquiry in Ext.P12 within twelve hours from the date and time of receipt of bank guarantee. The bank guarantee shall be kept valid for six weeks from today. The respondent shall complete the enquiry, afford fair and reasonable opportunity as envisaged under the Act to petitioner and pass and communicate this order within four weeks from today. The respondent, if fails to pass the order as directed by this Court the petitioner is not under obligation to keep the bank guarantee alive beyond six weeks.

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
15th July, 2019	Form 24EQ	Quarterly Statement of collection of tax at source (TCS) for the 1st quarter of 2018-19
18th July, 2019	GSTR-4	Quarterly return for registered person opting for composition levy
20th July, 2019	GSTR-5	Return for Non-resident taxable person for the month of June, 2019
20th July, 2019	GSTR-5A	Details of supplies for the month of June, 2019 of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India.

INCOME TAX

NOTIFICATION/ CIRCULAR/ CASE LAW

PERSUANT TO SECTION 10 CLAUSE 46, CERTAIN INCOME SPECIFIED AS EXEMPT IN RELATION TO NATIONAL SKILL DEVELOPMENT CORPORATION

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 51/2019 dated 4.06.2019** has notified certain income to be exempted for the National Skill Development Corporation and not to be included in the computation of its Total Income provided it satisfies all the conditions laid down in the said notification.

PERSUANT TO SECTION 10 CLAUSE 46, CERTAIN INCOME SPECIFIED AS EXEMPT IN RELATION TO CHHATTISGARH BUILDING AND OTHER CONSTRUCTION WORKERS WELFARE BOARD

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 52/2019 dated 4.07.2019** has notified certain income to be exempted for the Chhattisgarh Building and Other Construction Workers Welfare Board and not to be included in the computation of its Total Income provided it satisfies all the conditions laid down in the said notification.

TAXABILITY OF INCOME EARNED BY A NON-RESIDENT INVESTOR FROM OFF-SHORE INVESTMENTS THROUGH AN ALTERNATE INVESTMENT FUND

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Circular No. 14/2019 dated 3.07.2019** has clarified the applicability of tax on income from off-shore investments made by a non-resident investor through the Alternate Investment Funds (AIFs).

PR. COMMISSIONER OF INCOME TAX-05 VERSUS M/S. LI AND FUNG (INDIA) PVT. LTD.

BRIEF: Whether the ITAT was justified in excluding Axis Integrated System Ltd. as a comparable in the Transfer Pricing Analysis for fixing the Arm's Length Price of the international transaction involving the Respondent Assessee during the AY in consideration.

OUR COMMENTS: As pointed out by the Hon'ble Delhi High Court in Rampgreen Solutions Pvt. Ltd. v. CIT, "comparability analysis by the transactional net margin method may be less sensitive to certain dissimilarities between the tested party and the comparables. However, that cannot be the consideration for diluting the standards of selecting comparable transactions/ entities. A higher product and functional similarity would strengthen the efficacy of the method in ascertaining a reliable arm's length price. Therefore, as far as possible, the comparables must be selected keeping in view the comparability factors as specified. Wide deviations in profit level indicator must trigger further investigations/ analysis.

In the present case, the reasons given by the ITAT for excluding Axis as a comparable appeared to be plausible and based on a detailed analysis of the different profiles of the Assessee and Axis. Consequently, the Court was not persuaded that the ITAT erred in excluding Axis as a comparable. No substantial question of law arises.

GST: CGST/IGST/SGST/UTGST

CASE LAW

M/S SRI KANYAKAPARAMESHWARI OIL MILLS VS. AUTHORITY FOR ADVANCE RULING

Brief: HSN code and rate of tax in respect of specific oils.

OUR COMMENTS: In the given case, the applicant seeked Advance Ruling about the rate of tax with the HSN code in respect of the following:-

- Perfumed Deepam Oil (Not for Cooking)- prepared by adding perfume to either a mixture of Gingely Oil, Palmoline Oil, Rice Bran Oil or any of the above oil
- Deepam Oil (Not for Cooking) – which is prepared by either a mixture of Gingely Oil, Palmoline Oil, Rice Bran Oil or any of the above oil but without adding any perfume and
- A Mixture of Gingely Oil, Palmoline Oil, Rice Bran Oil or any of the above oil

Now, as per the First Schedule to the Customs Tariff Act, 1975, the Palmoline Oil, a fraction of Palm Oil and the falls under the Tariff Heading 1511, the Gingely Oil and the Rice Bran Oil falls under the Tariff Heading 1515 and the Edible Mixture or preparations of vegetable oils or of fractions falls under the Heading 1517. Hence, the GST rates in respect of the products mentioned in the 3rd point above shall be:-

Type of Tax	Gingely Oil	Palmoline Oil	Rice Bran Oil	Edible Mixture
IGST	5%	5%	5%	5%
CGST	2.5%	2.5%	2.5%	2.5%
KGST	2.5%	2.5%	2.5%	2.5%

Further, mixture of oils without perfume which is “Not meant for Cooking” is an in edible mixtures or reparations of animal or vegetable fats or oils or fractions of different fats or oils which falls under the 1518 and attracts the rate of tax as follows:-

- IGST- 12%
- CGST- 6%
- KGST- 6%

Furthermore, in case of products mentioned in 1st point above, the mixture of oil is an in edible oil because of the addition of the addition of the perfume to the mixture of 2 or more oils or edible oil and hence it falls under the Heading 1518 thereby attracting the following rates of tax:-

- IGST- 12%
- CGST- 6%
- KGST- 6%

Hence, the following rule passed by the authority:-

Products	HSN	IGST	CGST	KGST
Perfumed Deepam Oil	1518	12%	6%	6%
Deepam Oil	1518	12%	6%	6%
Gingely Oil	1515	5%	2.5%	2.5%
Palmoline Oil	1511	5%	2.5%	2.5%
Rice Bran Oil	1515	5%	2.5%	2.5%
Edible Mixture	1517	5%	2.5%	2.5%

CIRCULAR/ CASE LAW

INTRODUCTION OF NEW SYSTEM FOR SUBMISSION OF ANNUAL RETURN ON FOREIGN LIABILITIES AND ASSETS

OUR COMMENTS: The Reserve Bank of India **vide Circular No. 37 dated 28.06.2019** has introduces the web based system online reporting portal thereby replacing the existing email based reporting system for submission of the annual return on Foreign Liabilities and Assets.

M/S DOMINENT FINANCIAL SERVICES P. LTD., ASHOK JAIN VERSUS THE SPECIAL DIRECTOR DIRECTORATE OF ENFORCEMENT, MUMBAI AND THE SPECIAL DIRECTOR DIRECTORATE OF ENFORCEMENT, MUMBAI VERSUS M/S DOMINENT FINANCIAL SERVICES (P) LTD.

BRIEF: Non-compliance of the condition of minimum capitalization and requirement of prior permission and allowing automatic route for FDI by foreign companies in township development.

OUR COMMENTS: In the given case, the appellant was held guilty for non-compliance of the condition of minimum capitalization, requirement of prior permission and allowing automatic route for FDI by foreign companies in township development and guilty in respect of the transaction of transfer of shares. As per the case, the minimum amount of FDI is required to be brought in "within a period of six months of commencement of business of the company". The respondent had initiated investigation against the appellant company soon after the first installment of USD 2.5 Million, thereby frustrating further compliance with the condition of minimum capitalization by their own action.

Further, the amount of USD 10 Million is required to be brought in within six months from the commencement of the business of the company. Since the business of development and construction of township could not be commenced due to the action of the respondent, the period of compliance with the condition had yet to commence. The allegation is, therefore, premature and, therefore, the of contravention does not arise.

Hence, that the Adjudicating Authority has misapplied the condition of Sl. no. 23 in respect of FDI in township development to NRIs contrary to FDI in township development under Sl. no. 2 of Annexure B which is without any condition.

Therefore, the disputed order is rejected as the appellant is not guilty of alleged contravention.

CUSTOMS

CASE LAW

M/S. ARVIND LIFESTYLE BRANDS LIMITED VERSUS UNDER SECRETARY TECHNOLOGY DEVELOPMENT BOARD, MINISTRY OF FINANCE REP. BY SECRETARY NORTH BLOCK NEW DELHI

Brief: Tax paid in ignorance of the repealed act is required to be refunded and cannot be retained.

OUR COMMENTS: In general law, any amount paid mistakenly or in ignorance of the repealed act, is available for refund whenever claimed by the taxpayer and the retention of which is exhibited by Article 265 of the Indian Constitution. In the given case, the petitioner inadvertently paid the Research & Development Cess on account of repealment of the act and the refund claim of the same has been rejected by the respondent no. 1 on the ground that there is no provision in the Act for refund of same. As per the said article any money collected, cannot be retained without authority of law and the same is required to be refunded. Hence, the petitioners are entitled to the said amount deposited without any interest by the respondent Nos.2 to 4.

M/S LLOYD INSULATION (I) LIMITED VERSUS COMMISSIONER OF CUSTOMS

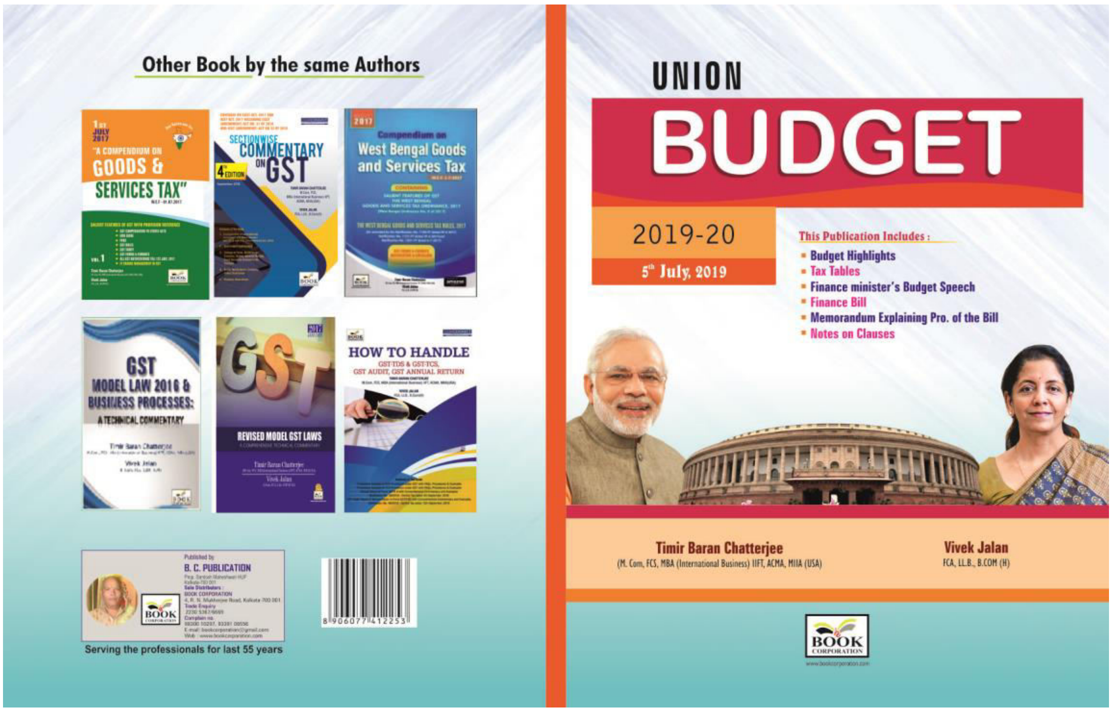
Brief: Extension of export obligation period for import of machinery under Export Promotion Capital Goods (EPCG) scheme.

OUR COMMENTS: In given case, DGFT authority permitted the extension of the Export Obligation Period as the machinery imported under EPCG scheme could not be installed within the specified period for 2 years from 27.07.2015. Meanwhile, the Commissioner of Customs issued the order without considering the said extension period against which the appellant filed the appeal before the commissioner who rejected the appeal for the pre-deposit under section 129E of the Customs Act. The appellant pre-deposited 10% under section 129E and again prayed for the decision against the disputed order.

Finally, the commissioner directed to consider the entire issue and issue a fresh order thereby allowing the appeal by way of remand.

IN STANDS

UNION BUDGET 2019-20



ABOUT THE BOOK: This publication includes:

1. **Budget Highlights**
2. **Tax tables**
3. **Finance Minister's Budget Speech**
4. **Finance Bill**
5. **Memorandum Explaining Pro. Of the Bill**
6. **Notes on Clauses**

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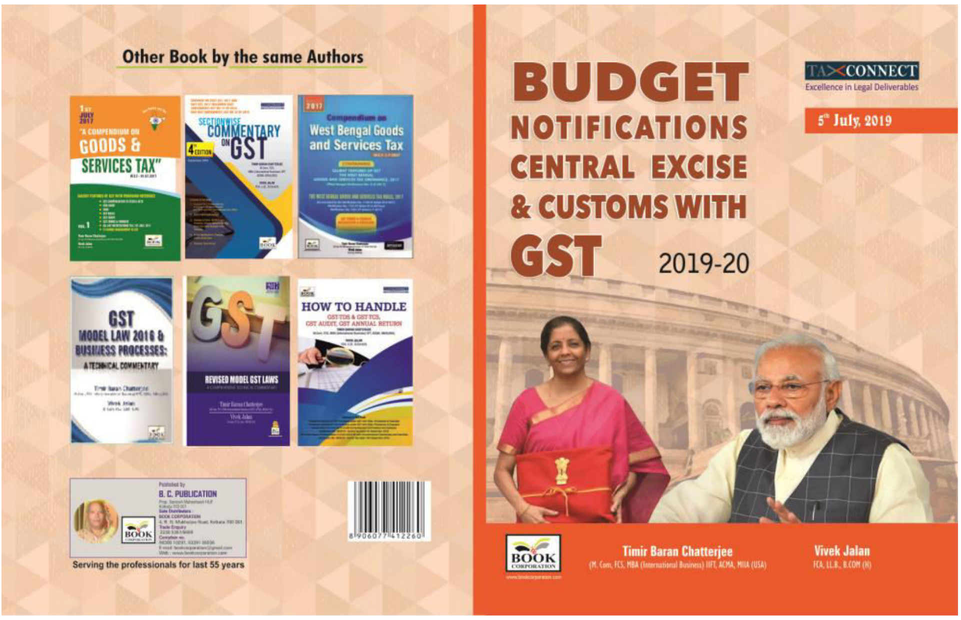
IN STANDS

BUDGET NOTIFICATIONS CENTRAL EXCISE & CUSTOMS WITH GST 2019-20



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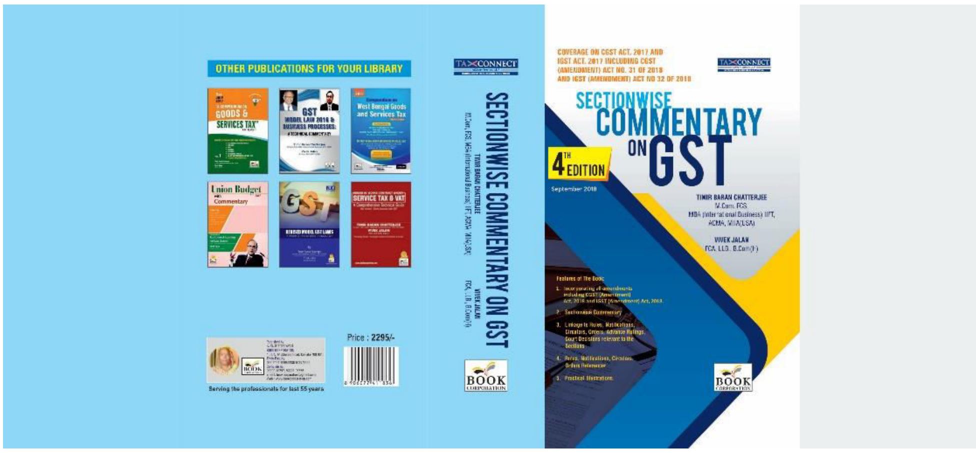
IN STANDS

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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