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INCOME TAX

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EDITORIAL

Friends,

The Central Board of Direct Taxes has issued clarification in respect of filling-up of the ITR forms for the Assessment Year 2019-20. This has been discussed in detail in the “Income Tax” section.

A simple checklist has been prepared in order to assist taxpayers submitting ITR7 for AY 19-20, to avoid common mistakes in return preparation which may impact uploading of the ITR or processing of the ITR later.

ITR-6 & ITR-7 utilities are modified to fix bugs identified while filling Schedule FSI and TDS. These issue fixes has no impact on XML schema which remains same and for those taxpayers where these schedules are not relevant. For those taxpayers who are entering data in these schedules, it is requested that they may download the latest version and regenerate the return XML by importing the already generated XML in Java Utility or import from previous version in case of excel utility.

While filling ITR, if TDS has been deducted on any income received, then it should be ensure that the newly added column 'TCS/TDS credit out of (5) being claimed this year' in the TDS schedule of the ITR in order to claim the credit.

As per the Finance Minister, seven legislations under indirect taxation including GST are amended for simplicity along with seven laws related to direct taxation through finance bill moved in the Lok Sabha for furthering the agenda of “Make in India”.

Further, GST has five different amendments to make compliance easier for the MSME sector and eight acts relating to financial markets including SEBI act. But the amendments of some acts including Benami Act, SEBI Act and PMLA Act have been objected in the Lok Sabha.

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
20th August, 2019	GSTR-3B	Summary Return of outward and inward supplies for the month of March, 2019
20th August, 2019	GSTR-5	Return for Non-resident taxable person for the month of March, 2019
20th August, 2019	Form-5A	Details of supplies for the month of March, 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

CENTRAL GOVERNMENT NOTIFIES MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 57/2019 dated 9.08.2019** has notified Multinational convention to implement measures relating to tax treaty in order to prevent base erosion and profit sharing.

ENHANCEMENT OF MONETARY LIMITS FOR FILING OF APPEALS IN INCOME TAX CASES

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 17/2019 dated 8.08.2019** has received certain representations to remove anomaly of para 5 of the circular no. 3/2018 dated 11.07.2018 and to manage the litigations the monetary limits for filling the appeals by the department to the Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court in income tax cases enhanced and certain amendments are made to the said circular.

CLARIFICATION IN RESPECT OF FILLING-UP OF THE ITR FORMS FOR THE ASSESSMENT YEAR

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 18/2019 dated 8.08.2019** has given clarifications to various queries raised by the stakeholders in respect of filling-up of the ITR forms relating to the Taxpayer Identification Number (TIN), disclosure regarding directorship in a foreign company having no PAN, disclosure relating to listed and unlisted shares held and so on.

GENERATION/ALLOTMENT/QUOTING OF DOCUMENT IDENTIFICATION NUMBER IN NOTICE/ ORDER/ SUMMONS/ LETTER/ CORRESPONDENCE ISSUED BY THE INCOME-TAX DEPARTMENT

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Circular No. 19/2019 dated 14.08.2019** has decided that all communication shall be issued by any income-tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, from 1.10.2019 onwards only after a computer-generated Document Identification Number (DIN) has been allotted and is duly quoted in the body of such communication subject to certain exceptions.

CASE LAW

VE COMMERCIAL VEHCLES LTD. VERSUS UNION OF INDIA, STATE OF KERALA, COMMISSIONER OF COMMERCIAL TAXES, TAX THIRUVANANTHAPURAM STATE TAX OFFICER (INTELLIGENCE) , ASSISTANT STATE TAX OFFICER

BRIEF: Release of goods on the basis of Bank Gaurentee.

OUR COMMENTS: In the given case, the interim relief sought for in the writ petition is to restrain encashment of the Bank Guarantee. If it is granted, it will amount to an order in anticipation that the adjudication will culminate in imposition of penalty. If such an anticipatory restrainment is put on the respondents, as observed by the learned Single Judge, that will be in a manner defeating the interest of the respondents who ordered release of the goods by securing the probable amount which may be due after the adjudication, in accordance with the provisions contained in Section 129 of the Act - there is no illegality, error or impropriety in the judgment of the learned Single Judge.

The interest of justice on equitable basis can be achieved by issuing a direction to the respondents not to encash the Bank Guarantee furnished by the appellant, if ultimately the adjudication goes against them and if penalty is imposed in such proceedings, until the expiry of 14 days from the date of service of order on such adjudication.

BRAY CONTROLS INDIA PRIVATE LIMITED VERSUS THE ASSISTANT COMMISSIONER (ST)

BRIEF: Scaling down of ITC which is capable of migration / capable of transition into the GST Regime - Part of ITC given up and sought to be adjusted with VT / CST liability - deemed assessment u/s 22(2) of TNVAT Act.

OUR COMMENTS: In the given case, revenue submitted that in the facts and circumstances of the instant case, adjustment sought for by the writ petitioner is permissible but subject to quantification / verification as adumbrated in Rule 121 of 'Tamil Nadu Goods and Services Tax Rules, 2017

If that be the case, the aforesaid verification process has to be completed and the outcome of the verification process will obviously impact the impugned order being given effect to. To be noted, as already mentioned above, writ petitioner accepts tax liability under the impugned order and what is put in issue in the instant writ petition is only the adjustment plea - the respondent shall do the verification exercise under Rule 121 of TNGST Rules as expeditiously as possible and until this exercise is completed, the impugned order will be kept in abeyance.

Post verification, outcome of the verification process together with its impact on the impugned order shall be communicated to the writ petitioner within 10 working days from date of completion of verification / quantification as above under due acknowledgement - Petition disposed off.

CASE LAW

PULIKUTH HAMZATH ABDUSALAM VERSUS THE SPECIAL DIRECTOR, DIRECTORATE OF ENFORCEMENT, CHENNAI

BRIEF: Contravention of provisions of Section 3(b) and Section 3(c) of FEMA, 1999.

OUR COMMENTS: In the present case, the appellant filed an appeal against the impugned order dated 26.02.2018 where it was stated that he was involved in hawala transactions and had contravened the provisions of sections 3(b) and 3(c) of the FEMA, 1999.

Further as per the submissions of the appellant, the case was based on the statements of some other persons who stated that the appellant was disbursing Indian currencies to various people in the country both receiving and paying and also purchasing gold out of the said money and transporting it to Kerala but since nothing was recovered from him, merely basing the entire case on statements of others, some purported mobile numbers of other people is blatantly illegal. Hence, since there was no evidence against the appellant, the statements cannot be held against him, the statements were under threat and harassment as he was made confined in the ED's office and although section 3(b) and 3(c) has been invoked to penalize him there is no corroborative evidence to show as to how he had received or made any payment to or by any person resident outside India which is the basic requirement under the said section.

Furthermore as per the respondent, both sections 3(b) and 3(c) of FEMA, 1999 specifies receipt or payment to or on behalf of any person resident outside India, 'in any manner' which covers any type of transactions which is not authorized by the RBI, the appellant has been a habitual offender against whom cases have been booked earlier also, both the statement of the appellant and the co-accused proves his culpability and in the hawala cases the offence is in the mind of the offender and it is not necessary that the offence has to be proved till the last link in the chain. She reiterated the impugned order wherein the panchnama drawn at H.H. Mansion shows the signature of the appellant, which proves his presence there. Moreover, the CDR analysis of three mobile numbers recovered from the mansion, in his presence, shows that he has been making and receiving phone calls very frequently from abroad.

As per section 3(b) and 3(c) of the said act, the transactions where the person either makes any payment to a person resident outside India or receives any payment by order or on behalf of any person resident outside India contravenes the provisions of the said section. Further in the present case, the impugned order states that the appellant has received hawala payment of ₹ 19.18 crores from persons in India which includes ₹ 1.55 crores attempted to be transported to Kerala and seized on 29.04.2010. The impugned order has alleged that he received money (Indian currencies) from some other people who in turn has arranged this money from people from abroad. Thus, it appears that the impugned order has not established the appellant receiving the money directly from abroad. Moreover, there is no restriction on circulation of Indian money within the country, at least under FEMA. It is found that the department has not investigated those people who are Indians and who have delivered the money to him in India although the details of some of them like their mobile numbers etc. was available to the investigating authority. Moreover, the analysis of phone calls has also not been done in a complete manner as it does not show the details of the conversations.

Hence, the appeal is allowed to remand the case back to the original authority to do a thorough investigation.

CUSTOMS

NOTIFICATION/ CIRCULAR

AMENDMENTS MADE TO THE NOTIFICATION NO. 12/97-CUSTOMS (N.T) DATED 2.04.1997

OUR COMMENTS: The Central Board of Indirect taxes and Customs **vide Notification No. 58/2019- Customs (N.T.) dated 8.08.2019** has made amendments to the notification no. 12/97-Customs (N.T) dated 2.04.1997. For details please refer to the said notification.

EXTENSION OF IMPOSITION OF ANTI-DUMPING DUTY ON IMPORTS OF "HOMOPOLYMER OF VINYL CHLORIDE MONOMER (SUSPENSION GRADE)" EXPORTED FROM CHINA, THAILAND AND USA

OUR COMMENTS: The Central Board of Indirect taxes and Customs **vide Notification No. 32/2019- Customs (ADD) dated 10.08.2019** has extended the imposition of anti-dumping duty for a period of 30 months from 13th August, 2019 on import of Homopolymer of Vinyl Chloride Monomer (suspension grade)' from China, Thailand and United States of America which shall be payable in Indian currency.

RATE OF EXCHANGE OF SWISS FRANC INTO INDIAN CURRENCY

OUR COMMENTS: The Central Board of Indirect taxes and Customs vide Notification No. 59/2019- Customs (N.T.) dated 13.08.2019 has specified the rate of exchange of conversion of Swiss Franc into Indian currency for imported goods as ₹ 74.60 and for exported goods as ₹ 71.70.

NOTIFICATION OF RATE OF EXCHANGE OF FOREIGN CURRENCY INT INDIAN CURRENCY AND VICE-VERSA

OUR COMMENTS: The Central Board of Indirect taxes and Customs vide Notification No. 60/2019- Customs (N.T.) dated 14.08.2019 has specified the rate of exchange of conversion of foreign currency into Indian currency and vice- versa.

FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, POPPY SEEDS, ARECA NUT, GOLD AND SILVER.

OUR COMMENTS: The Central Board of Indirect taxes and Customs **vide Notification No. 61/2019- Customs (N.T.) dated 14.08.2019** has fixed the tariff value of the Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver thereby amending notification no. 36/2001-Customs (N.T) dated 3.08.2001.

RECOVERY OF EXPORT BENEFITS GIVEN UNDER INCENTIVE AND REWARD SCHEMES UNDER CHAPTER 3 OF FTP ON RE-IMPORT OF EXPORTED GOODS

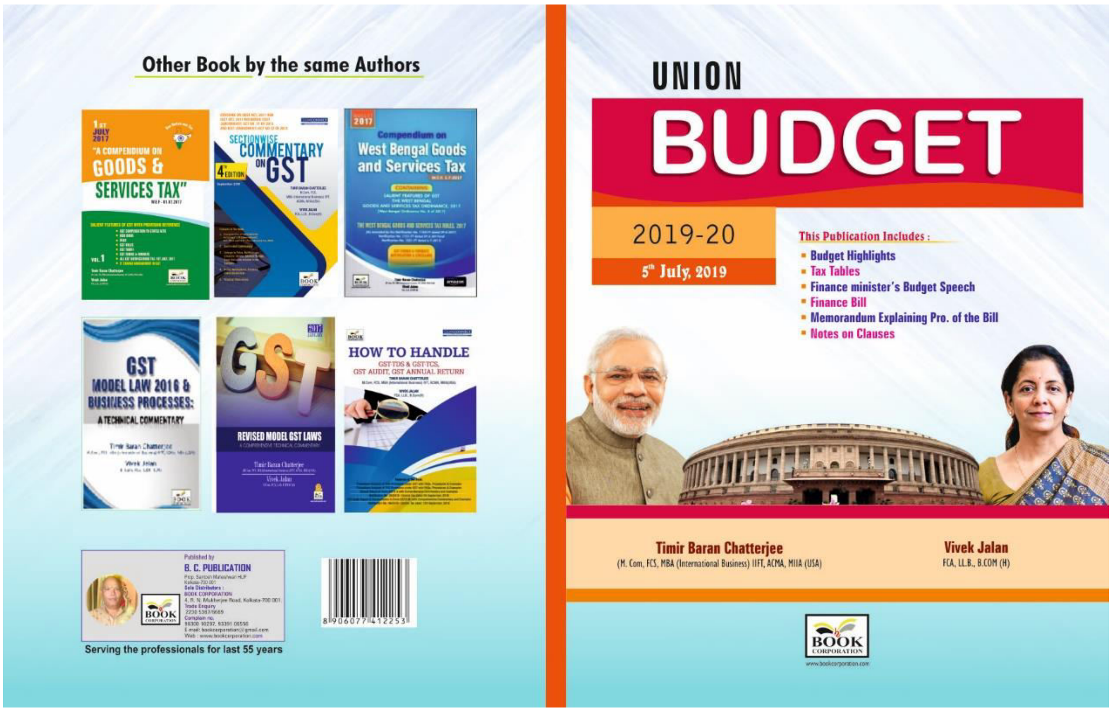
OUR COMMENTS: The Central Board of Indirect taxes and Customs **vide Instruction No. 03/2019- Customs dated 13.08.2019** issued instructions relating to the issues regarding recovery of export benefits given under incentive and reward schemes under chapter-3 of FTP on reimport of exported goods as raised by the C&AG of India where it was pointed out that there was no provision in the Customs notification to recover the duty credit given under the said chapter at the time of reimport of such goods on which such benefit has been availed at the time of export.

The above issue was examined by the DGFT which informed that RBI Master Directions on exports and imports already has a provision regarding refund of incentives taken from DGFT for such reimports and as explained in Handbook of Procedures, a procedure for obtaining 'no-incentive certificate' from Regional Authority (RA) of DGFT has been prescribed for such cases of re-import.

Hence, it is necessary for the importer to provide a no incentive certificate from RA of DGFT at the time of re-import of exported goods and before allowing clearance in cases of re-import of exported goods, a 'no-incentive certificate' from the respective RA of DGFT shall be ensured by Customs field formations.

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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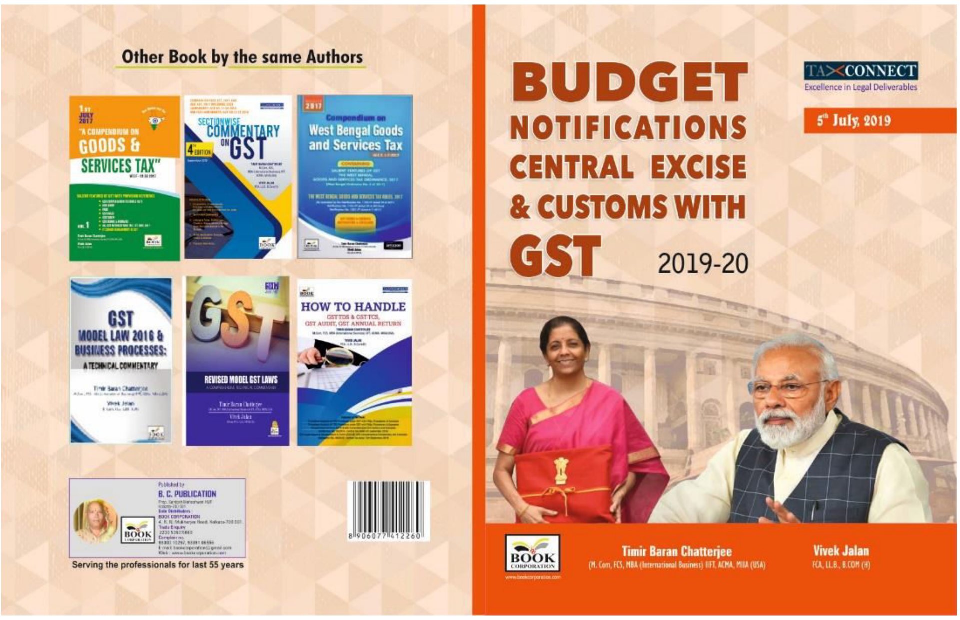
IN STANDS

BUDGET NOTIFICATIONS CENTRAL EXCISE & CUSTOMS WITH GST 2019-20



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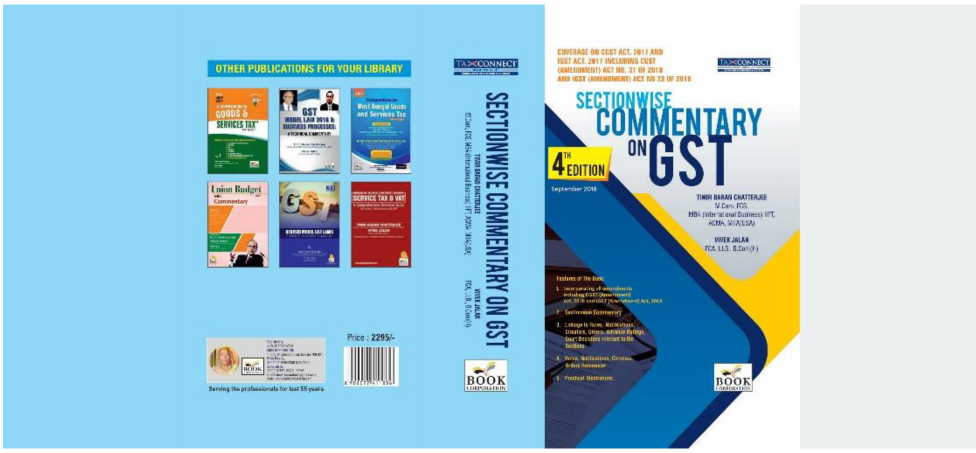
IN STANDS

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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