TAX CONNECT
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TAX CONNECT

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The Bengal Chamber of Commerce & Industry

INCOME TAX

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EDITORIAL

Friends,

In Income tax, the Ministry has clarified that Non-residents are required to pay tax only in respect of income received in India or income accruing or arising in India, hence are not required to disclose their assets outside India.

Therefore, in filing the returns the taxpayers should answer the relevant questions accordingly. For details please refer Circular No. 21/2019 dated 27.08.2019 as discussed further in the bulletin.

In GST, the Office of the Commissioner of State Tax, Maharashtra vide Trade Circular No. 47 T of 2019 dated 26.08.2019 has issued guidelines for tax payers to report ITC related fields properly and correctly while filing their periodic / annual return(s). The returns filed for earlier period if any shall be corrected in the manner prescribed in this circular. Incorrect information of ITC in periodic returns may result in scrutiny and imposition of penalty on the tax payers.

The above initiative may be taken by other states as well.

In Customs, interim solution provided by CBIC **vide Circular 12/2018-Customs dated 29.05.2018,** for payments mismatch between GSTR-1 and GSTR-3B for the period July 2017 to March 2018 has been made applicable mutatis mutandis for the Shipping Bills filed during FY April 2018 to March 2019 also.

In effect, the corresponding CA certificate evidencing that there is no discrepancy between the IGST amount refunded on exports under this circular and the actual IGST amount paid on exports of goods for the period April 2018 to March 2019 shall be furnished by 30th October 2019.

The aforesaid notifications/circulars have been discussed in detail 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
7th September, 2019	Income Tax Form: ITNS – 281	Due date for deposit of Tax deducted/collected for the month of August, 2019

INCOME TAX

NOTIFICATIONS/CIRCULARS

CLARIFICATIONS ON FILLING-UP THE ITR FORMS FOR THE AY 2019-20

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Circular No. 21/2019 dated 27.08.2019** has given clarifications to address the concerns raised for filing ITR forms as follows:

Non-residents are required to pay tax only in respect of income received in India or income accruing or arising in India, hence are not required to disclose their assets outside India.

It is clarified that

-**a non-resident taxpayer who is Director only in a foreign company,** which does not have any income received in India, or accruing or arising in India, **should answer the relevant question in the negative**, whereupon he would not be required to disclose details of such foreign company.

-a non-resident taxpayer, who is Director in a domestic company and also in a foreign company, which does not have any income received in India, or accruing or arising in India, **should answer the relevant question in the affirmative**, and provide details of directorship in the domestic company only.

-a **resident taxpayer would continue to be required to disclose details of his directorship in any company, including foreign company**, in the relevant column.

Further, it is clarified that a taxpayer shall be required to answer the relevant question in the affirmative, only if he has held the foreign assets etc. at any time during the "previous year" (in India) as also at any time during the "relevant accounting period" (in the foreign tax jurisdiction), and fill up Schedule FA accordingly.

For details , please refer the aforesaid circular.

AGREEMENT BETWEEN THE REPUBLIC OF INDIA AND THE KINGDOM OF SPAIN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 58/2019 dated 27.08.2019** notifies that all the provisions of the Protocol, amending the Convention between the Government of the Republic of India and the Kingdom of Spain for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital shall be given effect in the Union of India.

CONSTITUTION OF THE NATIONAL COMMITTEE FOR PROMOTION SOCIAL AND ECONOMIC WELFARE

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. No. S.O. 3122(E) dated 28.08.2019** has extended the tenure of notified persons as Chairman and members of the National Committee for Promotion of Social and Economic Welfare for a further period of six months w.e.f. 1st October, 2019 i.e. till 31st March, 2020.

For details , please refer the aforesaid circular.

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS/CIRCULARS

CENTRAL GOODS AND SERVICES TAX (SEVENTH REMOVAL OF DIFFICULTIES) ORDER, 2019

OUR COMMENTS: Section 44(1) of the Central Goods and Services Tax Act, 2017 provides that every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year;

However, due to certain technical problems, the said annual return for the period from the 1st July, 2017 to the 31st March, 2018 could not be furnished by the registered persons and because of that, certain difficulties have arisen in giving effect to the provisions of the said section.

Hence, the Central Government, on recommendations of the Council **vide Order No. 7/2019-Central Tax dated 26.08.2019** makes the Central Goods and Services Tax (Seventh Removal of Difficulties) Order, 2019.

In section 44 of the Central Goods and Services Tax Act, 2017, in the Explanation, the date “31st August, 2019”, has been substituted to “30th November, 2019”.

SUBMISSION OF CORRECT RETURN UNDER GST - MAHARASHTRA STATE

OUR COMMENTS: After implementation of GST, the State Tax revenue constitutes

-VAT collected (tax on non-subsumed items and old recovery of tax arrears)

- tax collection under non-subsumed tax laws,
- State Tax under GST (SGST) and
- fund transfer from Centre of Integrated Tax (for short IGST) on account of settlement and apportionment.

The fund transfer from centre (IGST) on account of settlement and apportionment is based on returns filed by the tax payers. However, incorrect disclosure of Input Tax Credit (for short ITC) of IGST on account of interstate inward supplies or import supplies of goods or services is resulting in short settlement of amount of fund transfer to State.

Hence, Office of the Commissioner of State Tax, Maharashtra vide Trade Circular No. 47 T of 2019 dated 26.08.2019 has issue guidelines for tax payers to report ITC related fields properly and correctly while filing their periodic / annual return(s).

It is being directed to follow the guidelines of this circular and also correct the figures reported in the returns filed for earlier period if any in the manner prescribed in this circular.

Incorrect information of ITC in periodic returns indicates impropriety by tax payers which may result in scrutiny and imposition of penalty.

FEMA

CASE LAW

MAARS SOFTWARE INTERNATIONAL LTD. & ANR. VERSUS UNION OF INDIA & ORS [SUPREME COURT]

Brief: Whether the High Court was justified in allowing the appeals filed by the Union of India?

OUR COMMENTS: In the given case, the appellants Company is engaged in the business of software exports, Enterprises Resources Planning (ERP) implementation. offering their services to domestic and overseas customers.

The complainant, Enforcement Directorate prayed that the investigation carried out pursuant to the directive issued by the competent authority to the appellant-Company has clearly made out a case of violation of Section 8 of FEMA read with Regulation 3 of the Foreign Exchange Management (Realization, Repatriation and Surrender of Foreign Exchange) Regulations, 2000 read with Regulation 9 of the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 and also violation of Section 42 (1) of FEMA by the appellant-Company.

The Special Director allowed the complaint and imposed a penalty on the Company and on the appellant Managing Director.

The appellants filed two appeals under Section 13 of FEMA in the Tribunal. The Tribunal allowed the appeals and set aside the order. The Union of India filed appeals in the High Court under Section 35 of the FEMA whereas the appellants herein filed a writ petition. The High Court allowed the appeals and the appellants' writ petition was dismissed. The appellant Company and its Managing Director have filed these appeals by way of special leave in this Court.

The Hon'ble Supreme Court noted that the High Court proceeded on wrong assumption that the appellants did not file any material to show the reason for the failure to realize the said amount within the stipulated period or any permission for extension of period has been obtained from the RBI as contemplated under Section 42 of the FEMA.

As per Para 29 of the Tribunal's order, the appellants had filed material with a view to show as to what steps they had taken to realize and repatriate the dues in question.

The case is remanded to the High Court for deciding the appeals afresh on merits in accordance with law keeping in view the observations made above.

[Decided in favour of the appellants]

CUSTOMS

NOTIFICATIONS/CIRCULARS

SOLUTION PROVIDED IN THE CIRCULAR 12/2018-CUSTOMS TO APPLY MUTATIS MUTANDIS FOR THE SHIPPING BILLS FILED DURING FY APRIL 2018 TO MARCH 2019 ALSO.

OUR COMMENTS: Vide **Circular 12/2018-Customs dated 29.05.2018, CBIC** provided an interim solution where the records could not be transmitted from GSTN to Customs system due to payments mismatch between GSTR-1 and GSTR-3B for the period July 2017 to March 2018.

To overcome the subsequent mismatches faced by the exporters, the CBIC vide Circular No. 25 /2019-Customs dated 27.08.2019 has decided that the solution provided in the circular 12/2018-Customs would be applicable mutatis mutandis for the Shipping Bills filed during FY April 2018 to March 2019 also.

In effect, the comparison between the cumulative IGST payments in GSTR-1 and GSTR-3B would now be for the period April 2018 to March 2019 and the corresponding CA certificate evidencing that there is no discrepancy between the IGST amount refunded on exports under this circular and the actual IGST amount paid on exports of goods for the period April 2018 to March 2019 shall be furnished by 30th October 2019.

The concerned Customs zone shall provide the list of GSTINs who have not submitted the CA certificate to the Board by the 15th November 2019. All the field formations under your zone and the trade may be suitably sensitized in this regard.

EXTENSION IN SB005 ALTERNATE MECHANISM AND REVISED PROCESSING IN CERTAIN CASES INCLUDING DISBURSAL OF COMPENSATION CESS

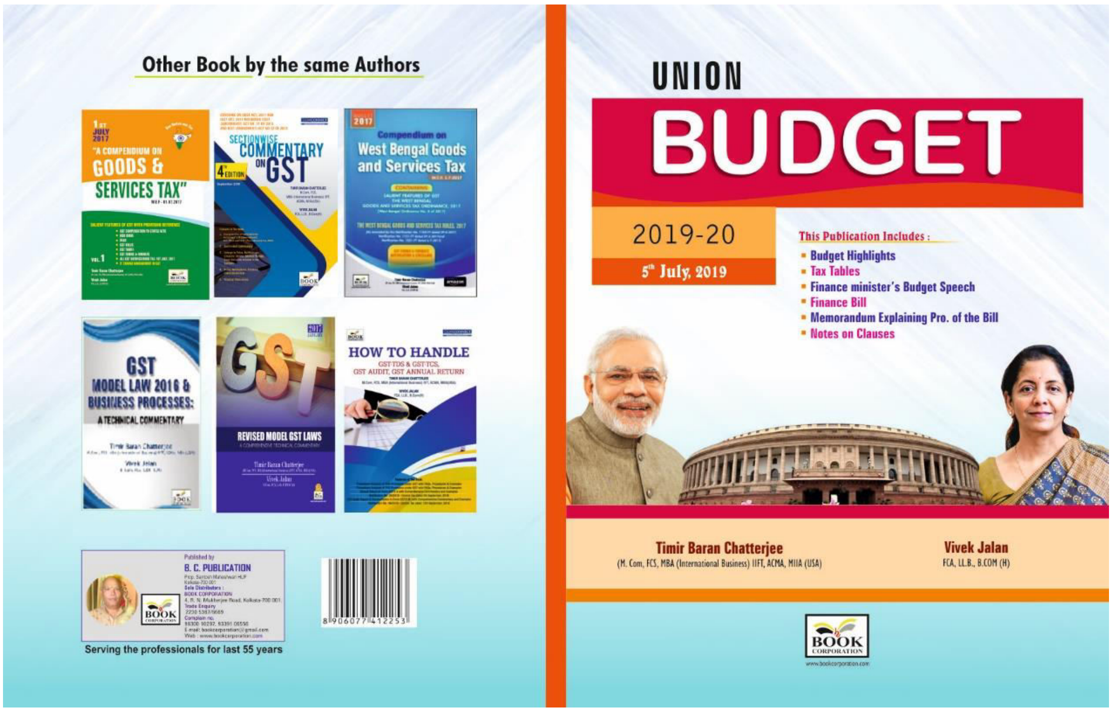
OUR COMMENTS: CBIC issued **circulars 05/2018-Customs dated 23.02.2018, 08/2018-Customs dated 23.03.2018, 15/2018-Customs dated 06.06.2018 and 40/2018-Customs dated 24.10.2018** wherein an alternative mechanism with an officer interface to resolve invoice mismatches (SB005 error) was provided for the shipping bills filed till 15.11.2018.

Despite wide publicity and outreach programmes to make exporters aware about the need to have identical details in invoices given in shipping Bills and GST returns, a few exporters continue to commit such errors.

Therefore, in view of the recent announcement by Hon'ble Finance Minister, giving high priority to the interests of exporters, it has been decided to extend the rectification facility for all cases covered under Circular 40/2018-Customs dated 24.10.2018 to Shipping Bills filed up to 31.07.2019.

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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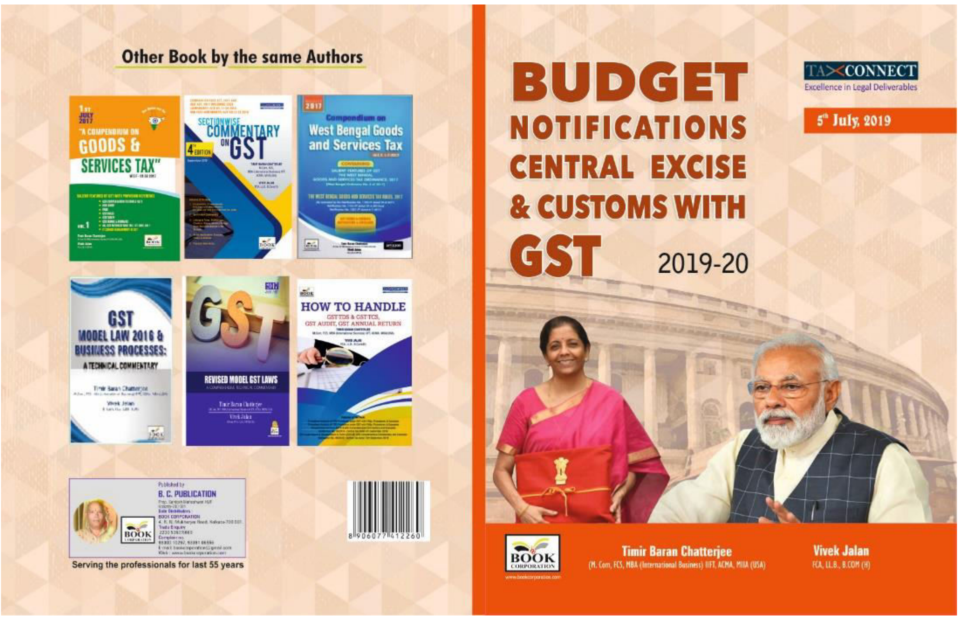
IN STANDS

BUDGET NOTIFICATIONS CENTRAL EXCISE & CUSTOMS WITH GST 2019-20



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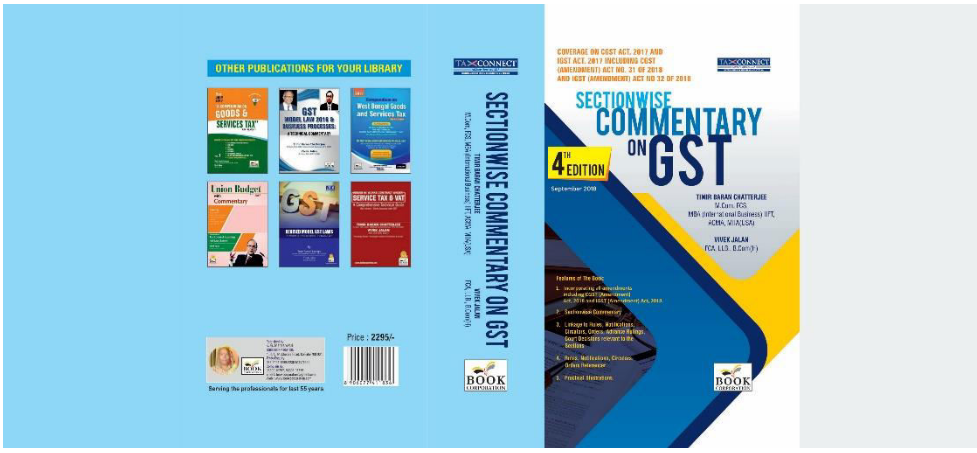
IN STANDS

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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