TAX CONNECT
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TAX CONNECT

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The Bengal Chamber of Commerce & Industry

INCOME TAX

CUSTOMS

FEMA

TAX CONNECT

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EDITORIAL

Friends,

The 37th GST Council meeting held on 20th September 2019 in Panaji. The highlights of the meeting are as follows:-

Reduction in rate of GST:

- Hotel accommodation service having transaction value per unit per day-
  - Upto Rs 1000 – Nil
  - More than Rs 1000 and upto Rs 7500- 12%
  - More than rs 7500- 18%
- For outdoor catering services from 18% rate with ITC to 5% rate without ITC.
- Job work service-
  - On supply of job work services in relation to diamonds- 1.5%
  - On supply of machine job work such as engineering industry except bus body building- 12%.
- On parts of Slide Fasteners- 12%.
- On Marine Fuel 0.5% (FO)- 5%.
- On Wet Grinders (consisting stone as a grinder)- 5%
- Dried tamarind and plates and cups made up of leaves/ flowers/bark- Nil.
- On cut and polished semi- precious stones- 0.25%
- On specified goods for petroleum operations undertaken under Hydrocarbon Exploration Licensing Policy (HELP)- 5%

Exemption from GST:

- Services of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea.
- Conditional exemption of GST on export freight by air or sea till 30.09.2020.
- BANGLA SHASYA BIMA" (BSB) crop insurance scheme of West Bengal Government and services of life insurance business provided or agreed to be provided by the Central Armed Paramilitary Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the respective Group Insurance Schemes of these Central Armed Paramilitary forces.
- Services provided by an intermediary to the supplier or recipient of goods when both are outside the taxable territory and pharma companies that carry out specific research and development for foreign companies.
- Registered authors can pay GST on royalty charged by publishers under forward charge.
- Grant of liquor licence by state government on payment of licence fee and are considered as no supply.
- Services related to FIFA under-17 Women's World Cup 2020.

EDITORIAL

- Imports of specified defence goods not being manufactured indigenously (upto 2024)
- Supply of goods and services to FIFA and other specified persons for organizing the Under-17 Women's Football World Cup in India.
- Supply of goods and services to Food and Agriculture Organisation (FAO) for specified projects in India.
- Import and supply of Silver/Platinum by specified nominated agency to exporters for exports of Jewellery
- Inclusion of Diamond India Limited (DIL) in the list of nominated agencies eligible for IGST exemption on imports of Gold/ Silver/Platinum to supply at Nil GST to Jewellery exporters

Increase in rate of GST:

- On goods, falling under chapter 86 of tariff like railway wagons, coaches, rolling stock (without refund of accumulated ITC). This is to address the concern of ITC accumulation with suppliers of these goods.- 12%
- On caffeinated Beverages- 28% with 12% Compensation Cess
- 12% cess on 1,500 cc diesel, 1,200 cc petrol vehicles with capacity to carry up to 13 people.
- GST rate on caffeinated beverages raised from 18% to 28% with 12% compensation cess.
- GST rate on railway wagon, coaches from increased from 5% to 12%.

Miscellaneous:

- Uniform GST rate of 12% to be levied on polypropylene bags and sacks used for packing of goods.
- GST on fishmeal used by fishermen being exempted from July 2017 to September 2019. There was lack of clarity on their GST coverage and no tax was collected so that has been resolved
- Aerated drink manufacturers shall not be under the composition scheme anymore.
- GST Annual Returns GSTR-9, 9A optional for those with turnover upto Rs 2 crore for FY 17-18 & 18-19.
- No relief in case of GSTR-9C as it's applicable only where turnover exceeds Rs 2 crore.
- GSTR-9 also to be made "Saral".

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

NO RELEVANT DUE DATES IN THE UPCOMING WEEK

INCOME TAX

NOTIFICATION

NOTIFICATION FOR COMPUTATION OF ARM'S LENGTH PRICE

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 64/2019 dated 13.09.2019** has notified that the deemed arm's length price for assessment year 2019-20 shall be the price at which the international transaction or the specific domestic transaction has been undertaken, if the variation between the arm's length price determined under section 92C(2) of the Act and the price at which the said transaction has been undertaken does not exceed:-

- In case of wholesale trading- 1% of the price at which the transactions has been undertaken and

- In other cases- 3% of the price at which the transactions has been undertaken.

NOTIFICATION OF INCOME TAX (8TH AMENDMENT) RULES 2019

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 67/2019 dated 17.09.2019** has amended the Income Tax Rules 1962 thereby introducing Income Tax (8th Amendment) Rules 2019 and following rules were added:-

Rule 10UD- Reference to Approving Panel: Reference to approving panel under section 144BA shall be made in form 3CEIA along with form 3CEI submitted in 4 sets.

Rule 10UE- Procedure before the Approving Panel: Procedure to be followed by the approving panel.

Rule 10UF- Remuneration: The remuneration shall include sitting fees of Rs 6000/- per day and travelling allowances including transportation charges for local travel and daily allowances.

CASE LAW

RAM CHARITRA RAM HARIHAR PRASAD VERSUS THE STATE OF BIHAR THROUGH THE SECRETARY-CUM-COMMISSIONER OF STATE TAX, THE JOINT COMMISSIONER OF STATE TAX, KISHANGANJ, THE DEPUTY COMMISSIONER OF STATE TAX

Brief: Whether the detention of goods on the ground of expiry of the E-Way Bill was justifiable?

OUR COMMENTS: In the given case, the rules framed by the state of Bihar allows a dealer to extend the validity period of the E-WAY BILLS on its expiry after updating the details in part B of form GST EWB-01, meaning thereby, the generation of the E-way bill on 26.4.2019 did not suffer infirmity and confirmed that it is the same vehicle which is transporting the goods and that there is no change in the nature of goods or the mode of conveyance and the generation had been done by the petitioner on 26.04.2019 i.e. before the detention order then in absence of any prescription in the Rule which debars a dealer from generating such E-Way Bills on its expiry. After taking note of the generation on 26.04.2019 the Deputy Commissioner has proceeded to order for detention of the vehicle together with the goods loaded thereon on 27-04-2019 when admittedly whatsoever document that was missing on the date on which the proceedings had been initiated i.e. E-Way Bills, had since been generated on its validity period. This was the first lacuna which stares at the face of the respondent in the present proceeding.

A cursory glance to the statutory provisions underlying under Section 129(1)(a) would confirm that it relates to goods on which tax is yet to be paid - the stipulations present in Section 129(1)(a) regulates the exercise in so far as it concerns non-tax paid goods and in which event the tax to be imposed is to be 100% with equal penalty thereon unless the goods being transported or found to be exempted from the tax.

Once the assessing authority i.e. the Deputy Commissioner, State Tax has recorded in his proceedings on 26.04.2019 that the E-Way Bill has been generated, meaning thereby the goods carried a valid E-Way Bill; the proceedings ought to have been brought to a close, rather than to perpetuate the illegality as done in the present case.

The conditional release of the goods together with the vehicle vide order passed on 17.5.2019 was confirmed and the petitioner was discharged from the liability of the security directed under the interim order and petition allowed.

[Decided in favour of the appellant]

CASE LAW

KK. KUDA VERSUS CHIEF ENFORCEMENT OFFICER, ENFORCEMENT DIRECTORATE & ANOTHER

Brief: Whether the Supreme Court was justified in allowing the appeals filed against continuance of prosecutions for charges relating to consent and connivance are tenable?

OUR COMMENTS: In the given case, the crediting of Non-Convertible Rupee Funds in the Non-Resident (External) Account of Dr. P.K.Ramakrishnan was made during the period August to December, 1991 in which three officials of ANZ Grindlays Bank were involved and Show Cause Notice was issued by Respondent No.1 on 21.1.1994 to the Bank as well as the Officials for contravention of Section 6(4), 6(5) read with Section 49 of FERA, alleging that it had taken place with the consent, connivance of and attributable to the negligence on the part of the Officials. But the respondent by letter dated 10.7.2001 ordered that the charges relating to 'consent' and 'connivance' shall stand deleted from the Show Cause Notice. Though FEMA came into force on 1.6.2000, and Section 49 of the said Act provided for filing of complaints under the FERA, 1973 till 31.5.2002. Taking advantage of it, the Respondent No.1 issued Opportunity Notice to all the three officials on 12.5.2002 and lodged the complaint on 29.5.2002. The Additional Chief Metropolitan Magistrate, New Delhi, on the same day took cognizance of the complaint for the offence under Section 56 of FERA and issued summons.

In spite of having dropped the allegations of 'consent' and 'connivance', the respondent in their complaint leveled allegations of all the three components, namely, consent, connivance and negligence. The contention of the appellant that the cognizance was taken on irrelevant consideration is to be countenanced. There was suppression and also material omission in non-mentioning of reply sent by the appellant to the Opportunity Notice, in the complaint. Further, to substantiate the averments in the complaint, not even a single original document was enclosed. Though the allegation of negligence can be independently looked into, considering the standard of proof in criminal prosecution, **the Hon'ble Supreme Court** noted, in the present case, the continuance of prosecution against the appellant is not tenable in law and the proceedings were liable to be quashed.

[Decided in favour of the appellants]

CUSTOMS

NOTIFICATION

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. 64/2019- Customs (N.T) dated 13.09.2019** has fixed tariff value of edible oils, brass scrap, poppy seeds, areca nut, gold and silver thereby amending the principal notification no. 36/2001- Customs (N.T) dated 3/08/2001.

WITHDRAWL OF NOTIFICATION NO. 11/2015-CUSTOMS (ADD), DATED 11.04.2015

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 36/2019- Customs (ADD) dated 14.09.2019** has withdrawn the notification no. 11/2015- Customs (ADD) dated 11.04.2015.

IMPOSITION OF THE DEFINITIVE ANTI-DUMPING DUTY ON THE IMPORTS OF "ELECTRICAL INSULATORS" FROM CHINA

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.37/2019- Customs (ADD) dated 14.09.2019** has imposed anti-dumping duty on import of Electrical Insulators of Glass, or Ceramics/Porcelain, whether assembled or unassembled from China for a period of 5 years at the specified rate per metric tonnes in US Dollar to be paid in Indian currency.

AMENDMENT TO THE NOTIFICATION NO. 50/2017-CUSTOMS DATED 30.06.2017

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.30/2019- Customs dated 17.09.2019** has reduced the rate of basic custom duty on open cell and certain goods for use in the manufacture of LCD and LED TV panels thereby amending the notification no. 50/2017-Customs dated 30/06/2017. For details please refer to the said notification.

IMPOSITION OF THE DEFINITIVE COUNTERVAILING DUTY ON THE IMPORTS OF "ATRAZINE TECHNICAL" FROM CHINA

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.3/2019- Customs (CVD) dated 17.09.2019** has imposed definitive countervailing duty on import of Atrazine Technical from China for a period of 5 years at the rate of 9.52% of CIF value.

IMPOSITION OF THE DEFINITIVE COUNTERVAILING DUTY ON THE IMPORTS OF "WELDED STAINLESS STEEL PIPES AND TUBES" FROM CHINA

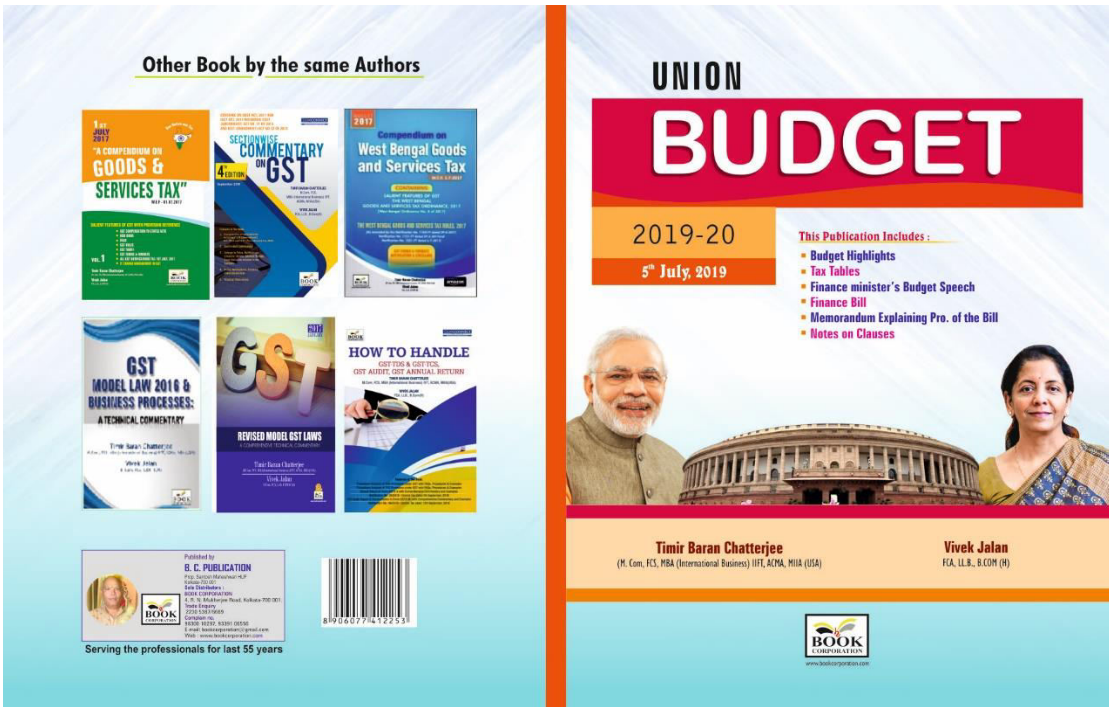
OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.4/2019- Customs (CVD) dated 17.09.2019** has imposed definitive countervailing duty on import of welded stainless steel pipes and tubes from China, Vietnam and any other specified countries for a period of 5 years at the specified rate of CIF value.

NOTIFICATION OF RATE OF EXCHANGE OF FOREIGN CURRENCY INTO INDIAN CURRENCY AND VICE VERSA

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.66/2019- Customs (N.T) dated 19.09.2019** has notified the exchange rate of foreign currency into Indian currency and vice- versa.

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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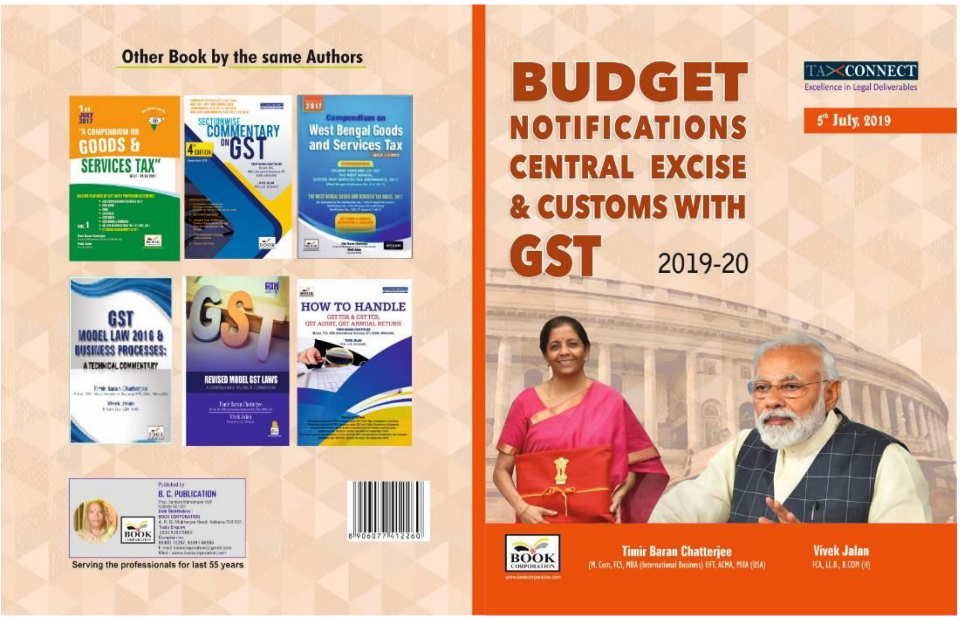
IN STANDS

BUDGET NOTIFICATIONS CENTRAL EXCISE & CUSTOMS WITH GST 2019-20



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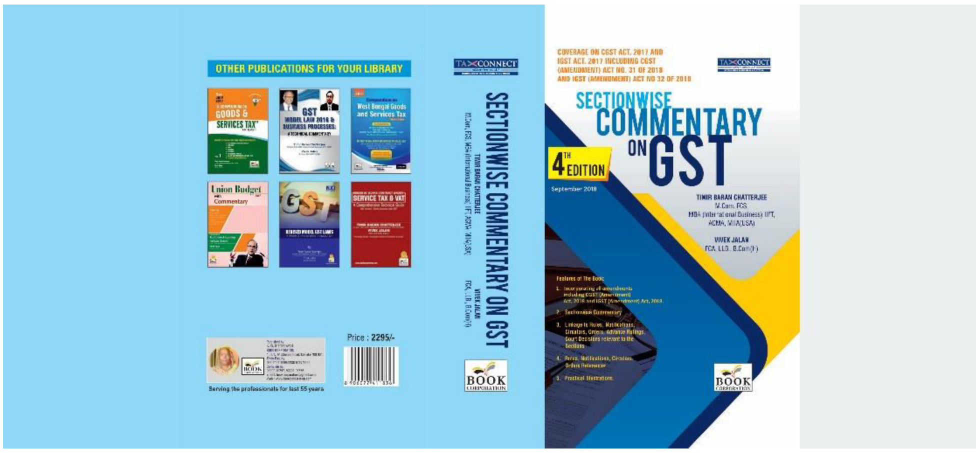
IN STANDS

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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