TAXCONNECT
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TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

INCOME TAX

CUSTOMS

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TAX CONNECT

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EDITORIAL

Friends,

In Income Tax, corporate tax rate has been reduced to 22% which is optional for the companies. If a company opts for lower corporate tax rate then it would not be able to claim the accumulated Minimum Alternate Tax Credit and the brought forward loss on account of additional depreciation.

The Central Board of Direct Taxes (CBDT) has launched a computer-generated documentation identification number (DIN) system which provides for a transparent and recorded communication between the income tax department and taxpayers which will be mandatory for every type of communication with the income tax department, be it a notice, a letter, an order and summon, or any other correspondence and without it the document and communication will be deemed invalid.

The task force on **Direct Tax Code (DTC)** has recommended abolishing dividend distribution tax (DDT) with a view to promote investment.

The dividend distribution tax is a surrogate tax and it hinders foreign direct investment inflows.

The CBDT extended the deadline up to December 31 for the Income-tax department to complete the final assessment of about 87,000 entities that made suspicious deposits post-demonetization.

The existing deadline of September 30 is being "extended" by three months after considering "various difficulties" being reported by the field offices of the department in finalizing assessments in OCM (operation clean money) case.

Several companies in administration have dragged the indirect tax department to court over the **Goods and Services Tax (GST) software**, which doesn't give them the required flexibility on payment of statutory dues. They filed a writ petition with the Gujarat High Court claiming that the indirect tax department's position on the GST is not in line with the regulations of the Insolvency and bankruptcy code (IBC).

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 October 2019	Income Tax Form: ITNS – 281	Due date for deposit of Tax deducted/collected for the month of September, 2019
10th October, 2019	GSTR-1	Details of outward supplies of goods or services or both for the month of September, 2019 for Persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year.

TAX CALENDAR

NOTIFICATION/ CASE LAW

NOTIFICATION OF INCOME TAX (10TH AMENDMENT) RULES 2019

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 74/2019 dated 27.09.2019** has introduced Income Tax (10th Amendment) Rules 2019 and inserted sub rule 3A in rule 37BA for Tax Deducted at source.
[For details please refer to the said notification]

EXTENSION OF DUE DATE TO LINK PAN WITH AADHAR NUMBER

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 75/2019 dated 28.09.2019** has extended the time limit to link PAN with Aadhar Number up to 31/12/2019.

NOTIFICATION OF INCOME TAX (11TH AMENDMENT) RULES 2019

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 76/2019 dated 30.09.2019** has introduced Income Tax (11th Amendment) Rules 2019.
[For details please refer to the said notification]

EXTENSION OF DUE DATE OF FILING AUDIT REPORT AND INCOME TAX RETURN

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide F.No. 22/157/2019/ITA.II dated 27.09.2019** has extended the due date of filing audit report and income tax return up to 31st October 2019.

COMMISSIONER OF INCOME TAX – 7, NEW DELHI VERSUS ODEON BUILDERS PVT LTD

Brief: Addition of bogus purchases made by the Assessee Company from its group company.

OUR COMMENTS: In the given case, nothing incriminating was found in the search conducted qua the Assessee except two documents. The 'core document' was the ledger account of PRPL in the books of accounts of the Assessee. This clearly reflected the sales made by PRPL to the Assessee on various dates on which payments had been made. This document did not create any doubt about the genuineness of the transactions, particularly in the face of the evidence and enquiries and the responses available on record. These included confirmed copies of all the 23 parties from whom purchases were made by PRPL. The Assessee had also placed detailed evidence for each of the said 23 parties. This was examined afresh by the ITAT.

An exhaustive and detailed factual enquiry has been undertaken, both, by the CIT(A) and the ITAT to arrive at concurrent factual findings which have not been shown to be perverse.

[Decided in favour of the assessee]

GST: CGST/IGST/SGST/UTGST

CASE LAW

MONTAGE ENTERPRISES PVT. LTD. VERSUS STATE OF GUJARAT

Brief: Release of detained goods.

OUR COMMENTS: In the given case, one of the grounds mentioned in the order of detention was that the driver or the authorized person was not present, even though the driver had signed the statement at the time of detention. The petitioner orally requested the respondent authorities to release the goods since they were accompanied by E-way bill and tax invoice, however, the respondent authorities did not accede to such request.

Since the respondent No.2 is refusing to release the goods without payment of tax, penalty as well as redemption fine equal to the value of goods, as mentioned in the impugned notice, the petitioner has approached this court seeking release of the goods in question.

Since the present petition is filed only to release the goods being packing materials/aluminum foils, in the light of the averments made in the affidavit-in-reply filed on behalf of the respondents, wherein they do not object to the release of the goods in question, the petition deserves to be allowed.

[Decided in favour of the assessee]

SIEMENS ENGINEERING & MANUFACTURING CO. OF INDIA LIMITED VERSUS UNION OF INDIA & ANR.

Brief: What is the correct amount of import duty chargeable on pot motors when imported separately from Rayon Spinning frames: do they fall within Item 72(3) or Item 73(21) of the First Schedule to the Indian Customs Tariff?

OUR COMMENTS: As per the given case, there can be no doubt that on a plain grammatical construction, the words "not otherwise specified" qualify "machinery" and not "component parts" and, there- fore, the pot motors imported by the appellants, which satisfied the other requirements of Item 72(3) could not be held to fall outside that Item, because they were otherwise specified in Item 73(21). Item 72(3) is a specific Item which covers these pot motors as against Item 73(21) which is a general item and hence it must be held that these pot motors were assessable under Item 72(3) and not under Item 73(21). The original assessment of these pot motors made by the Assistant Collector was, in the circumstances, correct and the subsequent, demand of differential duty made by the Assistant Collector and confirmed by the Collector in revision and by the Government of India on further revision, was unjustified. The orders made by the Assistant Collector, the Collector and the Government of India confirming the demand for differential duty would, therefore, have to be quashed and set aside and the amount of differential duty recovered from the appellants pursuant to these orders would have to be refunded to the appellants.

[Decided in favour of the assessee]

FEMA

CASE LAW

ABU MOOSA AND CO. VERSUS UNION OF INDIA

Brief: Sale of foreign currency at higher value.

OUR COMMENTS: In the given case, two persons identified themselves as Hanif and Rajesh Mhatre of Hotel Zam Zam. Mhatre was carrying briefcase along with him. A search revealed that one Suleman Patel with the help of Ms. Pinky Jaisinghani and Sanjay Jadhwani were operating two FFMCs. As a result of the search documents, the authorities recovered and seized the articles under a Panchanama. The identical allegations pertaining to Hanif and Mhatre tendering two pay orders along with the advice letter on the cash counter of M/s. LKP Merchant Financing Ltd. are to be found in the present show cause notice. The statements of all these persons were recorded by the officers of D.R.I. The partner of the present appellants stated that the appellant's firm has obtained FMC license, dated 28th September 1996 issued by the Reserve Bank of India for dealing with purchase of foreign currency, that he was the person responsible for day to day operation of foreign currency dealing. The foreign currency was sold to Hotel Zam zam, which was admittedly the licensed full-fledged foreign money changer. It is in these circumstances that **the Hon'ble High Court** are of the opinion that some of the allegations on page no. 55 of the paper book pertaining to lack of authorization should not be seen in isolation.

Court is unable to accept the argument that the money or the foreign exchange leaving the authorized persons and reaching or being passed off to the unauthorized person was not the matter which was dealt with by the Hon'ble Supreme Court. Further, violation and contravention emphasized by him was not the subject matter of the Supreme Court judgment and proceedings. Once the Supreme Court was dealing with an identical allegation, identical breach and of similar legal provision and manual, then, **the Hon'ble High Court** are unable to accept Shri Desai's argument. The Hon'ble Supreme Court's judgment is binding upon them. It is too well settled to require any reiteration that the judgment of the Hon'ble Supreme Court continues to bind them and will not lose its binding value merely because some argument which was canvassed before them was not raised or certain aspects were not considered or the relevant provisions were not brought to the notice of the Court. When **the Hon'ble high Court** find that the judgment of the Hon'ble Supreme Court is dealing with the identical controversy, similar legal provision and even the allegations in the show cause notices are common, then, it would cover the matter fully.

[Decided in favour of the assessee]

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.67/2019- Customs (N.T) dated 30.09.2019** has notified tariff value of edible oils, brass scrap, poppy seeds, areca nuts, gold and silver thereby amending the notification no. 36/2001-Customs (N.T) dated 3/08/2001.

INTRODUCTION OF TRANSHIPMENT OF CARGO TO NEPAL UNDER ELECTRONIC CARGO TRACKING SYSTEM REGULATIONS 2019

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 68/2019-Customs (N.T) dated 30.09.2019** has introduced the Transhipment of Cargo to Nepal under Electronic Cargo Tracking System Regulations 2019.

[For details please consider the said notification.]

EXEMPTION TO IMPORT OF GOODS FOR SPECIFIED PROJECTS BY FAO

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.32/2019- Customs dated 30.09.2019** has exempted all the goods imported into India by Food and Agricultural Organisations of the United Nations (FAO) for execution of specified projects from integrated tax.

AMENDMENT TO NOTIFICATION NO. 39/96-CUSTOMS DATED 23.07.1996

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.33/2019- Customs dated 30.09.2019** has amended the notification no. 39/96-Customs dated 23.07.1996.

[For details please consider the said notification.]

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

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.34/2019-Customs dated 30.09.2019** has amended the notification no. 50/2017-Customs dated 30.06.2017.

[For details please consider the said notification.]

AMENDMENT TO NOTIFICATION NO. 19/2019-CUSTOMS DATED 6.07.2019

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.35/2019-Customs dated 30.09.2019** has amended the notification no. 19/2019-Customs dated 6.07.2019.

[For details please consider the said notification.]

CUSTOMS

INTRODUCTION OF MANUFACTURE AND OTHER OPERATIONS IN WAREHOUSE (NO. 2) REGULATIONS, 2019

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.69/2019-Customs-Non Tariff dated 1.10.2019** has introduced the Manufacture and Other Operations in Warehouse (no. 2) Regulations, 2019.

[For details please consider the said notification.]

INTRODUCTION OF WAREHOUSE (CUSTODY AND HANDLING OF GOODS) AMENDMENT REGULATIONS, 2019

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.70/2019-Customs (N.T) dated 1.10.2019** has introduced the Warehouse (Custody and Handling of Goods) Amendment Regulations, 2019 thereby exempting the warehouse operating under section 65 from the regulations.

INTRODUCTION OF WAREHOUSE GOODS (REMOVAL) AMENDMENT REGULATIONS 2019

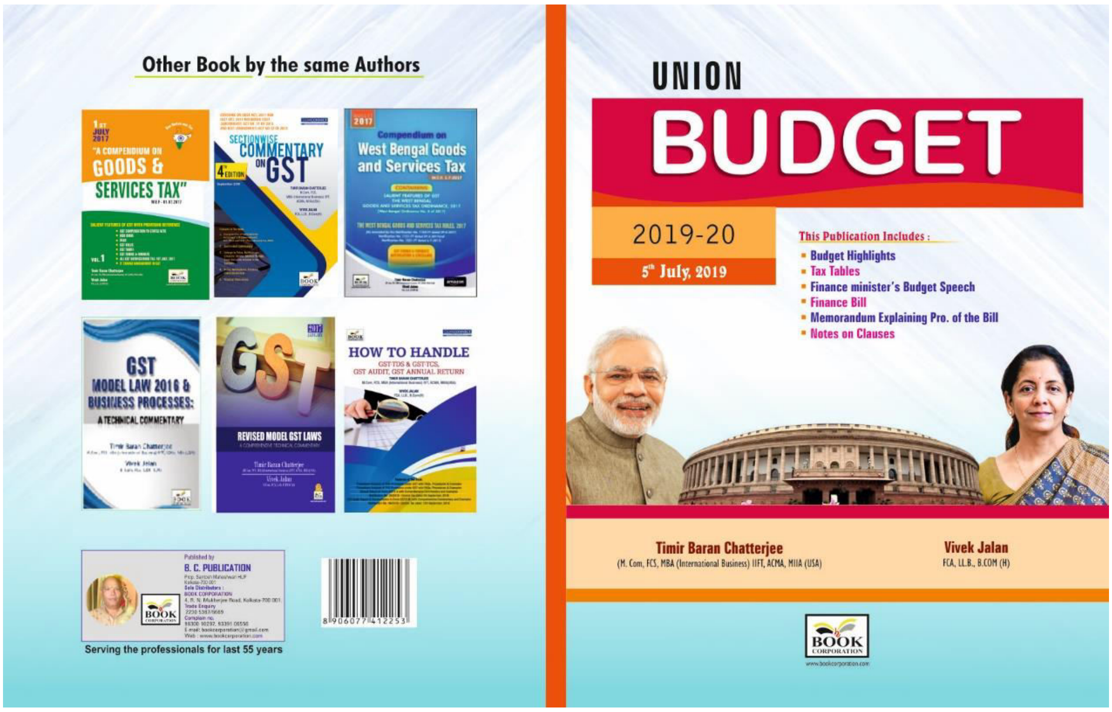
OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.71/2019-Customs (N.T) dated 1.10.2019** has introduced the Warehouse Goods (Removal) Amendment Regulations, 2019 thereby exempting the warehouse operating under section 65 from regulations.

NOTIFCICATION OF EXCHANGE RATE OF FOREIGN CURRENCIES INTO INDIAN CURRENCY AND VICE-VERSA

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.72/2019- Customs (N.T) dated 3.10.2019** has notified the exchange rate of conversion of each of the foreign currencies 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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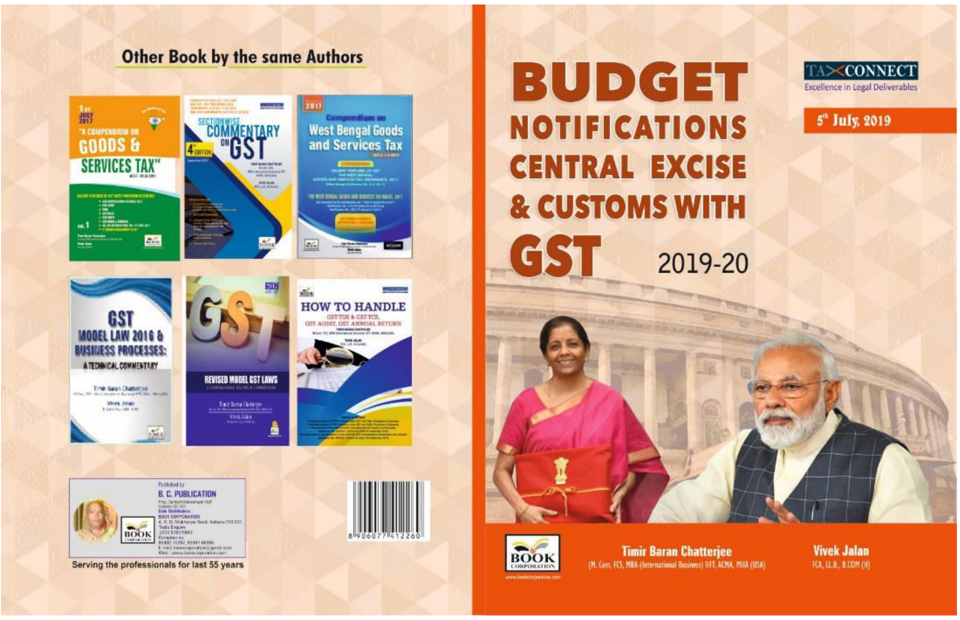
IN STANDS

BUDGET NOTIFICATIONS CENTRAL EXCISE & CUSTOMS WITH GST 2019-20



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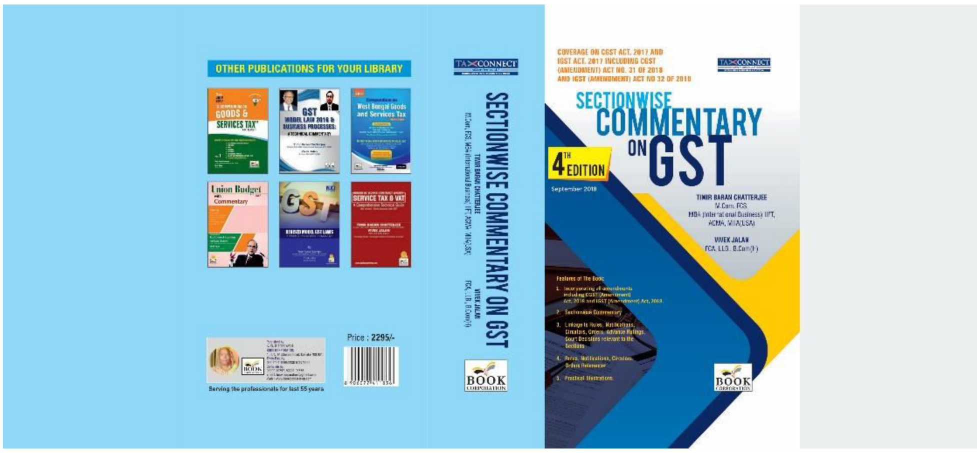
IN STANDS

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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