TAXCONNECT
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TAX CONNECT

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The Bengal Chamber of Commerce & Industry

INCOME TAX

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EDITORIAL

Friends,

As per a press release in Income Tax, the Department has conducted a search at the residence of a businessman in Pune on 4th November 2019 and made high cash seizure. Intelligence information was received on 04/11/2019 that the businessman was in possession of large amount of cash at his residence and that this cash was likely to be moved within short span of time. In a swift action, some preliminary discreet enquiries were made to ascertain the availability of cash and a single warrant was executed to search the residence of the individual, along with survey u/s 133A at his business premises. The assessee is in the business of construction subcontracting and real estate activities. During the search, unaccounted cash amounting to Rs. 9.55 crore was found and seized which is the highest cash seizure in Pune by the Income Tax Department till date. Investigations in the case are still under progress.

A similar search was conducted on a prominent business group in Pune on the 6th November 2019 covering 15 premises including the cities of Pune, Mumbai, Nagpur, Delhi, Bengaluru and Noida which provides services in the areas of mechanized house-keeping, landscaping and gardening, civil and electrical maintenance, fabrication services, turnkey solutions, logistic support and other services required by government agencies and municipal corporations. The search was carried out based on specific information regarding the claim of bogus losses, bogus purchases and bogus sub-contract expenses and has led to unearthing of incriminating evidence regarding bogus claim of brought-forward losses of Rs. 91 crore pursuant to scheme of demerger which is not found in accordance with the provisions of I.T. Act, 1961, bogus expenses in the form of unsubstantiated purchases to the tune of Rs. 77 crore have also been detected and unaccounted cash of Rs. 60 Lakh has been found.

India has sought changes in the **Organisation for Economic Cooperation and Development (OECD)** proposal on digital taxation, saying it would deny the country its proper share of taxes from multinationals such as Google, Facebook, Uber and Netflix, which generate substantial revenues locally. The government has proposed a more balanced principle for the taxation of such companies based on place of revenue generation. Investigations in the case are still under progress.

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
11th November, 2019	GSTR-1	Details of outward supplies of goods or services or both for the month of October, 2019 for Persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year.
13th November, 2019	GSTR-6	Return for the month of October, 2019 applicable for input service distributors (ISD)
14th November, 2019	Form 16B	Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of September, 2019
14th November, 2019	Form 16C	Due date for issue of TDS Certificate for tax deducted under Section 194-IB in the month of September, 2019
15th November, 2019	Form 16A	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2019
15th November, 2019	Form 24G	Due date for furnishing of Form 24G by an office of the Government where TDS for the month of October, 2019 has been paid without the production of a challan
15th November, 2019	Form 3BB	Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of October, 2019

INCOME TAX

NOTIFICATION

AMENDMENT TO THE NOTIFICATION NO 50/2014 DATED 22.10.2014

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 88/2019 dated 5.11.2019** has amended the notification no. 50/2014 dated 22.10.2014. For details please consider the said notification.

AMENDMENT TO THE NOTIFICATION NO 52/2014 DATED 22.10.2014

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 89/2019 dated 5.11.2019** has amended the notification no. 52/2014 dated 22.10.2014. For details please consider the said notification.

AMENDMENT TO THE NOTIFICATION NO 55/2014 DATED 30.10.2014

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 90/2019 dated 5.11.2019** has amended the notification no. 55/2014 dated 30.10.2014. For details please consider the said notification.

AMENDMENT TO THE NOTIFICATION NO 57/2014 DATED 3.11.2014

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 91/2019 dated 5.11.2019** has amended the notification no. 57/2014 dated 3.11.2014. For details please consider the said notification.

AMENDMENT TO THE NOTIFICATION NO 59/2014 DATED 3.11.2014

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 92/2019 dated 5.11.2019** has amended the notification no. 59/2014 dated 3.11.2014. For details please consider the said notification.

AMENDMENT TO THE NOTIFICATION NO 69/2014 DATED 13.11.2014

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 93/2019 dated 5.11.2019** has amended the notification no. 69/2014 dated 13.11.2014. For details please consider the said notification.

AMENDMENT TO THE NOTIFICATION NO 77/2014 DATED 10.12.2014

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 94/2019 dated 5.11.2019** has amended the notification no. 77/2014 dated 10.12.2014. For details please consider the said notification.

INTRODUCTION OF INCOME TAX (12^{TH} AMENDMENT) RULES 2019

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 95/2019 dated 6.11.2019** has introduced Income Tax (12^{th} Amendment) Rules 2019 thereby amending principal rules. For details please consider the said notification.

GST: CGST/IGST/SGST/UTGST

CIRCULAR/ CASE LAW

GENERATION AND QUOTING OF DOCUMENT IDENTIFICATION NUMBER (DIN) ON ANY COMMUNICATION ISSUED BY THE OFFICERS OF THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS (CBIC) TO TAX PAYERS AND OTHER CONCERNED PERSONS

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Circular No. 122/41/2019-GST dated 5.11.2019** is implementing a system for digital generation of a Document Identification Number (DIN) for all communications sent by its offices to taxpayers and other concerned persons in order to maintain accountability and transparency in indirect tax with effect from 8.11.2019 except in certain cases like technical difficulties etc. The DIN would be used for search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry which would create a digital directory for maintaining a proper audit trail of such communication. The DIN shall be in the format CBIC-YYYY MM ZCDR NNNNNN where,

- YYYY denotes the calendar year in which the DIN is generated
- MM denotes the calendar month in which the DIN is generated
- ZCDR denotes the Zone-Commissionerate-Division-Range Code of the field formation/Directorate of the authorized user generating the DIN
- NNNNNN denotes 6 digit alpha-numeric system generated random number

The officers can add, activate, inactivate, edit and delete the DINs by following the steps as given in the said circular. For details please consider the said circular.

ADFERT TECHNOLOGIES PVT LTD VERSUS UNION OF INDIA AND ORS (PUNJAB AND HARYANA HIGH COURT)

Brief: Permission to carry forward of unutilized CENVAT credit of duty paid on account of non-filing or incorrect filing of prescribed statutory Form i.e. TRAN-1 by the stipulated last date i.e. 27.12.2017.

OUR COMMENTS: The Petitioners who were registered under Central Excise Act or VAT Act must be filing their returns and it is one of the requirements of Section 140 of CGST Act, 2017 to carry forward unutilized credit. The Respondent authorities were having complete record of already registered persons and at present they are free to verify fact and figures of any Petitioner thus in spite of being aware of complete facts and figures, the Respondent cannot deprive Petitioners from their valuable right of credit.

The Respondents are directed to permit the Petitioners to file or revise where already filed incorrect TRAN-1 either electronically or manually statutory Form(s) TRAN-1 on or before 30th November 2019. The Respondents are at liberty to verify genuineness of claim of Petitioners but nobody shall be denied to carry forward legitimate claim of CENVAT / ITC on the ground of non-filing of TRAN-I by 27.12.2017.

[Petition allowed]

FEMA

CIRCULAR/ CASE LAW

EXIM BANK'S GOVERNMENT OF INDIA SUPPORTED LINE OF CREDIT OF USD 800 MILLION TO THE GOVERNMENT OF REPUBLIC OF GHANA

OUR COMMENTS: The EXIM Bank of India entered into an agreement with the Government of the Republic of Ghana dated 5h April, 2019 which shall be effective from 11th October, 2019 and for which the terminal utilization period is 60 months after the scheduled completion date of the project.

As per the agreement the financing of export of eligible goods and services from India, would be allowed they are eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank.

The supplier should supply at least 75% of the contract price from India and the balance 25% may be supplied by the seller from outside India.

Further, no commission is payable to the agency under the agreement. However, if required, the exporter may use his own resources or utilize balances in his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange and Authorized Dealer Category- I banks may allow such remittance after realization of full eligible value of export subject to compliance with the extant instructions for payment of agency commission. The terms of the agreement are as under: -

- **Purpose of the agreement-** For financing rehabilitation and up-gradation of Potable Water System in Yendi, in Ghana.
- **Amount of LoC (USD)-** Supported Line of Credit (LoC) of USD 30 million.

KAMLESHKUMAR ISHWARDAS PATEL VERSUS UOI. (SUPREME COURT)

Brief: When an order for preventive detention is passed by an officer especially empowered to do so by the Central Government or the State Government, is the said officer required to consider the representation submitted by the detenu?

OUR COMMENTS: Since the appellant had submitted a representation to the detaining authority, namely, the officer who was specially empowered to make an order of detention, and the said officer did not consider the representation there has been a denial of the constitutional safeguard guaranteed under Article 22(5) of the Constitution. As a result the detention of the appellant has to be held to be illegal and the said appeal has to be allowed.

The detenues, namely, Ishwardas Bechardas Patel [father of the appellant] and Jayantilal Somchand Shah [husband of the appellant] are ordered to be set free unless they are required in connection with any other matter.

[Appeals allowed]

CUSTOMS

NOTIFICATION/ CASE LAW

INTRODUCTION OF RATE OF EXCHANGE OF CONVERSION OF FOREIGN CURRENCY INTO INDIAN CURRENCY OR VICE-VERSA

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.81/2019-Customs-(N.T) dated 7.11.2019** has introduced the rate of exchange of conversion of foreign currencies into Indian currency or vice-versa.

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OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Circular No. 37/2019 dated 5.11.2019** is implementing a system for digital generation of a Document Identification Number (DIN) for all communications sent by its offices to taxpayers and other concerned persons in order to maintain accountability and transparency as discussed above in GST section.

COMMISSIONER OF CUSTOMS (IMPORT) , MUMBAI VERSUS M/S. HINDALCO INDUSTRIES LTD. (SUPREME COURT)

Brief: Addition of licence fee and fees paid for basic engineering services to the invoice price of the imported goods for the copper smelting plant.

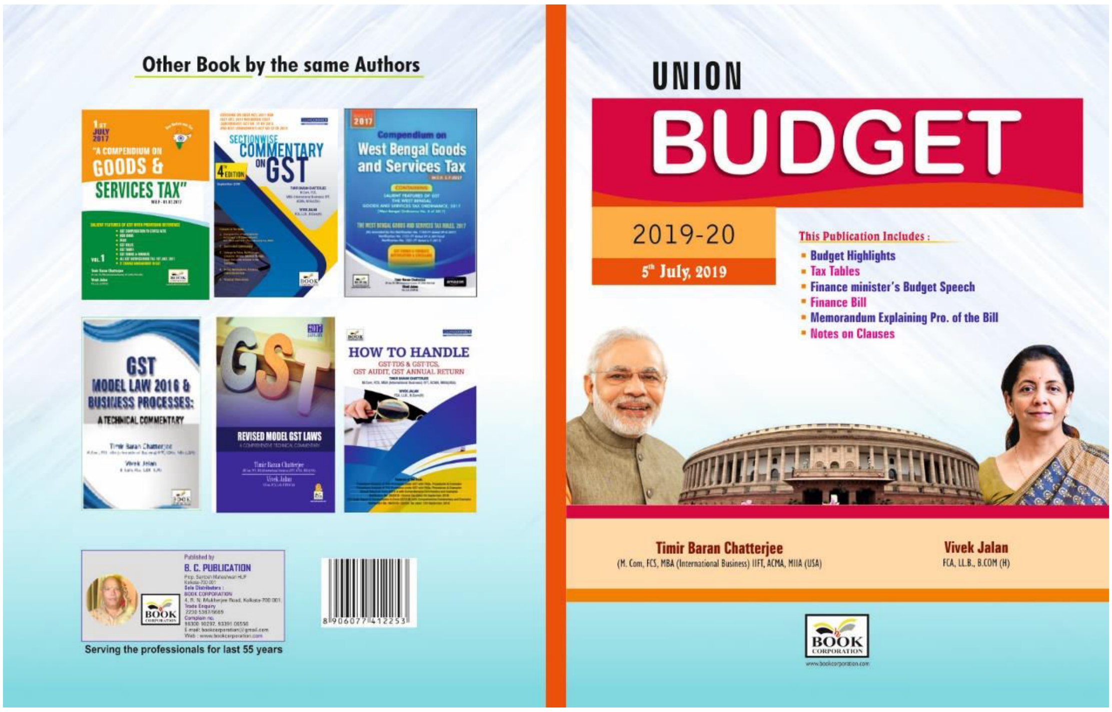
OUR COMMENTS: In the given case, after considering the order of the CESTAT, it was found that the CESTAT had gone into the various provisions of the three agreements and had come to the conclusion that neither the fees paid under the Licence Agreement nor under the Basic Engineering, Training and Technical Services Agreement related to the import of the capital goods nor was it a condition of sale and on that basis it has recorded the finding that the provisions of Rule 9(1)(b)(iv) or Rule 9(1)(c) or Rule 9(1)(e) of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 would apply to the facts of the case. That apart, it further found that both the Agreements, viz., Licence Agreement as well as Basic Engineering, Training and Technical Services Agreement, pertained to the services that were to be provided post import of the aforesaid goods. On this ground also, the value of these services could not have been loaded into the value of the goods at which those were imported.

It is also to be noted that the respondent had purchased various capital components from many other parties and the goods for which the agreement was signed with OEC constituted only 16% of the total value. On these facts, **the Hon'ble Supreme Court** were of the opinion that the matter was covered by the recent judgment of this Court in Commissioner of Customs, Ahmedabad v. M/s. Essar Steel Ltd. decided on 13th April, 2015.

[Decided in favour of the assessee]

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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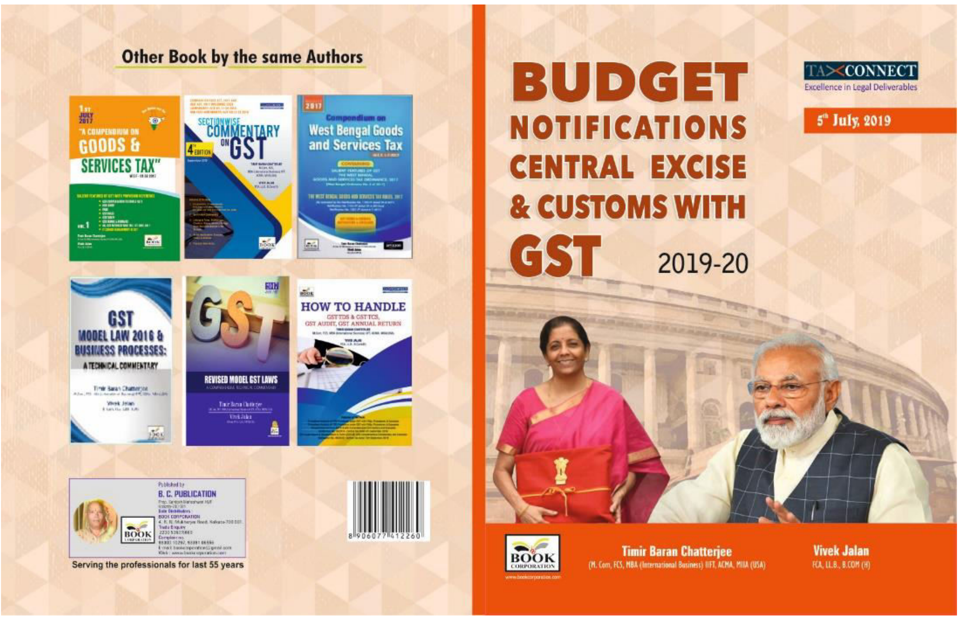
IN STANDS

BUDGET NOTIFICATIONS CENTRAL EXCISE & CUSTOMS WITH GST 2019-20



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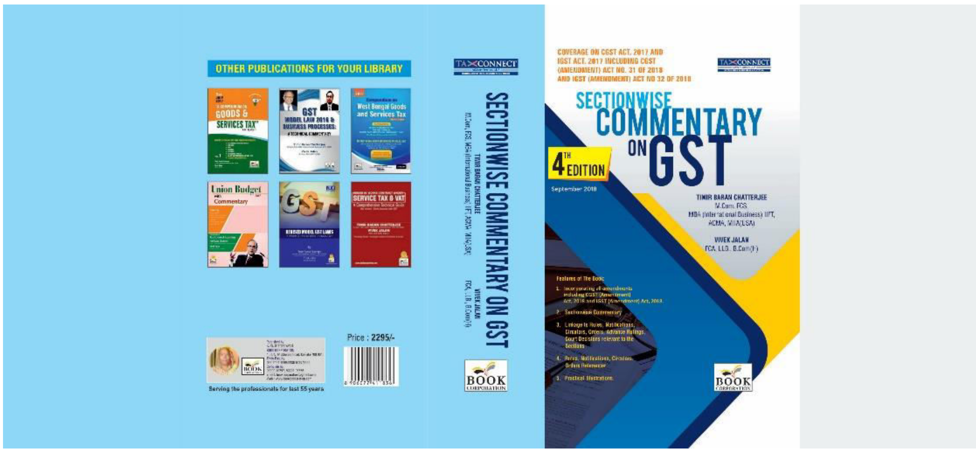
IN STANDS

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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