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EDITORIAL

Friends,

As per the Press Release dated 11.11.2019, **Income Tax Department carried out searches** in the first week of November, 2019 on a group of persons indulging in issuing bogus bills and carrying on hawala transactions which covered 42 premises across Delhi, Mumbai, Hyderabad, Erode, Pune, Agra & Goa.

The operation resulted in evidence of cash payment of more than Rs. 150 crore to a prominent person in Andhra Pradesh and the search action was also successful in unearthing incriminating evidences and establishing the nexus between big corporates, hawala operators and identification of entire chain of delivery, as well as siphoning of funds by way of bogus contracts to the tune of Rs. 3300 crore. Unexplained cash of Rs 4.19 crore and jewellery in excess of Rs 3.2 crore was also seized during the search operation.

The National Academy of Customs, Indirect Taxes & Narcotics (NACIN), has announced the **examination date of GST Practitioners** enrolled on the GST Network under Rule 83 and those meeting the eligibility criteria of having enrolled as sales tax practitioners or Tax return preparer under the existing law for a period not less than five years, to be held on 12th December 2019.

The Central Goods and Services Tax (CGST) department has arrested four persons for allegedly making false input tax credit (ITC) claims causing loss to the exchequer to the tune of at least Rs 400 crore.

After export, these people claimed and got refund of the amount of tax paid from the government equal to the amount of ITC paid by them as shown in the purchase bill which is purely a GST fraud and Rs 400 crore is at a conservative level.

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
30th November 2019	Form 26QB	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of October, 2019
30th November 2019	Form 26QC	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of October, 2019
30th November 2019	Annual Return	Annual Return of Income for the assessment year 2019-20 in the case of an assessee in the Union Territory of Jammu & Kashmir and the Union Territory of Ladakh
30th November 2019	Form 3CA/3CB & 3CD	Audit report under section 44AB for the assessment year 2019-20 in the case of an assessee in the Union Territory of Jammu & Kashmir and the Union Territory of Ladakh
30th November 2019	Form 3CEB	Report to be furnished in respect of international transaction and specified domestic transaction
30th November 2019	Form 3CEAA	Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2018-19
30th November 2019	Form 3CEAD	Country-By-Country Report in Form No. 3CEAD by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the accounting year 2017-18.
30th November 2019	Form 64	Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during 2018-19.
30th November 2019	Form 64D	Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2018-19) to units holders.
30th November 2019	Form 3CEFA	Due date to exercise option of safe harbour rules for international transaction by furnishing Form 3CEFA
30th November 2019	Form 3CEFB	Due date to exercise option of safe harbour rules for specified domestic transaction by furnishing Form 3CEFB

TAX CALENDAR

30th November 2019	Form 64A	Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2018-19. This statement is required to be filed electronically to Principal CIT or CIT.
30th November 2019	Form 3CEJ	Due date for e-filing of report by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager.
30th November 2019	Form 9A	Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on November 30, 2019)
30th November 2019	Form 10	Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or 11(2) (if the assessee is required to submit return of income on November 30, 2019)
30th November 2019	Form 3CM	Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company has any international/specified domestic transaction]
30th November 2019	Form 67	Due date for claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2018-19 and of foreign tax deducted or paid on such income in Form no. 67. (if due date of submission of return of income is November 30, 2019).

INCOME TAX

NOTIFICATION/ CASE LAW

INTRODUCTION OF INCOME TAX AMENDMENT (14TH AMENDMENT) RULES 2019

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 98/2019 dated 18.11.2019** has introduced the Income Tax Amendment (14th Amendment) Rules 2019.

[For details please refer to the said notification.]

ASSISTANT COMMISSIONER OF INCOME TAX & ANR. VERSUS M/S. HOTEL BLUE MOON (SUPREME COURT)

Brief: Whether notice u/s 143(2) is mandatory for completing block assessment under Chapter XIV-B of the Act?

OUR COMMENTS: In the given case, according to the assessee, service of notice on the assessee under Section 143(2) of the Act within the prescribed period of time was a pre-requisite for framing the block assessment under Chapter XIV-B of the Act. But the ITAT took the view that non-issue of notice under Section 143(2) was only a procedural irregularity and the same was curable and **the Hon'ble High Court** decided that the provisions of Section 142 and sections 143(2) and (3) would have mandatory application in a case where the assessing officer in repudiation of return filed in response to a notice issued under Section 158 BC(a) proceeds to make an inquiry. Further, section 158BH provides for application of the other provisions of the Act which states that **"Save as otherwise provided in this Chapter, all the other provisions of this Act shall apply to assessment made under this Chapter."** This is an enabling provision, which makes all the provisions of the Act, save as otherwise provided, applicable for proceedings for block assessment. The provisions which are specifically included are those which are available in Chapter XIV-B of the Act, which includes Section 142 and sections 143(2) and (3). Hence it was decided that Block assessment cannot be made without issuing notice u/s 143(2).

[Decided in favour of assessee]

SENIOR BHOSALE ESTATE (HUF) VERSUS THE ASSISTANT COMMISSIONER OF INCOME TAX (SUPREME COURT)

Brief: Condonation for delay of 1754 days.

OUR COMMENTS: In the given case, the appellant had asserted that they had no knowledge about passing of order dated 29.12.2003, until they were confronted with the auction notices in June 2008 issued by the competent authority.

Soon thereafter, the appellant filed appeal accompanied by the subject application on 19.07.2008. Notably, the respondent did not expressly refute the stand taken by the appellant that they had no knowledge about passing of order dated 29.12.2003 until June, 2008. Unless that fact was to be refuted, the question of disbelieving the stand taken by the appellant on affidavit, cannot arise and for which reason, **the Hon'ble High Court** should have shown indulgence to the appellant by condoning the delay in filing the concerned appeal. This aspect has been glossed over by **the Hon'ble High Court**.

Accordingly, these appeals are allowed. **The Hon'ble Supreme Court** set aside the impugned order of the High Court and relegated the parties before the High Court, by allowing the civil application filed by the appellant for condonation of delay in filing the concerned appeal.

[Decided in favour of assessee]

GST: CGST/IGST/SGST/UTGST

CIRCULAR/ CASE LAW

FULLY ELECTRONIC REFUND PROCESS THROUGH FORM GST RFD-01 AND SINGLE DISBURSEMENT

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Circular No. 125/44/2019-GST dated 18.11.2019** has laid down the procedure for electronic submission and processing of refund applications in suppression of earlier circulars issued for manual submission and processing of refund claims on temporary basis.

Further, in order to make the process of submission of the refund application electronic, earlier Circular No. 79/53/2018-GST dated 31.12.2018 was issued wherein it was specified that the refund application in FORM GST RFD-01A, along with all supporting documents, shall be submitted electronically. However, various post submission stages of processing of the refund application continued to be manual. Hence, the necessary capabilities for making the refund procedure fully electronic, in which all steps of submission and processing shall be undertaken electronically, have been deployed on the common portal with effect from 26.09.2019. Accordingly, the Circulars issued earlier laying down the guidelines for manual submission and processing of refund claims need to be suitably modified and a fresh set of guidelines needs to be issued for electronic submission and processing of refund claims.

MSE INDUSTRIES VERSUS THE ASSISTANT COMMISSIONER, THE DEPUTY COMMISSIONER, CGST GST BHAWAN RACE COURSE ROAD, COIMBATORE (MADRAS HIGH COURT)

Brief: Refund of the input tax credit lying in the petitioner's erstwhile VAT account and CENVAT account.

OUR COMMENTS: In the given case, in writ petitions facts, circumstances and the prayers sought to show that the petitioner seeks for refund of Input Tax Credit lying in the petitioner's erstwhile VAT account as well as CENVAT account. However, it was seen that the petitioner had filed these writ petitions straightaway without making any demand to that effect by way of refund claim before the concerned authorities. Needless to say that mandamus cannot be sought for without making any demand before appropriate authorities.

But as per the respondent, the petitioner cannot apprehend so and file the writ petitions seeking mandamus straightaway without making any demand before the concerned authorities. Unless the demand is made and it is not considered, the petitioner is not entitled to approach the High Court and seek for such relief.

This Writ Petition was disposed of, by granting liberty to the petitioner to make such demand before the concerned authorities. If any such demand is made, the same shall be considered and appropriate orders shall be passed on merits and in accordance with law.

[Decided in favour of assessee]

NOTIFICATION/ CASE LAW

INTRODUCTION OF FOREIGN EXCHANGE MANAGEMENT (MANNER OF RECEIPT AND PAYMENT) (AMENDMENT) REGULATIONS, 2019

OUR COMMENTS: The Reserve Bank of India **vide Notification No. 14(R)/(1)/2019-RB dated 13.11.2019** has introduced the Foreign Exchange Management (Manner of Receipt And Payment) (Amendment) Regulations, 2019.

[For details please refer to the said notification]

FOREIGN EXCHANGE MANAGEMENT (DEPOSIT) (THIRD AMENDMENT) REGULATIONS, 2019

OUR COMMENTS: The Reserve Bank of India **vide Notification No. 5(R)/(3)/2019-RB dated 13.11.2019** has introduced the Foreign Exchange Management (Deposit) (Third Amendment) Regulations, 2019.

[For details please refer to the said notification]

MUNAGALA YADAMMA VERSUS STATE OF A.P. AND OTHERS (SUPREME COURT)

Brief: Detention Order dated 15th February, 2011, under Section 3(1) read with Section 2A and B of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986.

OUR COMMENTS: In the given case, the offences alleged to have been committed by the appellant are such as to attract punishment under the Andhra Pradesh Prohibition Act, but that as per **the Hon'ble Supreme Court** has to be done under the said laws and taking recourse to preventive detention laws would not be warranted. Preventive detention involves detaining of a person without trial in order to prevent him/her from committing certain types of offences. But such detention cannot be made a substitute for the ordinary law and absolve the investigating authorities of their normal functions of investigating crimes which the detenue may have committed. After all, preventive detention in most cases is for a year only and cannot be used as an instrument to keep a person in perpetual custody without trial. Accordingly, while following the three-Judge Bench decision in Rekha's case, **the Hon'ble Supreme Court** allow the appeal and set aside the order passed by the High Court dated 20th July, 2011, and also quash the Detention Order dated 15th February, 2011, issue by the Collector and District Magistrate, Ranga Reddy District, Andhra Pradesh.

[Decided in favour of assessee]

CUSTOMS

NOTIFICATION/ CASE LAW

NOTIFICATION FOR 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.84/2019-Customs (N.T) dated 15.11.2019** has fixed the 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 3.08.20001.

INTRODUCTION OF RATE OF EXCHANGE OF CONVERSION OF FOREIGN CURRENCIES INTO INDIAN CURRENCY

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 85/2019-Customs (N.T) dated 21.11.2019** has introduced the rate of exchange of conversion of foreign currencies into Indian currency and vice-versa.

SECRETARY, MINISTRY OF COMMERCE VERSUS VINOD AND COMPANY (SUPREME COURT)

Brief: Whether a person who has made a claim under an REP licence issued in terms of the import and export policy, the policy for April 1988 to March 1991 is a consumer within the meaning of Section 2(1)(d) of the Consumer Protection Act, 1986?

OUR COMMENTS: In the given case, the objects of the policy were essentially to stimulate industrial growth by providing easy access to imported capital goods, raw materials and components, to substitute imports and promote self-reliance and to provide an impetus to exports by improving the quality of incentives. The Exim policy is an incident of the fiscal policy of the State and of its overall control over foreign trade. As an incident of its policy, the State may provide a regime of incentives. The provision of those incentives does not render the State a service provider or the person who avails of the incentives as a potential user of any service.

The State, in exercise of its authority to utilise and collect revenue, puts in place diverse regulatory regimes under the law. The regime may provide for modalities for compliance, penalties for breach and incentives to achieve the purpose of the policy. The grant of these incentives does not constitute the State as a service provider.

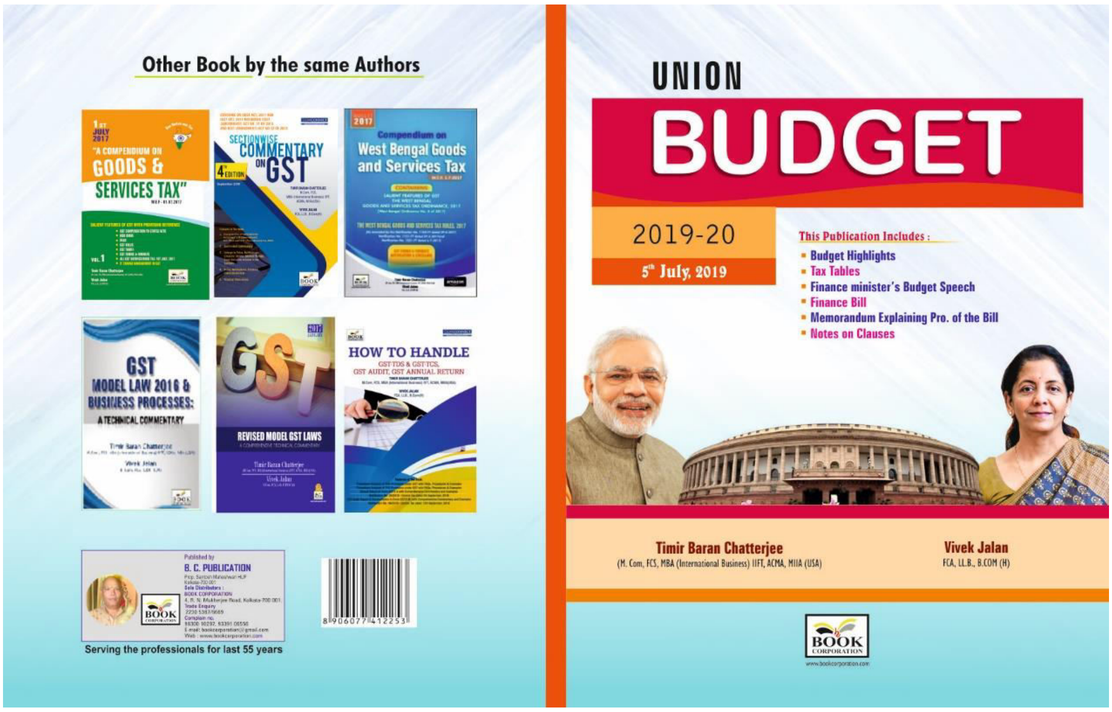
In BIHAR SCHOOL EXAMINATION BOARD VERSUS SURESH PRASAD SINHA which was decided by a Bench of two judges, the issue was whether the Board of Examinations governed by state law is amenable to the jurisdiction of the District Forum under the Consumer Protection Act, 1986 - Answering the question in the negative, **the Hon'ble Supreme Court** held that the Board is not a service provider and a student who takes an examination is not a consumer.

There was an absence of jurisdiction in the District Forum to entertain a complaint under the Act in regard to a claim arising out of and founded on an REP licence governed by the Exim policy.

[Decided in favour of 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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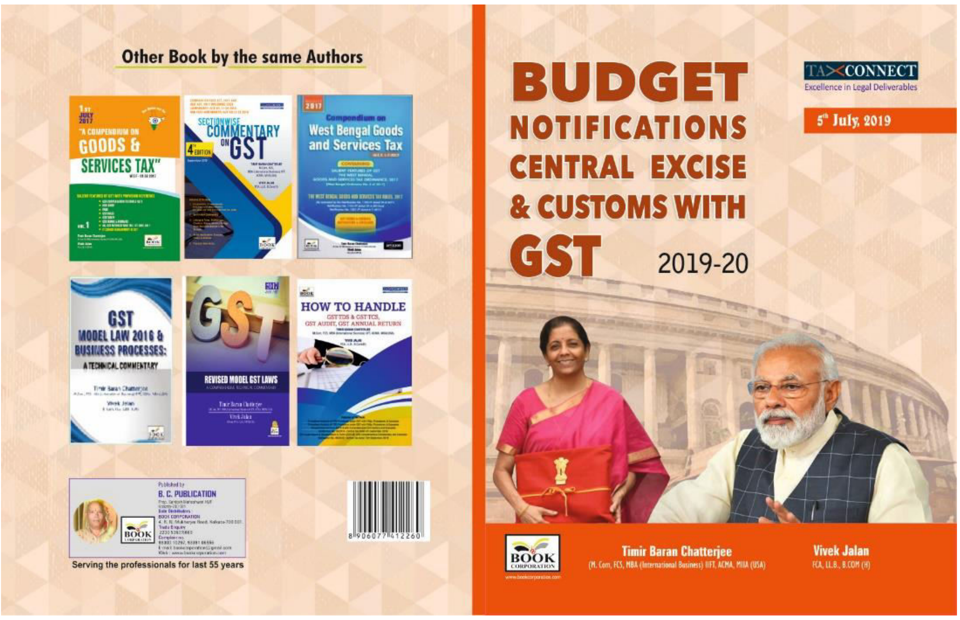
IN STANDS

BUDGET NOTIFICATIONS CENTRAL EXCISE & CUSTOMS WITH GST 2019-20



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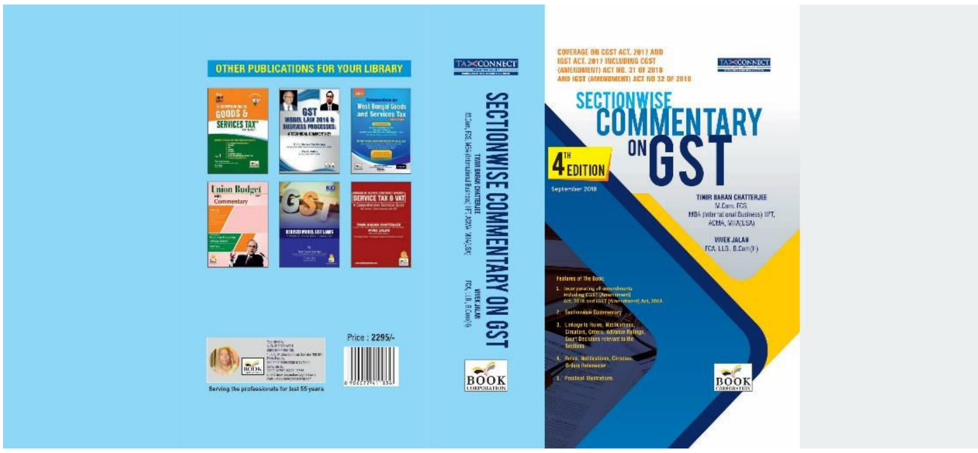
IN STANDS

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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