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EDITORIAL

Friends,

As per the Press release-2019-20/2130 issued by the Reserve Bank of India dated 27.03.2020, RBI sets out various developmental and regulatory policies that directly address the stress in financial conditions caused by COVID-19. This policy consists of:-

- The measures that is intended to ensure that adequate liquidity is available to all constituents so that COVID-19 related liquidity constraints are eased.
- The first Target Long Term Repos Operations auction was held on March 27, 2020.
- As a one-time measure to help banks tide over the disruption caused by COVID-19, it has been decided to reduce the cash reserve ratio (CRR) of all banks by 100 basis points to 3.0 per cent of net demand and time liabilities (NDTL) with effect from the reporting fortnight beginning March 28, 2020.
- Under Cash Reserve Ratio, it has been decided to reduce the requirement of minimum daily CRR balance maintenance from 90% to 80% effective from the first day of the reporting fortnight beginning March 28, 2020. This is a one-time dispensation available up to 26.06.2020.
- Under Marginal Standing Facility, it has been decided to increase the Statutory Liquidity Ratio from 2% to 3% with immediate effect.
- Under the new monetary policy rate corridor, the reverse repo rate under the liquidity adjustment facility (LAF) would be 40 bps lower than the policy repo rate. The marginal standing facility (MSF) rate would continue to be 25 bps above the policy repo rate.
- All banks and financial institutions are being permitted to allow a moratorium period of 3 months on payment of installments in respect of all term loans outstanding as on 01.03.2020.
- In respect of working capital facilities sanctioned in the form of cash credit/overdraft, lending institutions are being permitted to allow a deferment of 3 months on payment of interest in respect of all such facilities outstanding as on March 1, 2020.
- Deferment in the implementation of NSFR by six months from 01.04.2020 to 01.10.2020.
- Permitting Banks to Deal in Offshore Non-Deliverable Rupee Derivative Markets (Offshore NDF Rupee Market) w.e.f 01.06.2020.

In this exceptional circumstance during lockdown due to COVID-19 outbreak, lot of information is flowing from different quarters. In this period of everyday development, to facilitate all valuable information at one place. Hence, we will be issuing our bulletin twice a week.

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

SYNOPSIS

ANNOUNCEMENT OF RS. 1.70 LAKH CRORE RELIEF PACKAGE UNDER PMGKY

HIGHLIGHTS OF FINANCE MINISTER ANNOUNCEMENT OF RELIEF PACKAGE FOR POOR TO FIGHT AGAINST CORONAVIRUS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, ***vide Press Release dated 26-03-2020*** has introduced new Rs. 1.70 Lakh Crore Relief Package under Pradhan Mantri Garib Kalyan Yojana for the poor to help them fight the battle against Corona Virus. Highlights of the scheme is as under:

- Persons who are Safai karamcharis, ward-boys, nurses, ASHA workers, paramedics, technicians, doctors and specialists and other health workers would be covered by a Special insurance Scheme. If any health professional fall sick under COVID-19 then he would get compensation of Rs. 50 Lakh under the scheme.
- Foodgrains will be provided to poor for next 3 months.
- Pulses of 1 kg per family will be provided to the poor for availability of protein for next 3 months according to regional preferences.
- The first instalment of Rs 2,000 due to farmers in 2020-21 will be front-loaded and paid in April 2020 itself under the PM KISAN Yojana for the benefit of farmers.
- Under Jan Dhan Yojana, women account-holders will get an exgratia of Rs. 500 per month for next 3 months.
- Gas cylinders would be provided free of cost to poor families for the next 3 months.
- Wage earners in organized sectors would be paid Rs.15000 per month by the government for the businesses having less than 100 workers are at risk of losing their employment and government proposes to pay 24% of their monthly wages into their PF accounts for next 3 months.
- Government will give widows and divyang Rs.1000 during next three months.
- Under PM Garib Kalyan Yojana, MNREGA wages would be increased by Rs 20 with effect from 1 April 2020. Wage increase under MNREGA will provide an additional Rs 2,000 benefit annually to a worker.
- Women organised through 63 lakhs Self Help Groups will get collateral free lending upto Rs 20 lakhs.
- Employees Provident Fund Regulations will be amended to allow non-refundable advance of 75 percent of the amount or three months of the wages, whichever is lower, from employees accounts.
- Central Government has given orders to State Governments to use Building and Construction Workers Welfare Fund to provide relief to Construction Workers

[For details please consider the said press release]

CASE LAW

M/S. J.K. TRANSPORT CO. VERSUS COMMISSIONER OF INCOME-TAX, CENTRAL REVENUE BUILDING, CIVIL LINES, RAIPUR, CHHATTISGARH-2020 [CHHATTISGARH HIGH COURT]

<u>Brief:</u> Subsidy pursuant to a scheme formulated and implemented by the Government for promotion of construction of cinema halls and support the film industry would be treated as capital receipt as the character of the receipt is of capital nature.

<u>OUR COMMENTS</u>: In the present case, the appellant satisfied all the requirements of the Madhya Pradesh Naye Cinemagharon Ke Nirman Ko Protsahan Yojna Ke Sahayata Anudan Niyam, 1982 (for short 'the Rules'). The construction of the Cinema Hall was affected accordingly and the subsidy flowing from the said Rules was given the measure which was worked out in terms of the Rules. According to the Income Tax Department, the act of the appellant treating it 'capital subsidy' was not correct and it ought to have been reckoned as 'revenue subsidy' in view of the fact that the same was provided only to promote the business of the Assessee and not for construction of the Cinema House. Further, the scheme was introduced in the year 1982, whereas the exhibition was started in the cinema hall of the Assessee only from April 1992. It is held by the High Court that as decided in ***SAHNEY STEEL AND PRESS WORKS LIMITED AND OTHERS VERSUS COMMISSIONER OF INCOME-TAX [1997 (9) TMI 3 - SUPREME COURT]*** if the monies are given to an appellant for assisting him for carrying out the business operation and the money is given only after and conditional upon commencement of the production, such subsidies must be treated as assistance for the purpose of trade. Applying the said legal position to the given case, the purpose of the scheme as evident from Annexure and in particular Rule 1 is obviously for promoting the construction of new Cinema Theaters. The effective date is as per Rule 3. The eligibility conditions are mentioned in Rules stipulates the 'measure of subsidy', which could be aspired by the appellant. As per Rules, it is quite clear that the extent of benefit payable to an Appellant by way of subsidy is quantified with reference to the entertainment tax as specified under Rule 5(k). But for fixing the extent of benefit payable, Annexure does not mention that the purpose of subsidy is to promote the trade or business. On the other hand, it is explicitly clear that the said scheme was introduced by the Government to promote the construction of new cinema theaters in the State and as such, the contention raised by the learned Standing Counsel for the Department to the contrary can only be repelled. Subsidy in the given circumstance will definitely constitute 'capital subsidy' and it is to be excluded from assessment of tax under the provisions of the Income Tax Act.

[Decided in favour of the appellant]

GST: IGST/CGST/SGST

NOTIFICATIONS/CASE LAW

AMENDMENT IN SCHEDULE I, II AND III

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 03/2020-CGST dated 25.03.2020** has amended the notification no. 1/2017 dated 28.06.2017 for change of schedule I, II and III. It shall be applicable w.e.f 01.04.2020.

[For details please consider the said notification]

AMENDMENT IN SERIAL NO 25 OF CGST ACT

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 02/2020-CGST dated 26.03.2020** has amended the notification no. 11/2017 dated 28.06.2017 for change in serial no.25. It shall be applicable w.e.f 01.04.2020.

[For details please consider the said notification]

AMENDMENT IN SERIAL NO 2 OF IGST ACT

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 02/2020-IGST dated 26.03.2020** has amended the notification no. 4/2019-IGST dated 30.11.2019 for insertion in serial no.2 as supply of maintenance, repair or overhaul service in respect of aircrafts, aircraft engines and other aircraft components or parts supplied to a person for use in the course or furtherance of business whose place of supply of services shall be location of the recipient of service. It shall be applicable w.e.f 01.04.2020.

[For details please consider the said notification]

M/S SALUJA AND COMPANY VS STATE OF HARYANA AND OTHERS-2020 [PUNJAB AND HARYANA HIGH COURT]

Brief: Whether the Tribunal was justified in holding that the Mango Drink under the brand name "Slice" sold by the appellant, does not fall under Entry 100D of Schedule-C of the HVAT Act and is therefore eligible to tax @ 12.5% instead of 5%?

OUR COMMENTS: In the present case, the assessee is engaged in the business of trading of mineral water, aerated drinks and a mango based fruit drink 'Slice' and appealed in high court of Punjab and Haryana in question of law which is mentioned above in brief. Held by the High Court that Entry 100-D of the Schedule C to the HVAT Act is wide enough to cover not just fruits and vegetables and products thereof but wide range of products which includes "juice, drink paste and powder made of fruits". The critical aspect to be considered in examining whether a product can be classified as a 'drink' made of a 'fruit' is whether it is in fact drinkable as such when the legislature used the word 'drink' made of 'fruit', it did not intend that the percentage of the fruit in such drink should be so high to a point of making it impossible to be drunk. It would not be possible to classify a product as a fruit drink, which is no different from the 'concentrate' of such fruit. Entry 100-D of the Schedule C to the HVAT Act does not admit of a narrow interpretation particularly when it uses the words 'fruit drinks made of' the fruit in question. Even if one applied the common parlance test, the Appellant is right in contending that 'Slice' does not cease to be a drink made of fruit only because the actual fruit content is 16% and both the RA and Tribunal erred in holding that product 'Slice' is not covered under Entry 100-D of Schedule C to the HVAT Act. The impugned orders of the RA as well as the Tribunal are set aside.

[Decided in favour of the assessee/appellant]

FEMA

PRESS RELEASE

HIGHLIGHTS OF PRESS RELEASE IISSUED BY RBI

OUR COMMENTS: In the present case, the petitioner was aggrieved for non-return of gold and Indian Currency seized by the officers of Enforcement Directorate (ED). There was no show cause notice issued by the officers till 5 years of seizure and the petitioner was compelled to file writ petition by the aggrieved order. On filing the writ petition ED appeared in the High Court and filed an affidavit that all goods and Indian currency was handed over to the IT Department on the day of seizure. IT Department appeared and furnished an affidavit was filed by the Assistant Director of Income Tax. It was stated that by a letter the ED informed the IT Department that search had been conducted at the business premises from where the gold bars and cash were seized. It is then stated that due to pendency of the investigation by the ED, and insufficiency of material, no action under Section 132A of the IT Act was initiated at that stage. The IT Department denied receipt of the letter was received from the ED. It is stated that letters were written by the IT Department to the ED requesting for information for taking further action. By a letter the ED informed the IT Department of the pendency of the present writ petition. It is stated that on receipt of the said letter, the warrant of authorization under Section 132 A of the IT Act was issued by the Director of Income Tax (Investigation). On the execution of warrant of authorization gold bars were handed over to IT Department. Cash was also handed over to the IT Department. However, the documents requisitioned from the ED were not handed over to the IT Department. It was held by the High Court that it is not understood how despite not issuing any legal justification for detention of the Indian currency and gold, it was retained by the ED for over four years. The affidavit filed by the ED admitted that gold as well as the seized Indian currency were handed over to the IT Department only on seizure date. On its part the IT Department admitted to thereafter having received both the gold as well as the Indian currency and admitted having issued the warrant of authorization under Section 132A of the IT Act. A perusal of Section 37 of the FEMA reveals that it cannot be invoked to seize Indian currency. The ED had itself admitted before this Court that there was no basis for seizure by the ED of gold. As far as Section 132A of the IT Act is concerned, it does not permit indefinite detention of the seized items by the IT Department without even issuing show cause notice to explain the legal basis of detention of the seized item. Hence, the direction was issued to release of goods and the Indian Currency to the petitioner.

[Decided in favour of the appellant]

CUSTOMS

NOTIFICATIONS/PUBLIC NOTICE/CASE LAW

AMENDMENT IN 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. 31/2020-Customs dated 25.03.2020** has amended fixation of tariff value of edible oils, brass scrap, poppy seeds, areca nut, gold and silver.

[For further details please refer the notification]

AMENDMENT IN DATE OF APPLICATION OF LAW

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 16/2020-Customs dated 24.03.2020** has amended notification no. 52/2003 dated 31.03.2003 in which 01.04.2020 is substituted to 01.04.2021.

[For further details please refer the notification]

AMENDMENT IN RATE OF PERCENTAGE OF ALL GOODS

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 17/2020-Customs dated 25.03.2020** has amended notification no. 69/2011 dated 29.07.2011 in which the rate of percentage of all goods is specified.

[For further details please refer the notification]

FACILITATION OF CLEARANCE OF IMPORT CARGO DUE TO DELAY ARISING DUE TO OUTBREAK OF CORONA VIRUS

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Public Notice No. 33/2020-Customs dated 24.03.2020** has specified that keeping in the view of situation of coronavirus, filing of late bill of entry will not result in attracting late fee charges if the bill of entry is filed on or after 20th March 2020. Filing of Bill of entry can be done from ICEGATE.

[For further details please refer the public notice]

SHAKTI SHIPPING INTERNATIONAL VERSUS THE COMMISSIONER OF CUSTOMS, KACHCHH-2020 [GUJARAT HIGH COURT]

BREIF: Whether the Hon'ble Tribunal erred in law in dismissing the appeal on the ground of delay without considering financial hardships of the appellant and Whether the Hon'ble Tribunal erred in not following principle of natural justice and deciding the appeal on delay?

OUR COMMENTS: In the given case, the appellant is a proprietary concern engaged in the business of import of metal scraps. The premises of the appellant was searched and a show cause notice was issued. It was held by the High Court that although the sufficient cause assigned may not be quite convincing, yet having regard to the merits of the main matter and also with a view to give one opportunity to the appellant to make good his case in appeal before the Tribunal, we are inclined to exercise our discretion in favour of the appellant. The delay in preferring the appeal before the Tribunal is hereby condoned. The impugned orders passed by the Tribunal are hereby quashed and set aside. The main appeal is restored to the original file of the Appellate Tribunal.

[Decided in favour of the appellant]

DGFT

NOTIFICATIONS/CASE LAW

AMENDMENT IN EXPORT POLICY OF VENTILATORS INCLUDING ANY ARTIFICIAL RESPIRATORY APPARATUS OR OXYGEN THERAPY APPARATUS OR ANY OTHER BREATHING APPLIANCE/DEVICE AND SANITIZERS

OUR COMMENTS: The Ministry of Commerce and Industry, DGFT **vide Notification No. 53/2015-2020 dated 24.03.2020** has prohibited export of ventilators including any artificial respiratory apparatus or oxygen therapy apparatus or any other breathing appliance/device and sanitizers. In these goods FTP is not applicable.

[For further details please refer the notification]

AMENDMENT IN EXPORT POLICY OF HYDROXYCHLOROQUINE AND ITS FORMULATIONS

OUR COMMENTS: The Ministry of Commerce and Industry, DGFT **vide Notification No. 54/2015-2020 dated 24.03.2020** has prohibited export of Hydroxychloroquine and formulations under some conditions.

[For further details please refer the notification]

M/S. GEO ASSOCIATES VERSUS THE COMMISSIONER OF CUSTOMS, DEPUTY COMMISSIONER OF CUSTOMS (IMPORTS) ERNAKULAM-2019 [KERALA HIGH COURT]

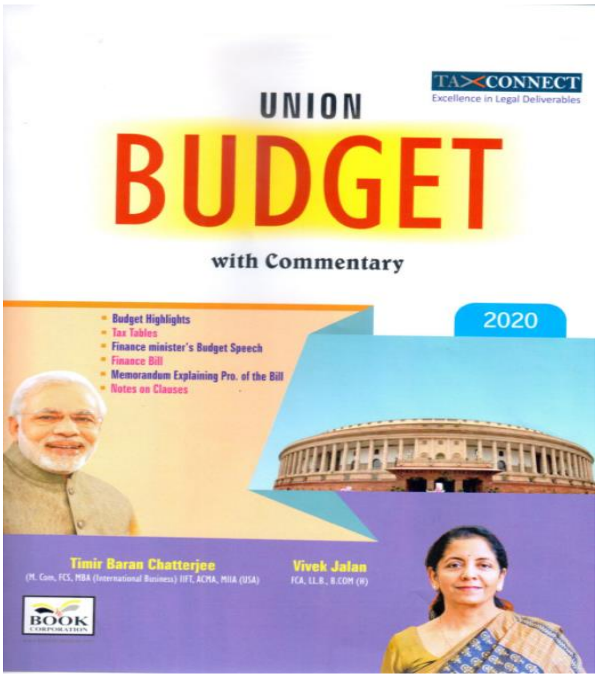
BREIF: Import of Dialysis machine on which penalty was imposed and was confiscated by not issuing show cause notice and violating principle of natural justice.

OUR COMMENTS: In the given case, the assessee challenged writ petition for using dialysis machine that was imported by the petitioner was confiscated in terms of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, and a penalty was also imposed on the petitioner under Section 112 of the Customs Act. The imported goods were permitted redemption in lieu of confiscation on payment of fine of ₹ 25,000/- and penal action was also contemplated against the customs broker in terms of the Customs Brokers Licensing Regulations (CBLR), 2018. The grievance of the petitioner is essentially that, before passing order, although he was granted a personal hearing, no show cause notice was issued by the respondents, and therefore, the petitioner was not informed of the grounds on which the proposed action was initiated by the respondents. It is therefore contended that the impugned order was vitiated by a non-compliance with the rules of natural justice. It was held that the respondents would submit that a show cause notice can be issued to the petitioner and the matter re-adjudicated after hearing the petitioner. Dispose the Writ Petition by quashing order and directing the 2nd respondent to issue a show cause notice to the petitioner outlining the proposals for confiscation and the grounds and then proceed to adjudicate the matter afresh after hearing the petitioner. In the said fresh proceedings, the petitioner shall not raise any contention with regard to limitation in relation to the issuance of the show cause notice. Petition was allowed by way of remand.

[Decided in favour of the petitioner]

IN STANDS

UNION BUDGET WITH COMMENTARY 2020



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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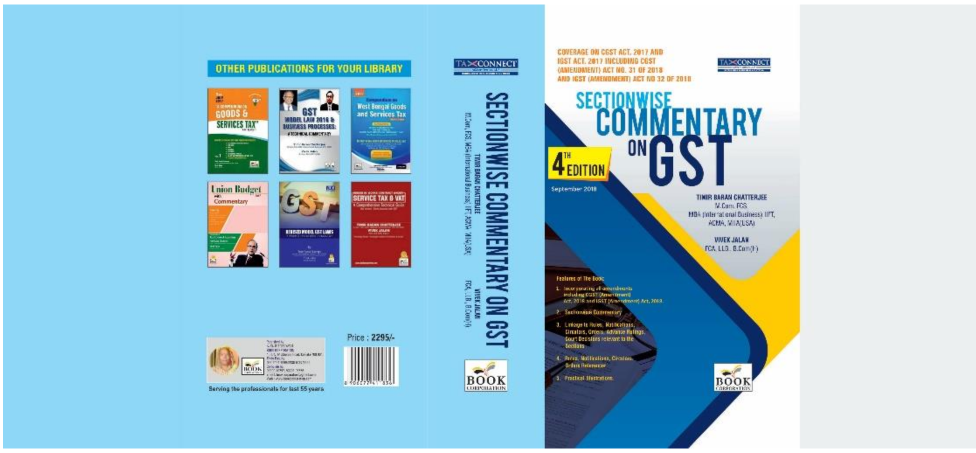
IN STANDS

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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