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Kolkata :1, Old Court House Corner, "Tobacco House" 1st Floor, R.No.-13 (North), Kolkata-700001

:17L/1A Dover Terrace; Kolkata-700069

Mumbai :Building No 9, Flat 403, LodhaEternis, 11th Road, MIDC, Andheri (E) - 400093

Contact: **+919331042424; +919831594980; +913340016761**

Website : www.taxconnect.co.in

Email : tb.chatterjee@taxconnect.co.in; vivek.jalan@taxconnect.co.in; anindita.chatterjee@taxconnect.co.in

EDITORIAL

Friends,

The Finance Ministry on 03.04.2020 appealed to the women Jan Dhan (PMJDY) account holders to follow the schedule announced by IBA for withdrawal of ex-gratia amount, and avoid rush at bank branches, in a bid to prevent spread of deadly coronavirus. All banks from Friday have started remitting Rs 500 to beneficiary accounts in line with the announcement made by Finance Minister Nirmala Sitharaman. As per the schedule by Indian Banks' Association (IBA), women Pradhan Mantri Jan Dhan Yojana (PMJDY) account holders having account number with last digit as 0 and 1 will get the money in their account on 03.04.2020, while account ending with 2 or 3 can approach the bank on 04.04.2020.

The Department of Revenue and the handset industry backed by the IT ministry are at odds over the implementation of the much-touted Rs 41,000-crore production-linked incentive scheme to boost local manufacturing and exports. The revenue department wants a budgetary allocation of the incentive. But the industry fears that such a mechanism will delay payments, and instead is pushing for an ‘offset' mechanism, at least for the exports component.

The Gross GST revenue collected in the month of March,2020 is Rs. 97,597crore of which CGST is Rs. 19,183 crores, SGST is Rs. 25,601 crores, IGST is Rs. 44,508 crores (including Rs. 18,056 crores collected on imports) and cess is Rs. 8,306 crores (including Rs. 841 crores collected on imports). The total number of GSTR-3B Returns filed for the month of February up to 31st March 2020 is 76.5 lakh.

According to Chinese official data, trade between the India and China in January and February of 2020 was down 12.4% year-on-year. This was also the time when the coronavirus epidemic in China was peaking. China's exports to India during this period stood at 67.1 billion yuan, down 12.6% y-o-y, while imports from India dropped 11.6% to 18 billion yuan.

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, 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

Timir Baran Chatterjee
M.Com, FCS, MBA (International Business)-IIFT, ACMA

Vivek Jalan
FCA, LL.M, LLB, B. Com (H)

Anindita Chatterjee
CS, BA LLB (BANGALORE), LL.M

SYNOPSIS

INCOME TAX

PRESS RELEASE

HIGHLIGHTS OF THE ORDINANCE PASSED BY FINANCE MINISTER ON 31.03.2020

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India **vide Press Release Dated 31.03.2020** has made announcements made by the Union Finance Minister due to outbreak of COVID-19 to give effect of the Press Release dated 24.03.2020 as follows:

- The date for making various investment/payment for claiming deduction under Chapter-VIA-B of IT Act which includes Section 80C (LIC, PPF, NSC etc.), 80D (Mediclaim), 80G (Donations), etc. has been extended to 30th June 2020. Hence, the investment/payment can be made up to 30.06.2020 for claiming the deduction under these sections for FY 2019-20.
- The date for making investment/construction/purchase for claiming roll over benefit/deduction in respect of capital gains under sections 54 to 54GB of the IT Act has also been extended to 30th June 2020. Therefore, the investment/ construction/ purchase made up to 30.06.2020 shall be eligible for claiming deduction from capital gains arising during FY 2019-20.
- The date for commencement of operation for the SEZ units for claiming deduction under deduction 10AA of the IT Act has also extended to 30.06.2020 for the units which received necessary approval by 31.03.2020.
- The date for passing of order or issuance of notice by the authorities under various direct taxes& Benami Law has also been extended to 30.06.2020.
- It has provided that reduced rate of interest of 9% shall be charged for non-payment of Income-tax (e.g. advance tax, TDS, TCS) Equalization Levy, Securities Transaction Tax (STT), Commodities Transaction Tax (CTT) which are due for payment from 20.03.2020 to 29.06.2020 if they are paid by 30.06.2020. Further, no penalty/ prosecution shall be initiated for these non-payments.
- Extension of last date of filing of original as well as revised income-tax returns for the FY 2018-19 (AY 2019-20) to 30 June, 2020.
- A special fund “Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)” has been set up for providing relief to the persons affected from the outbreak of Corona virus. The ordinance has also amended the provisions of Income Tax Act for treatment of PM Cares Fund.The donation made to the such Fund shall be eligible for 100% deduction under section 80G of the IT Act. Further, the limit on deduction of 10% of gross income shall also not be applicable for donation made to PM CARES Fund. As the date for claiming deduction u/s 80G under IT Act has been extended up to 30.06.2020, the donation made up to 30.06.2020 shall also be eligible for deduction from income of FY 2019-20. Hence, any person including corporate paying concessional tax on income of FY 2020-21 under new regime can make donation to PM CARES Fund up to 30.06.2020 and can claim deduction u/s 80G against income of FY 2019-20 and shall also not lose his eligibility to pay tax in concessional taxation regime for income of FY 2020-21.

[For details please consider the said Press Release]

GST: IGST/CGST/SGST

PRESS RELEASE/NOTIFICATION

HIGHLIGHTS OF THE ORDINANCE PASSED BY FINANCE MINISTER ON 31.03.2020

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India **vide Press Release Dated 31.03.2020** has made announcements made by the Union Finance Minister due to outbreak of COVID-19 to give effect of the Press Release dated 24.03.2020 as follows:

- Last date of furnishing of the Central Excise returns due in March, April and May 2020 has been extended to 30.06.2020.
- Wherever the last date for filing of appeal, refund applications etc., under the Central Excise Act, 1944 and rules made thereunder is from 20th March 2020 to 29th June 2020, the same has been extended to 30.06.2020.
- Wherever the last date for filing of appeal, refund applications etc., under the Customs Act, 1962 and rules made thereunder is from 20th March 2020 to 29th June 2020, the same has been extended to 30.06.2020.
- Wherever the last date for filing of appeal etc., relating to Service Tax is from 20th March 2020 to 29th June 2020, the same has been extended to 30.06.2020.

[For details please consider the said Press Release]

HIGHLIGHTS OF NOTIFICATIONS ISSUED BY CBIC AS ON 03.04.2020

OUR COMMENTS: The Central Board of Indirect Tax and Custom **vide Notification No.30/2020 to 36/2020 dated 03.04.2020** has

- amended CGST Rules (Fourth Amendment) in order to allow opting Composition Scheme for FY 2020-21 till 30.06.2020 and to allow cumulative application of condition in rule 36(4).
- provided relief by conditional lowering of interest rate for tax periods of February 2020 to April 2020. It shall apply with effect from 20.03.2020.
- provided relief by conditional waiver of late fee for delay in furnishing returns in FORM GSTR-3B for tax periods of February 2020 to April 2020. It shall apply with effect from 20.03.2020.
- provided relief by conditional waiver of late fee for delay in furnishing outward statement in FORM GSTR-1 for tax periods of February 2020 to April 2020.
- extended due date of furnishing FORM GST CMP-08 for the quarter ending March 2020 till 07.07.2020 and filing FORM GSTR-4 for FY 2020-21 till 15.07.2020.
- extended due date of compliance which falls during the period from "20.03.2020 to 29.06.2020" till 30.06.2020 and extended validity of e-way bills. It shall apply with effect from 20.03.2020.
- extended due date for furnishing FORM GSTR-3B for supply made in the month of May 2020.

[For details please consider the said Notification]

FEMA

CASE LAW

BIPINCHANDRA G. CHOCKSHI AND 1 VERSUS STATE OF GUJARAT AND 2-2016 [GUJARAT HIGH COURT]

Brief: Detaining authority is under an obligation to comply with the requirements of the Act by formulating the grounds before passing the order of detention and if such grounds were not formulated by the detaining authority before passing the order of detention, the order of detention is to be considered as illegal. Hence, order of detention is allowed in favour of the petitioner.

OUR COMMENTS: In the present case, this petition is dragged for all these 21 years for no valid reason when the issue involved in the petition has already been decided by several decisions of different High Courts as well as the Hon'ble Supreme Court of India. However, the respondents have instead of conceding to the settled legal position so also the admitted position on the face of the present case itself selected to argue and oppose the petition. Therefore, though petition can be disposed of summarily and it becomes necessary to recollect several factual details. It is also undisputed fact that there is no evidence on record that whether such order is ever challenged before the Hon'ble Supreme Court of India and interfered with in any manner whatsoever. Therefore, the above findings are now conclusive findings so far as order of detention is concerned. Therefore, prima facie, this petition needs to be allowed since it is also undisputed fact that detention of present petitioner is based upon the same facts and circumstances which are very well described in the pleadings as well as in above-referred decision of Division Bench of this High Court. Therefore, I do not want to make this judgment bulky by reproducing the same. It is also undisputed fact that in the present petition, the petitioner has disclosed the factual details of one Special Criminal Application preferred by him in paragraph 5.3 and 5.4 of the petition and there is no reply to such facts in affidavit in reply filed by the respondent No.3 and therefore, it is to be considered as admitted fact. Hence, conclusion in Special Criminal Application would be binding on the respondents. So far as the merits of the impugned orders are concerned, petitioner is relying upon decision of Division Bench of this High Court in Special Criminal Application wherein it is held that detaining authority is under an obligation to comply with the requirements of the Act by formulating the grounds before passing the order of detention and if such grounds were not formulated by the detaining authority before passing the order of detention, the order of detention is to be considered as illegal. It is held by the High Court that there are previous decisions of Division Bench of this High Court that detaining authority is under obligation to comply with the requirements by formulating grounds for detention and on factual aspect also, there is no reason to detain such person. Therefore, the Division Bench has gone to the extent of saying that "a grosser case than this is yet to be seen". Thus the impugned order of detention cannot sustain. The petition is allowed resulting into quashing and setting-aside the impugned order of detention at Annexure 'A' to the petition and declaration under Section 12A of the COFEPOSA, 1974 at Annexure 'B' and quash and set-aside three notices under Section 6 of SAFEMA, 1976, Annexure 'D' Collectively.

[Decided in favour of the petitioner]

CUSTOMS

NOTIFICATIONS/CASE LAW

AMENDMENT IN EXCHANGE RATE OF FOREIGN CURRENCY

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 37/2020-Customs dated 01.04.2020** has amended the rate of exchange of foreign currency relating to import and export of goods. It is applicable from 2nd April 2020.

[For further details please refer the notification]

GAUTAM SILKS VERSUS UNION OF INDIA AND OTHERS-2020 [CALCUTTA HIGH COURT]

BREIF: Show cause notice does not make assessee liable to pay duty, interest and penalty.

OUR COMMENTS: In the given case, the application was admitted by the applicant. The Department issued a show cause notice cum demand notice u/s 28 of the Custom Act, 1962. Assessee was found guilty for suppression of facts but the assessee was not liable on the show cause notice to pay duty, interest and penalty. The High Court held that instead of framing the substantial questions of law in the form of questions, it could be better if the facts are narrated in brief from which the substantial questions of law would be apparent. The appellant is the transferee of a duty free advance license/licenses held by the importer. Their case is that they are a bona fide purchaser for value of the licence. It appears that the importer was allegedly guilty of suppression of material facts for which a show cause-cum-demand notice under Section 28 of the Customs Act, 1962 was issued to the appellant transferee by the respondent authorities by invoking the longer period of limitation of five years demanding duty, interest and penalty etc. in lieu of confiscation of goods. The case of the transferee is that they are not liable on the show cause notice. It is submitted that this immunity is on the basis of a ruling of the CESTAT Mumbai in **Sumit Wool Processors and Others Versus Commissioner of Customs (Import)/(Export)** decided on 18th August 2015. The tribunal in its impugned order ought to have followed that decision and rules in favour of the appellant but did not do so. The law needs elucidation by this Court. This appeal under Section 130 of the Customs Act, 1962 is formally admitted. Since the respondent is represented by learned counsel service and issuance of notice of the appeal are dispensed with. Appellant is directed to file an informal paper book by serving a copy thereof upon the advocate-on record for the respondent not later than seven days before the date of hearing of the appeal. All other formalities are dispensed with. The stay application is disposed of.

[Decided in favour of the assessee]

DGFT

CASE LAW

MESSERS LUBI INDUSTRIES LLP VERSUS UNION OF INDIA-2020 [GUJARAT HIGH COURT]

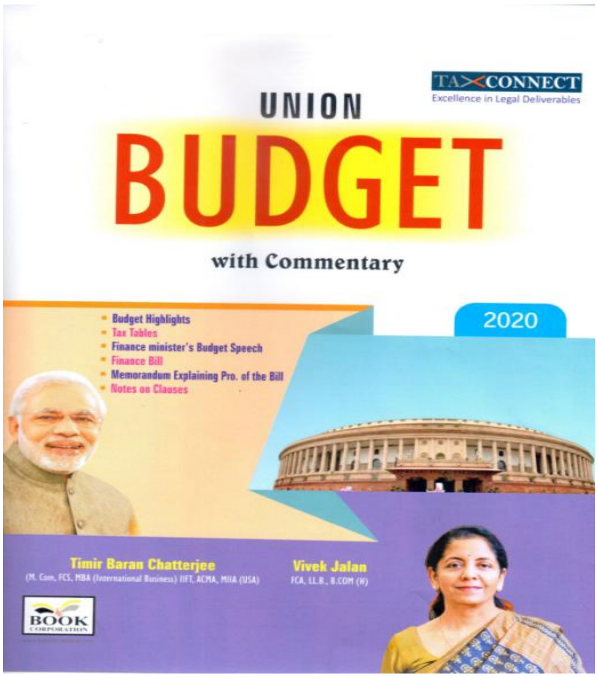
BREIF: Application for extension of time for fulfilment of export obligation is allowed under Advance Authorization.

OUR COMMENTS: In the given case, the applicants seeks extension of two months and one day in respect of Advance Authorization for fulfillment of export obligations and further seek a direction to the office of the Additional/Joint Director General of Foreign Trade to order regularization of fulfillment of export obligation in respect of Advance Authorization. It is the case of the petitioners that they have fulfilled the export obligations for both the authorizations in terms of quantity as well as in terms of F.O.B. value. However, the petitioners have taken a little more time over and above six months allowed by this court for fulfillment of export obligations for one of the authorizations. It was held by the High Court that it is evident that the petitioners have fulfilled the export obligation under the advance authorisations; however in case of Authorisation, there has been a delay of two months and one day in fulfilling the export obligation. From the averments made in the memorandum of application as referred to hereinabove, this court is of the considered view that sufficient cause has been shown by the petitioners for not fulfilling the export obligation within the time specified by this court. There is an enabling provision which permits the regional authority to extend the export obligation period in the two contingencies as provided under clause (b) and clause (c) of the Handbook of Procedures. In the facts of the present case, in view of the fact that the Joint Director General of Foreign Trade has allowed substitution of name of the new entity and its IEC number with extension of export obligation period by six months under the directions of this court, it is not possible for him to extend such period on his own at the request of the petitioners. It is in these circumstances, that though the power of extension is vested in the regional authority then he may not be in a position to exercise such power unless permitted by this court. Therefore, it would be necessary for this court to issue appropriate directions to the concerned authority. The second respondent Joint Director General of Foreign Trade is directed to allow extension of appropriate period of the Handbook of Procedures upon charging of composition fee as applicable either under clause (b) or clause (c), as the case may be, and intimate the petitioners about the amount payable by them. Upon such intimation being received, the petitioners shall deposit such amount of composition fee within ten days of receipt of such communication. Petitioners application is allowed.

[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**

Authors:

Timir Baran Chatterjee

M.Com, FCS, MBA (International Business)-IIFT, ACMA

Vivek Jalan
FCA, LL.M, LL.B., B.Com (Hons.)

Published by:

BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999
Cell : 9830010297, 9331018333
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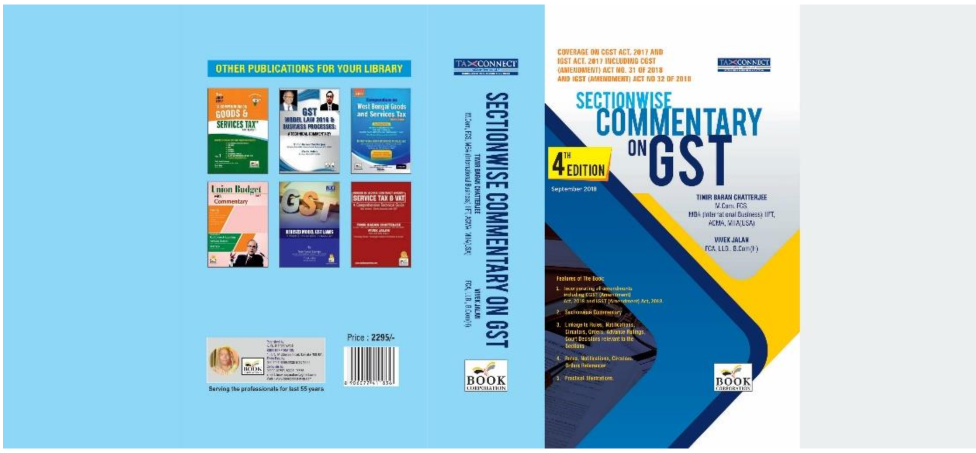
IN STANDS

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**

Authors:

Timir Baran Chatterjee

M.Com, FCS, MBA (International Business)-IIFT, ACMA

Vivek Jalan
FCA, LL.M, LL.B., B.Com (Hons.)

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