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Mumbai :Building No 9, Flat 403, Lodha Eternis, 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 global coronavirus pandemic is leaving its scars quite visibly on the industrial manufacturing sector. Production has come to a halt due to lockdown and even when relaxations have been given, the supply chain is not yet in place to support full-fledged manufacturing. At the same time consumption is also severely dampened, closing opportunities for cash flows and revenues. Within the manufacturing sector MSMEs are the hardest hit, with many of them getting close to bankruptcy. Hence, we are discussing 7 steps that can power an industrial revival -

- **To carry out Labour reforms:** It is time that the most result oriented and useful 'ease of doing business' EoDB practices from across the country be mandated in all the states uniformly so as to increase the overall attractiveness of the country as a whole. Time is ripe to introduce The Four Wage Codes as specified in the budget. **Any existing or new Industry coming to India would require the right labour laws to do business. Most of all has the confidence of making a hassle free exit if required.**

- **To create Land and Industrial Infrastructure:** The biggest USP of our flourishing neighboring countries has been their largescale industrial parks with the highest quality of infrastructure. The Centre should work with states to develop large self-contained industrial parks and industrial corridors. The states can contribute land while infrastructure funding can be provided by the Centre.

- **To improve incentivize exports:** To enhance the quality of products that are going to be exported, soft loans for procuring best quality machinery are needed, along with training of staff to maintain international standards in production. An attractive package of incentives on exports is another must. RoDTEP (Remission of Duties and Taxes on Export Product) Scheme under the Foreign Trade Policy should also provide the right incentive to exporters, atleast same as MEIS.

- **Waiver of Interest on Working Capital Loans:** The RBI has allowed a moratorium on interest payment for 3 months i.e. March to May 2020. This moratorium just shifts the interest burden for 3 months and does not provide any interest relief during the lockdown period or the resultant economic slump period. During this time the fixed expenses like Salaries, Electricity expenses, Rent, etc also continues. In this time, merely deferment of interest would not serve the entire purpose. It is expected that the Government should –

  a. Provide complete waiver of interest by banks during the First Quarter of 2020-21. This period is expected to suffer from uncertainties of complete/ partial lockdown or the immediate after effects of such lockdown.

  b. The moratorium period for deferment of interest should start after first quarter and continue till the second quarter of 2020-21. The period of payment of interest should thus start from September 2020-21.

EDITORIAL

- **Provision of Temporary Bridge Working Capital -**The cash flow during the period of lockdown has almost completely dried. Suppliers payments are being stalled across Industries and terms of payments are being re-negotiated. In many cases the terms of payments of suppliers are being shifted forward by 3 months or 6 months. In such a scenario, it will be tough for business entities to resume their business since they need to pay their own creditors a minimum sum to resume supplies.

  It is estimated that the wheel of cash flows would take a minimum of 30 days after lockdown to somewhat start rolling again. To meet this gap, financial institutions should offer 25% of additional working capital loan with a moratorium of 6 month for payment of interest and principal. The repayment terms of such a Temporary Bridge Working Capital Loan should be by way of 12 equated instalments. Interest for such loan should be based on banks MCLR or be linked with REPO rates.

- **Relief for payments on account of letter of credits:** There will be cases where payments of Letter of Credits will fall due during the lockdown or just immediately after lockdown. Since there will be no cash inflows or very minimum cash inflows, there is every possibility of defaults and devolvement. Banks should honour their commitment to domestic or overseas financial institutions in such situations.

  For the Business, such amount should be treated as short term working capital loans with a moratorium period of 3 months and payable post the moratorium period in 6 equal instalments. It may be added here that In respect of CC/OD it has already been directed to the institutions to recalculate the 'drawing power' by reducing the margins and/or by reassessing the working capital cycle.

  However there is no such relief in respect of obligation pertaining to Letter of Credits.

  Such defaults should also not be treated as defaults, concession or change in terms and conditions of loan agreements or change in classification. There should not be any downgrading of credit rating or downgraded reporting to Credit Information Companies (CICs) or any other institutions, by the lending institutions.

- **Insurance policy renewals during lockdown:** It should be provided that all insurance policies like employee health, fire, natural calamities, loss of profit, etc which are expiring during the lockdown should stand renewed with existing terms for 3 months and the premium would be payable within 30 days of withdrawal of lockdown. The said premium would be on the basis of renewed terms and conditions.

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

NOTIFICATION/CASE LAW

INCOME TAX (8TH AMENDMENT) RULES, 2020

OUR COMMENTS: The Central Board of Direct Taxes, Ministry of Finance, Government of India **vide Notification No.23/2020 dated 06.05.2020** had substituted Rule 44G read with section 295 of the Income Tax Act, 1961. Format of Form No. 34F has also been substituted. Rule 44H of Income Tax Rules, 1962 has been omitted.

[For details please consider the said Notification]

THE PR. COMMISSIONER OF INCOME TAX BELAGAVI. VERSUS M/S. RYATARA SAHAKARI SAKKARE KARKHANE NIYAMITHA-2020 [KARNATAKA HIGH COURT]

Brief: As SCN issued u/s 274 does not specifically disclose the charge against the Assessee as to whether it is for concealment of particulars of income or furnishing of inaccurate particulars of income. Hence, ITAT declared such SCN incorrect.

OUR COMMENTS: In the present case, the assessee had filed return of income declaring nil income. The case was selected for scrutiny and Assessing Authority concluded the assessment as against nil income declared after giving credit for set-off of loss carried forward. The Assessing authority during the assessment proceedings has noticed that the assessee claimed depreciation of ₹ 10,23,53,309/- as against admissible depreciation of ₹ 1,44,74,986/-. Thus, the Assessing Authority disallowed a payment made to harvesters/transporters and vehicle hire charges and legal fees. The said order having reached finality, the Assessing Authority initiated penalty proceedings in respect of aforesaid two claims and passed an order under Section 271(1) (c) of the Act levying penalty against which the assessee had preferred an appeal before the CIT(A) which came to be dismissed for want of prosecution. Being aggrieved by the same, the assessee filed an appeal before the ITAT. On further appeal filed by the Revenue before the Karnataka ITAT, the assessee had also filed cross-objection challenging the notice issued by the Revenue under Section 274 of the Act as defective. The ITAT placing reliance on the judgment of this Court in the case of CIT(A) Vs. Manjunatha Cotton and Ginning Factory reported in 2013 held that imposing of penalty under Section 271(1) (c) of the Act is bad in law and invalid for the reason that the show cause notice issued u/s 274 of the Act does not specify the charge against the assessee as to whether it is for concealment of particulars of income or for furnishing of inaccurate particulars of income. It is also noticed that SLP preferred by the Revenue against the decision rendered by this Court in the case of Manjunatha Cotton and Ginning Factory (supra) has been dismissed. It is apparent that the show-cause notice issued u/s 274 of the Act does not specifically disclose the charge against the Assessee as to whether it is for concealment of particulars of income or furnishing of inaccurate particulars of income, which is sine-quo-non for issuance of show-cause notice and for want of such particulars, the Tribunal set-aside the order of the penalty levied on the Assessee. In the circumstances, the questions of law being answered in the case of Manjunatha Cotton and Ginning Factory (supra) confirmed by the Supreme Court, we do not find any reason to entertain the present appeal to answer the questions of law raised by the appellant-Revenue. Hence, the appeal stands dismissed.

[Decided in favour of the assessee]

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS

CGST (5TH AMENDMENT) RULES, 2020

<u>OUR COMMENTS</u>: The Central Board of Direct Taxes, Ministry of Finance, Government of India **vide Notification No.38/2020-CGST dated 05.05.2020** had notified that such notification shall amend the rules of CGST (5th Amendment) Rules, 2020.

[For details please consider the said Notification]

AMENDMENT IN SPECIAL PROCEDURE FOR CORPORATE DEBTORS UNDERGOING THE CIRP UNDER IBC,2016

<u>OUR COMMENTS</u>: The Central Board of Direct Taxes, Ministry of Finance, Government of India **vide Notification No.39/2020-CGST dated 05.05.2020** had notified that such notification seeks to make amendments to special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016.

[For details please consider the said Notification]

EXTENSION OF VALIDITY OF E-WAY BILLS GENERATED TILL 24.03.2020 AND WHO WAS EXPIRING DURING THE PERIOD 20.03.2020 TO 15.04.2020

<u>OUR COMMENTS</u>: The Central Board of Direct Taxes, Ministry of Finance, Government of India **vide Notification No.40/2020-CGST dated 05.05.2020** had notified that such notification seeks to extend the validity of e-way bills till 31.05.2020 for those e-way bills which expire during the period from 20.03.2020 to 15.04.2020 and generated till 24.03.2020.

[For details please consider the said Notification]

EXTENSION OF FURNISHING OF FORM GSTR 9/9C

<u>OUR COMMENTS</u>: The Central Board of Direct Taxes, Ministry of Finance, Government of India **vide Notification No.41/2020-CGST dated 05.05.2020** had notified that such notification seeks to extend the due date for furnishing of FORM GSTR 9/9C for FY 2018-19 till 30th September, 2020.

[For details please consider the said Notification]

EXTENSION OF GSTR-3B IN LADAKH FOR JAN-MARCH 2020 RETURNS

<u>OUR COMMENTS</u>: The Central Board of Direct Taxes, Ministry of Finance, Government of India **vide Notification No.42/2020-CGST dated 05.05.2020** had notified that such notification seeks to extend due date for furnishing FORM GSTR-3B for Jan-March 2020 returns for the taxpayers registered in Ladakh.

[For details please consider the said Notification]

FEMA

CASE LAW

DATARAM SINGH VERSUS STATE OF UTTAR PRADESH AND ANR. - 2018 [SUPREME COURT]

Brief: Grant of Bail through fundamental postulate of criminal jurisprudence. A fundamental postulate of criminal jurisprudence is the presumption that a person is believed to be innocent until found guilty.

OUR COMMENTS: In the present case, the FIR was lodged against the appellant that he had cheated the complainant for a whole sum amount and committed an offence punishable u/s 419,420, 406 and 506 of the Indian Penal Code. Cognizance was taken and summons issued to the appellant by the concerned Magistrate in the complaint case. After the long time the chargesheet was was filed by the investigating officer but no arrest of the appeallant was done. Hence, fearing from the chargesheet the appellant moved to the High Court to quash the FIR. But two months time to the appellant was granted by the High Court to appear before the trial judge and no arrest will be done was directed by the High Court. The appellant went on appearing before the trail judge and eventually got judicial custody. He went to various High Courts for bail but bail was rejected. Then he appealed to Supreme Court. Hence, the Supreme Cout held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory. It is not necessary to go into the correctness or otherwise of the allegations made against the appellant. This is a matter that will, of course, be dealt with by the trial judge. However, what is important, as far as we are concerned, is that during the entire period of investigations which appear to have been spread over seven months, the appellant was not arrested by the investigating officer. Even when the appellant apprehended that he might be arrested after the charge sheet was filed against him, he was not arrested for a considerable period of time. When he approached the Allahabad High Court for quashing the FIR lodged against him, he was granted two months time to appear before the trial judge. All these facts are an indication that there was no apprehension that the appellant would abscond or would hamper the trial in any manner. The trial judge, as well as the High Court ought to have judiciously exercised discretion and granted bail to the appellant. Hence, this appeal allowed.

[Decided in favour of the appellant]

CUSTOMS

NOTIFICATIONS/CASE LAW

AMENDMENT IN NOTIFICATION NO. 18/2019 DATED 06.07.2019

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 21/2020-Customs dated 05.05.2020** has notified that such notification seeks to amend Notification No. 18/2019-Customs dated 06.07.2019

[For further details please refer the notification]

EXCHANGE RATE OF FOREIGN CURRENCY

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 41/2020-Customs dated 06.05.2020** has notified exchange rate of foreign currency relating to import and export of goods.

[For further details please refer the notification]

M/S. R.K. DIGITAL SOLUTIONS VERSUS UNION OF LNDIA, THE CENTRAL BOARD OF LNDIRECT TAXES AND CUSTOMS - 2020 [TELENGANA HIGH COURT]

Brief: Payment of custom duty was exempted under Notification No. 82/2018- Customs dated 31.12.2018 with retroactive check of the certificate of origin.

OUR COMMENTS: In the present case, Petitioner herein is a partnership firm engaged in internal trade in various commodities by way of imports and exports. It imported certain quantity of gold granules vide six bills of entry, details of which are annexed in Annexure P.2. I. The petitioner classified the said imported goods under CTH No.7108 1300 of the Customs Tariff Act and claimed exemption from payment of Customs duty through Notification No.82 of 2018-Customs dated 31.12.2018 amending Notification No. 46/2011-Customs dated 01.06.2011. Petitioner contends that as per the said Notification as amended, goods imported from Indonesia falling under chapter sub-heading 71081300 of Customs Tariff, qualify for concessional rate of duty of customs at 0% during the material period of import under the subject six bills of entry. Petitioner contends that it had submitted to the Customs authorities, the Country of Origin Certificates required for claiming the duty exemption at the time of import itself, which are annexed to the Writ Petition as P.2.1/P-5.1 to P-5.6, and contended these certificates were issued by the competent office in Indonesia. Petitioner also contended that the respondents insisted for submissions of Bank Guarantee covering 100% of the duty exempted despite the petitioner submitting the certificates of Country Origin issued by the competent authority and despite the Central Board of Excise and Customs vide Circular No.38/2016 dt.22-08-2016; and on the insistence of the respondents it had executed a provisional duty bond supported by 100% Bank Guarantee from a Scheduled Bank to cover the exempted duty for provisional assessment of the subject Bills of Entry and release of goods. It was held by the High Court that is the duty of the respondents to complete the provisional assessment and also return the Bank Guarantees given by the petitioner towards the exports made by it under the Bills of Entry referred to above since there is no dispute now about the Country of origin of the goods in question. Respondents are directed to (i) release six Bank Guarantees furnished by the petitioner on or before 4.5.2020 since the petitioners have given Bonds for the goods covered by the 6 Bills of Entry, and (ii) also complete the provisional assessments in respect of the said Bills of Entry within a period of three months from the date of receipt of a copy of this order and communicate their deposition to the petitioner. Hence, the appeal was allowed.

[Decided in favour of the petitioner]

NOTIFICATION/TRADE NOTICE/CASE LAW

AMENDMENT IN EXPORT POLICY OF SANITIZERS

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade **vide Notification No. 04/2015-2020-FTP dated 06.05.2020** has prohibited the export of alcohol based hand sanitizers. All other items falling under the same ITCHS code are freely exportable.

[For further details please refer the notification]

CLARIFICATION WITH RESPECT TO SUBMISSION OF PRE-SHIPMENT INSPECTION CERTIFICATE (PSIC)

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade **vide Trade Notice No. 09/2020-2021-FTP dated 06.05.2020** has clarified that furnishing of scanned copy of pre-shipment certificate for import of metallic scrap and waste is mandatory instead of physical copy. The original physical copy of the PSIC needs to be submitted to Customs within 60 days of the clearance. This facility is allowed only till 30th June 2020 in view of the present situation of documents movement interruption due to COVID-19.

[For further details please refer the trade notice]

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

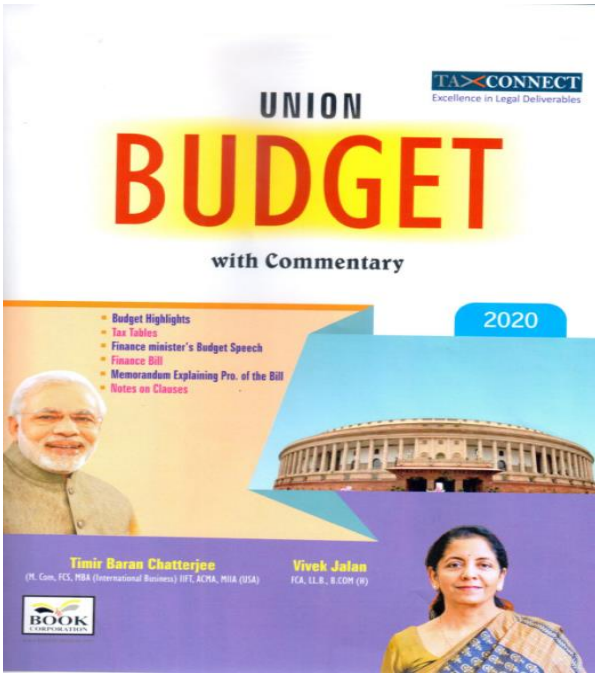
BREIF: Extension of time for fulfillment of export obligation under advance authorization is allowed.

OUR COMMENTS: In the given case, the applicants seek extension of two months and one day in respect of Advance Authorization for fulfilment of export obligations and further seek a direction to the office of the Additional/Joint DGFT to order regularization of fulfilment of export obligation in respect of Advance Authorization No. Being aggrieved by the decisions of the first and the second respondents herein in not substituting the name and Import-Export Code number (IEC number) of the first petitioner in two Advance Authorizations, the petitioners had approached this court by way of the captioned petition. 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 No, 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 para 4.42 of the Handbook of Procedures. However, in the facts of the present case in view of the fact that the Joint DGFT 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, 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 DGFT is directed to allow extension of appropriate period under paragraph 4.42 of the Handbook of Procedures upon charging of composition fee as applicable either under clause (b) or clause (c) 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. Hence, the application was allowed.

[Decided in favour of the applicant]

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.)

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4, R. N. Mukherjee Road
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Cell : 9830010297, 9331018333
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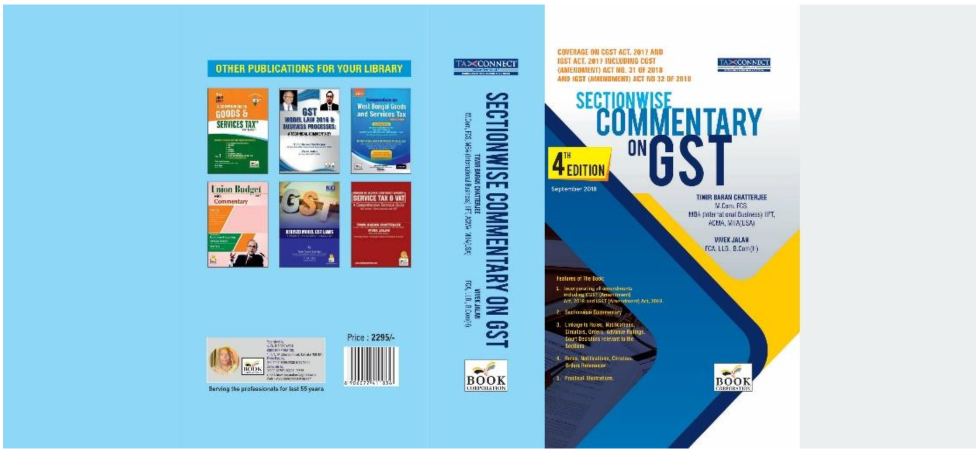
IN STANDS

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**
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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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BOOK CORPORATION
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Kolkata 700001
Phones: (033) 64547999
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