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The Bengal Chamber of Commerce & Industry

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EDITORIAL

Friends,

In 40th GST Council Meeting, the main focus of Hon'ble Finance Minister Smt. Nirmala Sitharaman was on this statement : "For the period from July 2017 to Jan 2020, which is prior to COVID-19 period, a lot of return filing has been pending."

In view of the above statement, the decisions taken by the Council Meeting are as under :

(1.) For all those who have no tax liabilities but who have not filed their returns between July 2017 to Jan 2020, there will be zero (NO) late fees.

(2.) For people who have tax liability, maximum late fee for non-filing of GSTR-3B returns for the period July 2017 to January 2020 has been capped to Rs 500. This will apply to all returns submitted during 01.07.2020 to 30.09.2020.

(3.) For small tax payers whose aggregate turnover is up to Rs. 5 crore, the rate of interest for late furnishing of GST returns for Feb, Mar and April 2020, beyond 06.07.2020: The rate of interest is being reduced from 18% to 9% per annum and that is only till 30.09.2020.

(4.) Small tax payers whose aggregate turnover is up to Rs 5 crore will be provided a waiver of late fees and interest if they file the form GSTR-3B for the supplies affected in months of May, June and July 2020, by September 2020 (Staggered dates to be notified).

(5.) In July, which is on the request of all the ministers, there shall be a meeting to discuss exclusively one agenda point – compensation cess. The compensation which has to be given to the states & if at all it results in some kinds of borrowing, how & who is going to pay for it.

(6.) Before the introduction of formula-based sharing of IGST between centre and states, there was a huge accumulation of IGST from 2017-18, which led to an ad hoc decision of sharing accumulated IGST in two halves. This anomaly had to be corrected.

In a move to provide relief to industry, the **Central Board of Indirect Taxes and Customs (CBIC)** has said **input tax credit accumulated on imports can now be availed** through refunds. The clarification was issued after trade flagged that input tax credit claims were being rejected by tax authorities since invoice details of the unused credit in several cases were not getting reflected in the return form GSTR 2A which has details of all inward supplies. As per law, credits not reflecting in GSTR 2A cannot be claimed.

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

INCOME TAX

CASE LAW

VEGA COTTON REPRESENTED BY ITS PROPRIETOR V. VIVEKANANDAN VERSUS THE CHECK POST OFFICER, THE DEPUTY COMMERCIAL TAX OFFICER (CT)-2020 [MADRAS HIGH COURT]

Brief: Whether the detention of goods on such sale of goods during interstate movement will be released?

OUR COMMENTS: In the present case, the petitioner claims to have received purchase orders from M/s. Sri Vishnu Mills, Coimbatore , M/s. Varun Mills, Udumalpet and PSM Textiles, Coimbatore 3.It is the case of the petitioner that the petitioner purchased cotton from a supplier namely Balaji Cotton Trading Company, Maharashtra for being supplied to the above customers. The tax invoices was raised by the supplier directly in the name of the above three persons to whom the supply was to be affected directly. The tax invoices specifically stated that the consignee were the three above named persons and the sale was on account of M/s. Vega Cotton, Karikal, the petitioner. While in transit, the three consignments of goods were detained by the 1st respondent near Kuppam, Krishnagiri District vide two different detention notices as one of the lorry had two consignments for being delivered in Coimbatore. Pursuant to the aforesaid detention of the three consignment of goods, the petitioner sent a representation dated 14.8.2013 and requested for immediate release of the detained lorry and the consignment of goods on the ground that the transaction was covered by E1 sales invoice and therefore the transaction outside the purview of the respondents under Tamil Nadu Value Added Act, 2006. The detention notice however reportedly stated that the transactions in the invoice were doubtful and would require further investigation. Thereafter, the impugned orders titled as "Draft Compounding Notice" were issued to the petitioner which not only demanding tax but also compounding/composition fee for the three consignments for the petitioner. The petitioner is aggrieved by the same and submits that the 1st respondent is neither authorised to detain the goods/vehicle nor call upon the petitioner to pay the compounding/composition fee/amount under section 72 of the Tamil Nadu Value Added Tax Act, 2006.Hence, the petition was filed by the petitioner in High Court. It was held by the Madras High Court that if at all, the Check Post authorities at Maharashtra border had found that the goods were not charged to tax on such inter-state sale, they would have detained the goods and the lorry there. In fact, they would have collected appropriate central sales tax before the goods left the Maharastra border under the provisions of the Central Sales Tax Act, 1956 - As such, no taxable event had taken place within the State of Tamil Nadu. There was also no scope for invoking Section 72 of the TNVAT Act, 2006 under the circumstances - the argument of the learned counsel for the petitioner that there was an E-1 transaction cannot be countenanced in the facts of the present case. Only such transaction would be exempted under section 6 (2) of the Central Sales Tax Act, 1956. This is on the underlying principle under the Central Sales Tax Act, 1956 that subsequent sale of goods in the course of interstate trade and commerce are not taxed twice. Hence, petition is allowed and decided in favour of appellant.

[Decided in favour of the Petitioner]

GST: IGST/CGST/SGST/UTGST

NOTIFICATIONS

FILING OF NIL RETURN IN FORM GSTR-3B BY SMS

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 44/2020-CGST dated 08.06.2020** has notified that such notification seeks to give effect to the provisions of Rule 67A for furnishing a nil return in FORM GSTR-3B by SMS.

[For further details please refer the notification]

SUBSTITUTION OF DATE BY THE AMENDMENT OF NOTIFICATION

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 45/2020-CGST dated 09.06.2020** has notified that such notification seeks to amend Notification No. 10/2020- Central Tax, dated the 21.03.2020. This notification shall come into force with effect from the 31.05.2020.

[For further details please refer the notification]

EXTENSION OF DATE TO PASS ORDER U/S 54(7) OF CGST ACT

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 46/2020-CGST dated 09.06.2020** has notified that such notification seeks to extend period to pass order under Section 54(7) of CGST Act. This notification shall come into force with effect from the 20.03.2020.

[For further details please refer the notification]

EXTENSION OF DATE OF E-WAY BILL GENERATED ON OR BEFORE 24.03.2020

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 47/2020-CGST dated 09.06.2020** has notified that such notification Seeks to amend Notification No. 40/2020 – Central Tax dated 05.05.2020 in respect of extension of validity of e-way bill generated on or before 24.03.2020 (whose validity has expired on or after 20th day of March 2020) till the 30th day of June. This notification shall come into force with effect from the 31.05.2020.

[For further details please refer the notification]

INTRODUCTION OF ODISHA GOODS AND SERVICES TAX (AMENDMENT) ORDINANCE, 2020

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 22/2020/L-Orissa SGST dated 11.06.2020** has introduced Odisha GST (Amendment) Ordinance, 2020 to further to amend the Odisha GST Act, 2017 so as to prescribe the manner and time limit for taking transitional credit and to extend the time limit in special circumstances and the matters connected thereto.

[For further details please refer the notification]

FEMA

CASE LAW

A. TAJUDEEN VERSUS UNION OF INDIA- 2014 [SUPREME COURT]

Brief: Whether the imposition of penalty on confiscation of seized amount by violating Section 9(1)(b) of the Foreign Exchange Regulation Act, 1973 is viable?

OUR COMMENTS: In the present case, Appellate Board set aside confiscation and ordered refund of penalty whereas High Court upheld the same - Held that:- There is no doubt whatsoever, that no reliance has been placed on the alleged statement made by the appellant before the officers of the Enforcement Directorate. Therefore, it was not open to the authorities to place reliance on the aforesaid statement while proceeding to take penal action against the appellant in furtherance of the aforesaid memorandum. The mere fact that he was not proceeded against, prima facie establishes in the absence of any evidence to the contrary that the assertion made by the appellant to the effect that he never made such statement, had remained unrefuted. Even though the aforesaid excuse may have been valid, if the allegation was, that the record of the statement made was not available with the officers of Enforcement Department at the time of the raid on 25.10.1989 yet to state that the aforesaid record was not available when the second statement was made at the office of the Enforcement Directorate, is quite ununderstandable. It is pertinent to mention, that the second statement was recorded by the Chief Enforcement Officer when the appellant – A. In the absence of cogent evidence it was not open to the Enforcement Directorate to place reliance on the same, for establishing the charges levelled against the appellant in memorandum. Had the statements of the appellant and his wife been corroborated by independent evidence of the nature indicated hereinabove, there could have been room for accepting the veracity of the statements made by the appellant – A. Tajudeen and his wife T. Sahira Banu to the officers of the Enforcement Directorate. Unfortunately, no effort was made by the Enforcement Directorate to gather any independent evidence to establish the veracity of the allegations levelled against the appellant, through the memorandum. We are of the considered view, that the officers of the Enforcement Directorate were seriously negligent in gathering independent evidence of a corroborative nature. We have therefore no hesitation in concluding that the retracted statements made by the appellant and his wife could not constitute the exclusive basis to determine the culpability of the appellant. Charge against the appellant under Section 9(1)(b) of the 1973 Act, cannot be established on the basis of newspaper sheets, in which the money was wrapped. The newspaper sheets relied upon, would not establish that the amount recovered from the residence of the appellant – A. Tajudeen was dispatched by Abdul Hameed from Singapore, through a person who was not an authorized dealer. Impugned judgment passed by the High Court deserves to be set aside. The same is accordingly hereby set aside. Resultantly, the entire action taken by the Enforcement Directorate against the appellant in furtherance of the memorandum dated 12.3.1990, is also set aside. As a consequence of the above, the Enforcement Directorate is directed to forthwith refund the confiscated sum of ₹ 8,24,900/-, to the appellant, as also, to return the amount of ₹ 1,00,000/-, which was deposited by the appellant as penalty. Hence, it was decided in favour of appellant.

[Decided in favour of the appellant]

CUSTOMS

NOTIFICATIONS

SPECIFICATION OF JURISDICTION OF COMMISSIONER (APPEALS) TO ASSESSMENT ORDERS PASSED BY FACELESS ASSESSMENT GROUPS

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 51/2020-Customs (N.T) dated 05.06.2020** has notified that amendment in Notification No.92/2017-Customs (NT), dated 28.09.2017 to specify the jurisdiction of Commissioner (Appeals) to assessment orders passed by Faceless Assessment Groups.

[For further details please refer the notification]

IMPOSITION OF PROVISIONAL ANTI-DUMPING DUTY ON IMPORT OF 1-PHENYL-3-METHYL-5-PYRAZOLONE ORIGINATING IN OR EXPORTED FROM CHINA

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 13/2020-Customs (ADD) dated 09.06.2020** has notified that such notification seeks to impose provisional anti-dumping duty on import of 1-phenyl-3-methyl-5-Pyrazolone originating in or exported from China PR for a period of six months from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

[For details please consider the said notification]

IMPOSITION OF ANTI DUMPING DUTY ON IMPORT OF FLEXIBLE SLABSTOCK POLYOL ORIGINATING IN OR EXPORTED FROM SINGAPORE

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 14/2020-Customs (ADD) dated 09.06.2020** has notified that such notification seeks to impose anti-dumping duty on import of Flexible Slabstock Polyol originating in or exported from Singapore for a period of 5 years, in pursuance of sunset review final findings issued by DGTR.

[For details please consider the said notification]

EXTENSION OF LEVY OF ANTI-DUMPING DUTY ON NYLON TYRE CORD FABRIC ORIGINATING IN OR EXPORTED FROM CHINA

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 15/2020-Customs (ADD) dated 10.06.2020** has notified that such seeks to amend notification No. 30/2015-Customs (ADD) dated 12th June, 2015 to extend the levy of Anti-Dumping duty on nylon tyre cord fabric originating in or exported from China for a further period of 6 months.

[For details please consider the said notification]

DGFT

NOTIFICATIONS/PUBLIC NOTICE

AMENDMENT IN EXPORT POLICY OF DIAGNOSTIC KITS/ LABORATORY REAGENTS/DIAGNOSTIC APPARATUS

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade vide **Notification No. 09/2015-2020-FTP dated 10.06.2020** has restricted the export policy of Diagnostic Kits/Laboratory Reagents/Diagnostic Apparatus. All diagnostic kits/reagents/instruments/apparatus falling under the HS codes not mentioned in the notification are freely exportable subject to submission of an undertaking by the exporter to the Customs Authorities at the time of export.

[For further details please refer the notification]

AMENDMENT IN SCOMET ITEMS UNDER ANNUAL SCOMET UPDATES - 2020

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade vide **Notification No. 10/2015-2020-FTP dated 11.06.2020** has notified to amend Appendix 3 (SCOMET Items) to Schedule - 2 of ITC (HS) Classification of Export and Import Items, 2018. The updated Appendix 3 (SCOMET Items) to Schedule- 2 of ITC (HS) Classification of Export and Import Items, 2018 including annexure to this notification would be uploaded on the web-portal of DGFT under heading Policies and Sub-heading SCOMET (http://dgft.gov.in/scomet).

[For further details please refer the notification]

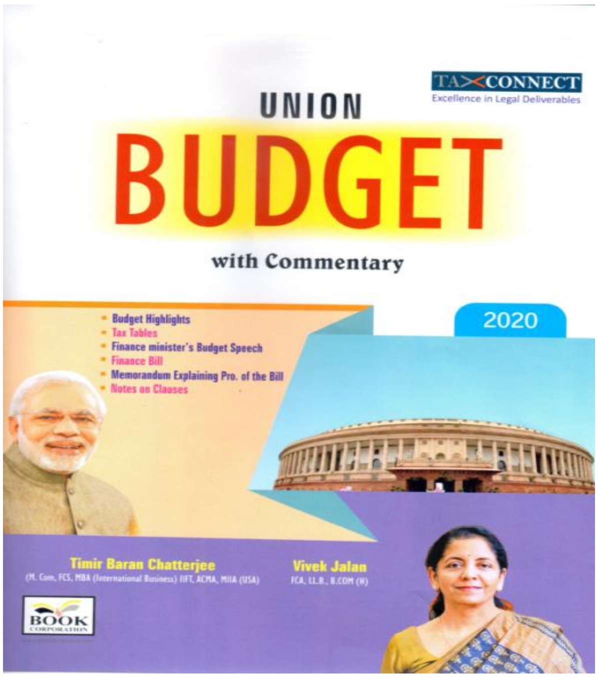
AMENDMENT IN PARA 2.20(B) OF HANDBOOK OF PROCEDURES (HBP) OF FOREIGN TRADE POLICY 2015-2020

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade vide **Public Notice No. 10/2015-2020-FTP dated 08.06.2020** has amended Para 2.20(b) of Handbook of Procedures (HBP) of Foreign Trade Policy 2015-20 regarding revalidation of Export Authorisation /License for Non-SCOMET and SCOMET item from DGFT (Hqrs).

[For further details please refer the public notice]

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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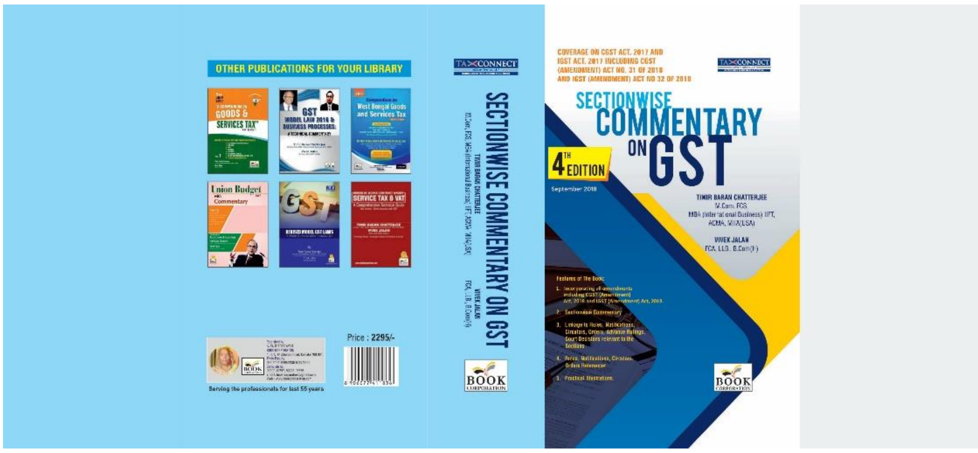
IN STANDS

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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