280th Issue: 6th December 2020 - 2nd January 2020

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Mumbai : A/1001, Cirrus Bldg, Cosmos Paradise; Pokhran Road No. 1, Thane (West), Maharashtra – 400606
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New Delhi : C73, 2nd Floor, Sector 50, Mayfield Garden, Gurgaon 122001
Kolkata :1, Old Court House Corner, "Tobacco House" 1st Floor, R.No.-13 (North), Kolkata-700001
: Room No 119; 1st Floor; Diamond Arcade; 1/72, Cal Jessore Road; Kolkata – 700055

Dubai :Azizi Feirouz, 803, 8th Floor, AL Furjan, Opposite Discovery Pavillion, Dubai, UAE

Contact : +91 8017741711; 9830661254

Website : www.taxconnect.co.in
Email : info@taxconnect.co.in

EDITORIAL

Friends,

CBIC has introduced some changes in GST Laws which may lead to impact on the business. We have already shared our Analysis of the changes vide a separate document. In this release we will discuss the other issues related to taxation and other legal changes in the bygone two weeks.

CBIC has started auto-population of e-invoice details into GSTR-1. The auto-population of e-invoice details pertaining to the period December, 2020 into GSTR-1 will start in the first week of December. The details of e-invoices pertaining to periods of October and November, 2020, would be processed and made available in incremental manner from 13.12.2020 onwards. The processing and availability of complete data for the months of October and November, 2020 may take upto 2 weeks.

As per Press Release 03.12.2020, Government of Chhattisgarh has communicated its acceptance of Option-1 to meet the revenue shortfall arising out of GST implementation. The number of States who have favoured Option-1 has gone up to 27. All States except Jharkhand and all the 3 Union Territories with Legislative Assembly have decided in favour of Option-1. Chhattisgarh has become the latest State to go for Option-1. Chhattisgarh will get Rs.3,109 crores through special borrowing window to meet the GST implementation shortfall. Permission to raise additional Rs.1,792 crore through borrowings also issued to Chhattisgarh.

The Income Tax Department has issued refunds worth over Rs 1.36 lakh crore to over 41 lakh taxpayers so far this fiscal. This includes personal income tax (PIT) refunds amounting to Rs 36,028 crore and corporate tax refunds of over Rs 1 lakh crore during this period.

The net GST revenue received in the month of November 2020 is Rs 1,04,963 crore where CGST comprises Rs 19,189 crore, SGST settled Rs 25,540 crore, IGST comprises Rs 51,992 crore along with Rs 22,078 crores received on import of goods and Cess is Rs 8,242crore as well as Rs 809 crores collected on import of goods. Rs 82 lakhs is the sum collected for GSTR 3B returns furnished in November month up to 30th November 2020.

As per Press Release dated 07.12.2020 fictitious transactions racket of Rs. 290.70 Crore busted by DGGI, Nagpur. Arrest of Director of M/s M & M Advisors & Consultants Private Limited at Mumbai. Recovery of Input Tax Credit of Rs. 25.22 Crore in Cash. During investigations, the Rights Assignors paid the entire Input Tax Credit of Rs. 25,22,62,786/- in Cash, which was the Input tax Credit passed on by this Company. The Director of the Company who on inquiries with the Ministry of Corporate Affairs was found to be the Director of 3 more Companies, was arrested on 5th December, 2020 and has been remanded to Judicial Custody by the Hon'ble Court till 18th December, 2020.

The Income Tax Department started a search and survey action on 04/12/2020 in the cases of leading Coal Traders of Assam. During the course of the search action, it has been established that the group engages in out-of-books

EDITORIAL

transactions. Handwritten documents/Diaries regarding cash transactions have been recovered which are not reflected in the regular books of accounts. Such transactions detected so far across all the locations combined is upwards of Rs. 150 crore, of which payments made of a total of more than Rs. 100 crore have been found to be violative of various sections of the Income-tax Act, 1961. Such seized documents are voluminous and are being investigated further. Further, loan transactions made in cash were also found to be more than Rs. 10 crores. Stock difference of more than Rs. 7 crores were found and no cogent explanation regarding the same was provided. In the office of the Kolkata-based shell company acquired by one of the entities of the group, no books of accounts and ROC mandated documents were found, proving the same to be a bogus entity used only to route unaccounted income of the group. Unexplained cash of approximately Rs. 3.53 crore has also been found during the search, which has been seized by the Department. Cash investments in Share Capital during demonetization period were also detected.

All States choose Option-1 to meet the GST implementation shortfall. As per Press Release dated 05.12.2020 Jharkhand has become the latest State to go for Option-1. Jharkhand will get Rs. 1,689 crore through special borrowing window to meet the GST implementation shortfall. Permission to raise additional Rs. 1,765 crore through borrowings also issued to Jharkhand. All the 28 States and 3 Union Territories with legislature have decided to go for Option-1 to meet the revenue shortfall arising out of the GST implementation.

Goods and Services Tax (GST) payers will need to fill only four GSTR-3B returns in a year instead of 12 at present from January 1, 2021. This comes after the government introduced the Quarterly filing of Return with Monthly Payment (QRMP) scheme as part of ongoing reforms. The scheme, which is optional, will ease the returns filing process for 9.4 million taxpayers, which is about 92% of the total GST base that have annual aggregate turnover up to Rs 5 crore.

The Income Tax Department on 14.12.2020 has given a One-time relaxation to update UDIN has been enabled. Kindly update the UDIN latest by 31st December, 2020 for the audit report/certificates uploaded from 27th April, 2020 onwards to avoid invalidation.

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

Editor:

Vivek Jalan

FCA, LL.M (Constitutional Law), LL.B, CIDT(ICAI),B. Com (H)

Partner - Tax Connect Advisory Services LLP

Co-Editors:

Rohit Sharma

Senior Manager – Tax Connect Advisory Services LLP

Rajanikant Choudhury

Manager - Tax Connect Advisory Services LLP

SYNOPSIS

TAX CALENDAR

Due date	Form/Return /Challan	Reporting Period	Description
7th December 2020	ITNS-281	November 2020	Due Date for TDS/TCS Payments
10th December 2020	GSTR-7	November 2020	Due Date for furnishing GST-TDS Return
10th December 2020	GSTR-8	November 2020	Due Date for furnishing GST-TCS Return for taxpayers who are E-Commerce Agencies
11th December 2020	GSTR-1	November 2020	Due Date for furnishing details of outward supply for taxpayers whose turnover is more than 1.5 Crores
13th December 2020	GSTR-6	November 2020	Due Date for furnishing ISD Return
15th December 2020	ITNS-280	Oct to Nov 2020	Due Date for Payment of Advance Tax
15th December 2020	N.A.	November 2020	Due Date for Payment of Employee's State Insurance and Provident Fund
20th December 2020	GSTR-3B	November 2020	Due Date for furnishing summary of outward and inward supplies for taxpayers whose turnover is more than 5 Crores
20th December 2020	GSTR-5 & 5A	November 2020	Due Date for furnishing summary of outward and inward supplies for taxpayers who are Non-Resident Foreign Taxpayers and Non-Resident OIDAR Service Providers
21st December 2020	NA	November 2020	Due Date for payment of Professional Tax
22nd December 2020	GSTR-3B	November 2020	Due Date for furnishing Summary of Outward and Inward Supplies of the states Chhattisgarh, MP, Gujarat, Daman and Diu, Dadra and Nagar Haveli, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, TN, Puducherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh (Turnover upto 5 Crore)
24th December 2020	GSTR-3B	November 2020	Due Date for furnishing Summary of Outward and Inward Supplies of the states Jammu and Kashmir, Ladakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, UP, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha (Turnover upto 5 Crore)
31st December 2020	GSTR-9 & 9C	F.Y.2018-19	Due Date for furnishing Annual Return and Reconciliation Statement
31st December 2020	Form 3CA-3CD Form 3CB-3CD	F.Y.2019-20	Due Date to Furnish Tax Audit Report
31st December 2020	ITR 1 to 7	F.Y.2018-19	Due Date of furnishing Income Tax Return whose audit is not applicable

INCOME TAX

CASE LAW

THE COMMISSIONER OF INCOME TAX, CHENNAI VERSUS M/S. OPG ENERGY P. LTD. -2020 [MADRAS HIGH COURT]

Brief: **"Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee was entitled to claim deduction under Section 80IA for captive power consumption relating to the assessment year 2006-07?"**

OUR COMMENTS: In the present case, the issue involved is as to whether the benefit of such deduction under Section 80IA of the Act to the new Industrial Undertaking is available to the Assessee to the extent of power charges realised by it from the Group Company situated within the same premises where the Assessee manufactures or produces Electricity energy. We are also convinced that what are all to be satisfied in order to be eligible for the deduction as provided under Sec.80IA(1), the assessee should have set up an undertaking or an enterprise and from and out of such an undertaking or an enterprise set up, any profit or gain is derived, falling under Sec.80IA(4) of the Act such profit or gain derived by the assessee can be deducted in its entirety for a period of 10 years starting from the date of functioning of the set up. The contention that profit or gains can be claimed by the assessee only if such profit or gain is derived by the sale of its product or power generated to an outsider cannot be the manner in which the provisions contained in Section 80IA(1) can be interpreted. The expression 'derived'; used in the said Sec.80IA(1) in the beginning as well as in the last part of the sub-sec.(4) makes it abundantly clear that such profit or gain could be obtained by one's own consumption of the outcome of any such undertaking or business enterprises as referred to in sub-sec.(4) of Sec.80IA. In Sec.80IA(1) also no restriction has been imposed as regards the deriving of profit or gain in order to state that such profit or gain derived only through an outside source alone would make eligible for the benefits provided in the said Section. Therefore, there is no difficulty in holding that captive consumption of the power generated by the assessee from its own power plants would enable the respondent/assessee to derive profit and gains by working out the cost of such consumption of power inasmuch as the assessee is able to save to that extent which would certainly be covered by Sec.80IA(1). When such will be the outcome of own consumption of the power generated and gained by the assessee by setting up its own power plant, we do not find any lack of merit in the claim of the respondent/assessee when it claimed by relying upon Sec.80IA(1) of the Act by way of deduction of the value of such units of power consumed by its own plant by way of profit and gains for the relevant assessment years." In view of the aforesaid submissions made at the Bar by the learned counsels, the controversy is no longer res integra and the Assessee is clearly entitled to the benefit under Section 80IA of the Act on the Power Charges realised by it from their Sister Companies or Group Companies though situated in the same premises for the Electricity energy produced by it. Therefore, we do not find any question of law to be arising in the present Appeal and the same is devoid of merits and it is liable to be dismissed. Hence, Decided in favour of assessee.

[Decided in favour of the assessee]

GST

NOTIFICATION/CASE LAW

EXTENSION ON GENERATION OF QR CODE FOR B2C INVOICES

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No. 89/2020-CGST dated 29.11.2020** has extended the due date for generation of QR Code for B2C Invoices from 01.12.2020 to 01.04.2021.

[For details please consider the said notification]

THERMAX LIMITED V/S UNION OF INDIA-2020 [GUJARAT HIGH COURT]

Brief: Petitioner is entitled for refund of amount of duty paid in cash instead of credit to CENVAT account.

OUR COMMENTS: In the present case, the petitioner Company engaged in the manufacture of Boilers, Heaters, Heat Pumps and Pollution control equipment for industrial use and all these equipments are capital goods falling under Chapter 84 of the Central Excise Tariff Act, 1985. The petitioner availed credit on the inputs, capital goods and input services used in the manufacturing of finished goods which are chargeable to excise duty. It is the case of the petitioner that one of the customers had placed order on the petitioner for supply of Boiler at Saudi Arabia. Therefore, with a view to carry out complete assemble, the petitioner signed a lease agreement with Special Economic Zone and the petitioner therefore temporarily given Survey for assembling the boilers. The petitioner exported the boilers on payment of applicable excise duty. The petitioner filed a rebate claim under Rule 18 of the Central Excise Rules, 2002. Thereafter, after a period of three months a show cause notice was issued proposing to deny rebate claimed by the petitioner. The petition was rejected by the respondent and thereafter assessee filed writ petition under Article 226 of the Constitution of India and seeking direction to the Authority to pay the refund in cash instead of crediting the same in CENVAT Account which has become redundant after advent of GST Regime. The High Court held that the duty which was paid by the petitioner was otherwise not payable on the exported goods and therefore, rebate of such duty was not admissible in terms of Rule 18 of the CER, 2002. However, the duty which was paid by the petitioner is held to be treated as voluntary deposit. As per Section 142(3) of the CGST Act, every claim for the refund filed by any person before on or after the appointed day for refund of any amount of CENVAT credit, duty, tax, interest or any other amount paid under the existing law should be disposed of in accordance with the provisions of existing law and any amount eventually accruing to such person should be paid in cash. In view of this clear provision, the respondent-RA ought to have directed the sanctioning authority to refund the amount of the duty refundable to the petitioner in cash instead of credit in CENVAT Account. The impugned order is partly modified to the extent that instead of crediting the duty in the CENVAT account of the petitioner and the sanctioning Authority is directed to refund the amount in cash to the petitioner.

[Decided in favour of the petitioner]

FEMA

NOTIFICATIONS/CIRCULAR

RESERVE BANK'S POWER TO RESTRICT EXPORT OR IMPORT OF CURRENCY

OUR COMMENTS: The Government of India, Reserve Bank of India **vide Notification No. FEMA6(R)/(3)/2020-RB dated 03.12.2020** has restricted the power of RBI for import and export of Indian currency. RBI has issued this notification in public interest and restricted the amount of Indian currency notes of Government of India and/or of Reserve Bank, and/or foreign currency, on case-to-case basis, that a person may bring into or take outside India and prescribe such conditions as it may deem necessary.

[For further details please refer the notification]

FOREIGN EXCHANGE MANAGEMENT (NONDEBT INSTRUMENTS) (FOURTH AMENDMENT) RULES, 2020

OUR COMMENTS: The Government of India, Reserve Bank of India **vide Notification No. S.O.4441(E) dated 08.12.2020** has inserted Rule 6(a) of the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 which states that a Multilateral Bank or Fund, of which India is a member, shall not be treated as an entity of a particular country nor shall any country be treated as the beneficial owner of the investments of such Bank or Fund in India. Serial No. 6 of Schedule 1 of the said rule is also amended.

[For further details please refer the notification]

EXTERNAL TRADE FACILITATION THROUGH EXPORT OF GOODS AND SERVICES

OUR COMMENTS: The Government of India, Reserve Bank of India **vide Circular No. RBI/2020-21/77 dated 04.12.2020** has described about enhancement of the ease of doing business and quicken the approval process. It has been decided to delegate more powers to the Authorised Dealer Category – I banks (AD banks) in the following areas:

1. **Direct Dispatch of Shipping Documents:** AD banks have been allowed to regularise cases of dispatch of shipping documents by the exporter direct to the consignee or his agent resident in the country of the final destination of goods, up to USD 1 million or its equivalent per export shipment.
2. **"Write-off" of unrealized Export bills:** Attention is invited to A.P. (DIR. Series) Circular No. 88 dated March 12, 2013 on "writeoff" of unrealized export bills. To provide greater flexibility to the AD banks and to reduce the time taken for according such approvals, the extant procedure is revised.
3. **Set-off of Export receivables against Import payables:** Presently, AD banks are allowing exporters/importers to set-off their outstanding export receivables against outstanding import payables from/to the same overseas buyer/supplier. The Bank has been receiving requests from AD banks, on behalf of their Importer/Exporter constituents, for allowing such set-off with their overseas group/associate companies either on net basis or gross basis, through an in-house or outsourced centralised settlement arrangement.
4. **Refund of Export Proceeds:** Now instructions have been given for permitting refund of export proceeds of goods exported from India.

[For further details please refer the Circular]

CUSTOMS

NOTIFICATIONS

NOTIFICATION FOR EXCHANGE RATE OF FOREIGN CURRENCY

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 113/2020-Customs (N.T) dated 17.12.2020** has notified exchange rate of foreign currency relating to imported and export goods.

[For further details please refer the notification]

EXTENSION OF ANTI DUMPING DUTY ON IMPORTS OF COLD-ROLLED FLAT PRODUCTS OF STAINLESS STEEL

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 44/2020-Customs (ADD) dated 03.12.2020** has notified that seeks to *amend Notification No. 61/2015-Customs (ADD) dated 11.12.2015* and *Notification No. 52/2017 – Customs (ADD) dated 24.12.2017* to further extend the levy of anti-dumping duty on imports of Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250 mm of non-bonafide usage falling under Customs Tariff Act, 1975, originating in or exported from, China, Korea, European Union, South Africa, Taiwan, Thailand and the USA imposed, for a period upto 31.01.2021.

[For further details please refer the notification]

RESCINDMENT OF LEVY OF ANTI-DUMPING DUTY ON IMPORTS OF "NYLON TYRE CORD FABRIC "

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 45/2020- Customs (ADD) dated 03.12.2020** has notified that seeks to rescind *Notification No. 30/2015-Customs (ADD), dated 12.06.2015* to revoke the levy of ADD on imports of "Nylon Tyre Cord Fabric " originating in or exported from China PR.

[For further details please refer the notification]

EXTENSION ON LEVY OF ANTI-DUMPING DUTY ON IMPORTS OF "FLOAT GLASS" FOR A PERIOD OF 2 MONTHS

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 46/2020-Customs (ADD) dated 07.12.2020** has notified that seeks to further amend *Notification No. 47/2015-Customs (ADD), dated 8th September 2015* to extend the levy of ADD on imports of "Float Glass" originating in or exported from China PR, for a period of two months, upto and inclusive of 6th February 2021.

[For further details please refer the notification]

IMPOSING ANTI-DUMPING DUTY ON IMPORTS OF DIMETHYLACETAMIDE ORIGINATED IN OR EXPORTED FROM CHINA PR AND TURKEY

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 47/2020-Customs (ADD) dated 15.12.2020** has notified that Seeks to amend notification No. 12/2018-Customs (ADD) dated 20.03.2018 imposing anti-dumping duty on imports of Dimethylacetamide originated in or exported from China PR and Turkey, to exclude goods of certain specification from the product under consideration.

[For further details please refer the notification]

DGFT

CASE LAW

M/S. ZITAN TRADING CORPORATION VERSUS UNION OF INDIA AND 3 OTHERS-2020 [TELANGANA HIGH COURT]

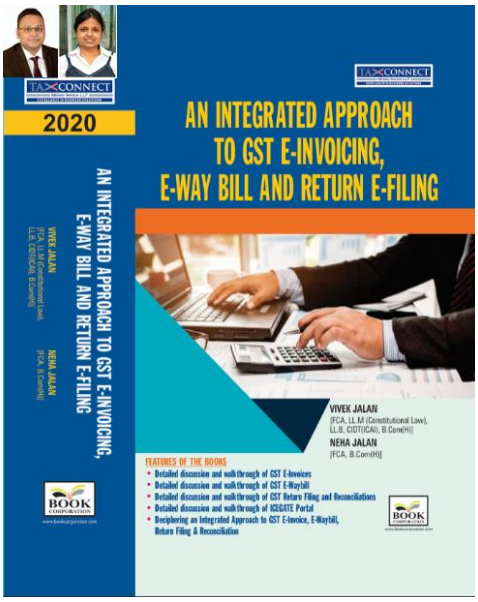
Brief: Permission to petitioner to export the same after obtaining permission/export licence for such export from the Directorate General of Foreign Trade and refusal to issue Certificate of Origin to the petitioner for export of red sanders.

OUR COMMENTS: In the present case, Telangana High Court held that the Principal Chief Conservator of Forests of both States had certified in para-18 of the impugned order itself that the Red Sanders wood stacked in the Depot of the petitioner is genuine and the permits through which the said logs were transported by the petitioner to his Depot are also genuine. There is no dispute thus about how the petitioner procured the stock in its custody and its genuineness. So, they cannot now create new grounds, not within their purview, for refusing to issue the Certificate of Origin. It is not within the jurisdiction of the Principal Chief Conservator of Forests of both States to decide whether or not petitioner, who seeks such Certificate of Origin, when the stock is in log form, would get an export licence from the DGFT/Union of India. Neither the State of Telangana nor the State of Andhra Pradesh have any business to intrude into the field occupied by the Union of India in relation to foreign trade and interfere with exercise of discretionary power by the Union of India and the Director General of Foreign Trade in matters of export policy. The issuance of Certificate of Origin to another business entity by the Principal Chief Conservator of Forests of State of Telangana, who also, like the petitioner, wanted to export in log form after allotment on condition of export in value added form – the discriminatory treatment given to petitioner. Thus notwithstanding that the applicant M/s.Rocky Red Sanders Wood Musical Instruments Exports Limited had also been allotted Red Sanders for export in value added products form, its application for Certificate of Origin of stock in log form was approved and was issued by the Principal Chief Conservator of Forests, State of Telangana. We are unable to understand why the Principal Chief Conservator of Forests of the States of Telangana and the State of Andhra Pradesh have applied a different standard when it comes to the request of the petitioner for issuance of a Certificate of Origin by insisting that they will consider such request only after the petitioner agrees to convert the logs into value added product form. They cannot discriminate against the petitioner and apply a different rule to the petitioner, which was not applied by them to M/s. Rocky Red Sanders Wood Musical Instruments Exports Limited. Since the export is to take place from the State of Telangana, where the stock of Red Sanders purchased by the petitioner is stored, it has to issue the Certificate of Origin. Other than that, when the stock is genuine, its transport to the State of Telangana is validly made, the State of Telangana has no choice but to issue the Certificate of Origin. It cannot raise irrelevant objections about conversion into value added product form because the stock was not purchased from the said State at all. The Writ Petition is allowed with costs of ₹ 10,000/- each to be paid to the petitioner by respondent. Proceedings jointly issued by respondents is declared as arbitrary and violative of Article 14 of the Constitution of India and a consequential direction is issued to respondents to forthwith issue Certificate of Origin to the petitioner in respect of stock of Red Sanders Wood stored in the licensed godown. Hence, petition is allowed.

[Decided in favour of the petitioner]

IN STANDS

AN INTEGRATED APPROACH TO GST E-INVOICING, E-WAYBILL & E-RETURN FILING



ABOUT THE BOOK: **This publication includes:**

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Authors:

Vivek Jalan
[FCA, L.LM (Constitutional Law), L.LB, CIDT(ICAI), B.Com(H)]

Neha Jalan
[FCA, B.Com(H)]

Published by:

BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
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Cell : 9830010297, 9331018333
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IN STANDS

Section wise Compendium on GST

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Authors:

Vivek Jalan
[FCA, L.LM (Constitutional Law), L.LB, CIDT(ICAI), B.Com(H)]

Pradip Kumar Das
[M.A. LL.B; Advocate Supreme Court & High Courts; Fr. Mem (Jud.) CESTAT]

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4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999
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OUR OFFICES:

MUMBAI

Building No.9, Flat- 403, Lodha Eternis, 11th Road, MIDC, Andheri(E)-400093

Contact Person: Rajanikant Choudhury

Email: rajnikant.choudhary@taxconnectdelhi.co.in

BANGALORE

A-414, Carlton Towers, 19th Main; Road Hal Old Airport Rd, Domlur, Bengaluru, Karnataka-560008

Contact Person: Manmit Sinha

Email: manmit.sinha@taxconnectdelhi.co.in

DELHI

C73, 2nd Floor, Sector 50, Mayfield Garden, Gurgaon 122001

Contact Person: Rohit Sharma

Email: rohit.sharma@taxconnect.co.in

KOLKATA

1, Old Court House Corner, "Tobacco House", 1st Floor, Room No. 13 (N), Kolkata-700001

Contact Person: Sweta Agarwal

Email: sweta.agarwal@taxconnectdelhi.co.in

KOLKATA

R No 119; 1st Floor; Diamond Arcade; 1/72, Cal Jessore Road; Kolkata – 700055

Contact Person: Sweta Agarwal

Email: sweta.agarwal@taxconnectdelhi.co.in

DUBAI

Azizi Feirouz, 803, 8th Floor, AL Furjan, Opposite Discovery Pavillion, Dubai, UAE

Contact Person: Nitesh Shaw

Email: nitesh.shaw@taxconnectdelhi.co.in

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