287th Issue: 28th February 2021 - 06th March 2021

TAX CONNECT

Knowledge Partner:

BCC&I THE BENGAL CHAMBER



FEMA. FDI. INCOME TAX. GST. LAND. LABOUR

TAX CONNECT

Mumbai : A/1001, Cirrus Bldg, Cosmos Paradise; Pokhran Road No. 1, Thane (West), Maharashtra – 400606
Bangalore : A-414,Carlton Towers,19th Main; Road Hal Old Airport Rd, Domlur, Bengaluru, Karnataka-560008
New Delhi : B-139, 2nd Floor, Transport Nagar, Noida-201301 (U.P)
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,

Since we are in the verge of due date of filing GST Annual Return (GSTR-9) and Reconciliation Statement (GSTR-9C) for the financial year 2019-2020, in the meantime the government have issued the advisories for GSTR 9 and GSTR 9C as under on 24.02.2021 and 22.02.2021 respectively:

A. **Advisory on Annual Return (GSTR-9):** The taxpayers are advised to ensure that values are reported upto two decimal places in the GSTR-9 offline utility. The error "Error! Invalid Summary payload" after uploading the JSON created from the Offline Utility of GSTR-9 is reported due to reporting values upto three decimal places instead of two decimals.

B. **Advisory on Reconciliation Statement (GSTR-9C):** Reconciliation statement to be filed in Form GSTR-9C requires the tax rate wise declaration of transactions for the concerned financial year. In the said form, tax amount pertaining to tax rates 1%, 1.5% and 7.5% in section III (table 9 and 11) and section V may be made in row/ under label 'Others' of the said tables, wherever applicable.

The government could be gearing up to bring petroleum under the Goods and Services Tax (GST) regime, at a time when petrol prices have broken all past records and breached the Rs. 100 mark in several parts of the country. When it was rolled out in 2017, the GST regime brought a wide range of products and almost all services under its purview, and the latest to join this list could be petroleum – this is an issue that seems simple on the outset but is a lot more complicated than that. However, the government could be aiming to put this issue behind it if Finance Minister Nirmala Sitharaman's recent comments are anything to go by.

Large resident welfare associations may have to pay GST retrospectively. Large resident welfare associations (RWAs) may have to face GST liability retrospectively subject to certain conditions. One particular provision related to the amendment to the CGST law in the Finance Bill with effect from July 1, 2017 intends to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

"It is also proposed to insert an explanation therein, to clarify that the person or its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one person to another," the provision said. Experts are divided over the impact of this new provision.

The existing rule says a RWA collecting more than 7,500 as maintenance fee and whose annual turnover is more than 20 lakhs, need to pay GST.

EDITORIAL

This provision is in line with the rulings given in YJR Apsara Co-operative Housing Society (2020) matter by Maharashtra's AAAR (Appellate Authority for Advance Rulings) and in the matter of the Association of Inner Wheel Clubs of India by West Bengal's AAAR which stated societies/clubs activities constitute supply and are liable to GST, and therefore the mutuality principle is inapplicable to them.

As per Press Release dated 22.02.2021, CBIC provides facilitation for exporters having IGST refund issues. The Central Board of Indirect Taxes and Customs (CBIC) has extended the time limit for sanction of pending IGST refunds in such cases where records have not been transmitted to ICEGATE due to GSTR1 and GSTR3B mismatch error. This overcomes the problem of refund blockage by allowing refunds subject to undertakings/submission of CA certificates by the exporters and post refund audit scrutiny. This facilitation was issued **Vide Circular 04/2021** and would be applicable to all shipping bills filed up to 31.03.2021. The CBIC has also extended the facility for resolving invoice mismatch errors (classified as SB-005 error) through customs officer interface on permanent basis vide Circular 05/2021. Earlier this facility was provided for a limited period i.e. in respect of shipping bills filed up to 31.12.2019. The exporter may avail the facility of correction of Invoice mis-match errors (error code SB-005) in respect of all past shipping bills, irrespective of its date of filing subject to payment of a nominal fee. The CBIC has continuously taken a proactive approach to resolve issues faced by the trade. It is seen that a considerable number of exporters have been facing difficulties in getting their IGST refund sanctioned either due to lack of facility to amend GST 3B return or bona-fide clerical/human errors while filing the documents. With the endeavor of resolving all such pending IGST refund claims, CBIC has issued **Circular 04/2021-Customs dated 16.02.2021 and Circular 05/2021-Customs dated 17.02.2021.**

As per Press Release dated 25.02.2021, **Income Tax Department initiated search under section 132 of the Income-tax Act, 1961** in the case of a Gurugram based real estate Company, its promoters, directors and other group companies, covering a total of 20 premises. The group is in the business of real estate development and residential complexes. The search has yielded evidences of bogus long term capital gain of Rs. 25 Crores in the names of the main promoter and family members in the year 2012-13 and 2013-14, on which no tax has been paid. The search is continuing and further investigations are in progress.

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
28th February 2021	GSTR-9	F.Y.2019-20	Due Date for Annual Return for FY 19-20 by ALL registered persons having an aggregate turnover of more than Rs. 2 Crores or opted to file Annual Return.
28th February 2021	GSTR-9C	F.Y.2019-20	Due Date for furnishing Reconciliation Statement between Annual Return and Audited Financial Statements by registered persons whose Annual Turnover is above Rs. 5 Cores.

NOTIFICATION

CENTRAL GOVERNMENT NOTIFIES 'HARYANA STATE POLLUTION CONTROL BOARD' IN RESPECT OF THE SPECIFIED INCOME ARISING TO THAT BOARD

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Direct Taxes **vide Notification No. 08/2021 dated 22.02.2021** has notified to constitute Board for the below mentioned specified income arising U/s 10(46) of IT Act 1961 to the Board:-

(a) Grant from CG and SG;
(b) Consent fee for permission for setting up industry in the state of Haryana;
(c) Analysis fees or air ambient quality survey fees;
(d) Testing fees;
(e) Authorization fees;
(f) NOC fees;
(g) Cess reimbursement and cess appeal fees;
(h) Fees received under RTI Act, 2005;
(i) Public hearing fees; Recognition fees;
(j) Interest on loan and advances given to staff; and
(k) Interest on fixed deposit.

Further, this notification shall be effective subject to the conditions that Haryana State Pollution Control Board-

(a) shall not engage in any commercial activity;

(b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and

(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

(d) shall file the Audit report along with the Return, duly verified by the accountant as provided in explanation to section 288(2) of the Income-tax Act, 1961 along with a certificate from the chartered accountant that the above conditions are satisfied.

[For further details please refer the notification]

NOTIFICATION/CIRCULAR

CLASS OF PERSONS WHO SHALL BE EXEMPTED FROM AADHAR AUTHENTICATION WHILE DOING GST REGISTRATION

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 03/2021-CGST dated 23.02.2021** has notified class of persons who are exempted from aadhar authentication while doing GST Registration. Such persons are specified u/s 25(6B) or (6C) of the CGST Act, 2017:

(a) not a citizen of India; or

(b) a Department or establishment of the Central Government or State Government; or

(c) a local authority; or

(d) a statutory body; or

(e) a Public Sector Undertaking; or

(f) a person applying for registration under the provisions of sub-section (9) of section 25 of the said Act.

[For further details please refer the notification]

CLARIFICATION IN RESPECT OF APPLICABILITY OF DYNAMIC QUICK RESPONSE (QR) CODE ON B2C INVOICES AND COMPLIANCE OF NOTIFICATION 14/2020- CGST DATED 21.03.2020

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Circular No. 146/02/2021-GST dated 23.02.2021** has clarified on various issues that were uprising while generation e-invoice in respect of B2C sellers and to whom QR Code is applicable. It has also been clarified that while generating QR code below mentioned information is required:

i. Supplier GSTIN number

ii. Supplier UPI ID

iii. Payee’s Bank A/C number and IFSC

iv. Invoice number & invoice date,

v. Total Invoice Value and

vi. GST amount along with breakup i.e. CGST, SGST, IGST, CESS, etc.

Further, Dynamic QR Code should be such that it can be scanned to make a digital payment.

If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be deemed to have complied with Dynamic QR Code requirements. In cases where the supplier, has digitally displayed the Dynamic QR Code and the customer pays for the invoice using any mode like UPI, credit/ debit card or online banking or cash or combination of various modes of payment then the said invoice shall be deemed to have complied with the requirement of having Dynamic QR Code.

[For further details please refer the notification]

FEMA

CASE LAW

HARMEET SINGH VERSUS UNION OF INDIA, CENTRAL ECONOMIC INTELLIGENCE & ORS. - 2021 [DELHI HIGH COURT]

Brief: Offence under COFEPOSA ACT - detention order - respondents desired to unlock the mobile phone instrument of the petitioner to retrieve the materials/ documents therefrom but petitioner did not co-operate in the opening/ unlocking of his mobile phone instrument.

OUR COMMENTS: In the present case, Delhi High Court held that as timeline satisfactorily explains and justifies the time taken by the Respondents in undertaking investigation, which finally culminated in passing of the impugned Detention Order. The initial proposal sent by the Sponsoring Authority in February, 2019 was not found sufficient to justify the petitioner's detention under Section 3 of the COFEPOSA Act. The Sponsoring Authority, therefore, continued with its efforts to conduct further investigation and, for that purpose, retrieval of the contents of the mobile phone of the petitioner was crucial. Vide his letter dated 23.04.19, the petitioner desired that the forensic examination of his phone be done in his presence.

Vide summons dated 21.05.19, he was asked to appear on 30.05.19. He did not appear. Another summons dated 06.06.19 was issued on 12.06.19. He appeared on 12.06.19. However, the petitioner did not cooperate. He did not provide the code to unlock his mobile phone on his own. He feigned ignorance and loss of memory with respect to the password/ code that left the respondents with no other option but to look for avenues to unlock the mobile phone even without the petitioner providing the password/ code. The respondents have stated that, ultimately, it was found that the mobile phone of the petitioner could be unlocked at the Cyber Laboratory of DRI, Mumbai. The respondents have stated that DRI, Mumbai is not a part of Air Customs. Thus, the submission that the respondents ought to have been aware of the existence of its facility at DRI, Mumbai to unlock the mobile phone of the petitioner, cannot be accepted on the basis of assumptions that the petitioner would like us to draw. The petitioner was sent a letter dated 20.11.2019 – informing that Forensic Examination of his mobile phone would be conducted at DRI, Mumbai on 25.11.2019. That letter could not be served on the petitioner, since he was not found residing on the given address. The fact that the petitioner did not intimate the change of his address or his definite address where he could be found, itself shows that the conduct of the petitioner was evasive. The petitioner was sent another letter dated 17.01.2020 at his new address in Ramesh Nagar informing him that forensic examination of his mobile phone would be undertaken at DRI, Mumbai on 20.01.2020. He was put to notice that, in case, he did not appear, either himself, or through his authorized representative, the forensic examination of his mobile phone would be conducted in the presence of other witnesses. Despite receipt of this notice, the petitioner failed to appear in the office of the DRI, Mumbai and, therefore, the forensic examination got conducted in the presence of other witnesses on 20.01.2020

In case, the petitioner was really interested in participating in the forensic examination, he should have appeared at DRI, Mumbai on 20.01.2020. His non-appearance on that day, and non-appearance of even his authorized representative shows that the endeavor of the petitioner was merely to drag the matter and delay the forensic examination of his mobile phone for as long as it could be done. Thus, the delay in the forensic examination of the petitioner's mobile phone is primarily attributable to the petitioner, and not to the respondents. We, therefore, reject the submission of the petitioner that there was any unexplained delay on the part of the respondents in the forensic examination of his mobile phone between 1-2.02.2019 and 20.01.2020.

We are also of the view that in the facts and circumstances of this case, it cannot be concluded that the livelink between the prejudicial activity in which the petitioner was found involved on 1-2.02.2019 and the purpose and object of detention, when the detention order was passed on 05.06.2020, was broken. Mere passage of time between the date of the prejudicial activity and the date on which the detention order came to be passed – when the said passage of time has been sufficiently explained by the respondents, cannot lead to the definite conclusion with regard to the snapping of the nexus between the two.

The petitioner also cannot take shelter of the argument regarding the time lapse between the detention order passed against his brother Mr. Gaganjot Singh, and the detention order passed against himself. The brother of the petitioner is purported to be the kingpin of the smuggling ring which allegedly caused immense economic loss to the country. The CSC and the Detaining Authority found the evidence against him to be sufficient to proceed against him in 2019 itself, which resulted in the passing of the Detention Order dated 11.03.19 against him. To justify the preventive detention of the petitioner in the assessment of the Detaining Authority, the Respondents had to collect evidence against the present petitioner, including recovering the relevant data from his mobile phone instrument, which took considerable time for reasons attributable primarily to the petitioner himself. Hence, the decision is in favour of the petitioner.

[In favour of the petitioner]

CUSTOMS

NOTIFICATIONS

IMPOSITION OF DEFINITIVE ANTI-DUMPING DUTY ON IMPORTS OF ANILINE ORIGINATING IN OR EXPORTED FROM CHINA PR FOR A PERIOD OF FIVE YEARS FROM THE DATE OF LEVY OF PROVISIONAL ANTI-DUMPING DUTY, I.E., 29.07.2020

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 08/2021-Customs (ADD) dated 19.02.2021** has notified rate of exchange applicable for the purpose of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

[For further details please refer the notification]

EXTENSION ON THE LEVY OF ANTI-DUMPING DUTY ON IMPORTS OF "GLAZED/UNGLAZED PORCELAIN/VITRIFIED TILES IN POLISHED OR UNPOLISHED FINISH UP TO AND INCLUSIVE OF 28.06.2021

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 09/2021-Customs (ADD) dated 25.02.2021** has extended imposition of anti-dumping duty on imports of "Glazed/Unglazed Porcelain/Vitrified tiles in polished or unpolished finish originating in or exported from China PR upto and inclusive of 28.06.2021.

[For further details please refer the notification]

EXTENSION ON THE LEVY OF ANTI-DUMPING DUTY ON MELAMINE ORIGINATING IN OR EXPORTED FROM CHINA PR, UP TO AND INCLUSIVE OF 31ST MARCH, 2021

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 10/2021-Customs (ADD) dated 25.02.2021** has extended imposition of anti-dumping duty on Melamine originating in or exported from China PR, up to and inclusive of 31st March, 2021.

[For further details please refer the notification]

DGFT

TRADE NOTICES

ISSUANCE OF CERTIFICATE OF ORIGINS (NON-PREFERENTIAL) THROUGH COMMON DIGITAL PLATFORM

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Trade Notice No. 42/2020-21 dated 19.02.2021** has proposed to issue online COO (NP) w.e.f. 01.04.2021 (tentative date); wherein the online applications for COO (NP) will be processed as per provisions of Para 2.108 of Handbook of Procedure based on the declaration of the exporter to the issuing agency, without any scrutiny of documents. However, uploaded documents like invoices etc. as prescribed in para 2.108 will be available for scrutiny at a later date in case there is a need for cross verification etc. Further, a uniform fee of ₹ 100/- will be charged for each certificate so issued. It is also informed that while applicants can choose to avail CoO (NP) online or in manual mode till 31.3.2021, w.e.f 1.4.2021 applications will be accepted in online mode only. Further details in the matter will be notified subsequently.

[For further details please refer the Trade Notice]

ELECTRONIC FILING AND ISSUANCE OF PREFERENTIAL CERTIFICATE OF ORIGIN (COO) FOR INDIA'S EXPORTS UNDER INDIA-MERCOSUR PTA AND INDIA-THAILAND EHS W.E.F. 25.02.2021

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Trade Notice No. 43/2020-21 dated 23.02.2021** has issued the process for issuance of Preferential Certificate of Origin for India's Exports under India-Mercosur and India-Thailand EHS. The Preferential Certificate of Origin for exports to countries under the following trade agreements i.e.

i. India-Mercosur Preferential Trade Agreement

ii. India-Thailand Early Harvest Scheme

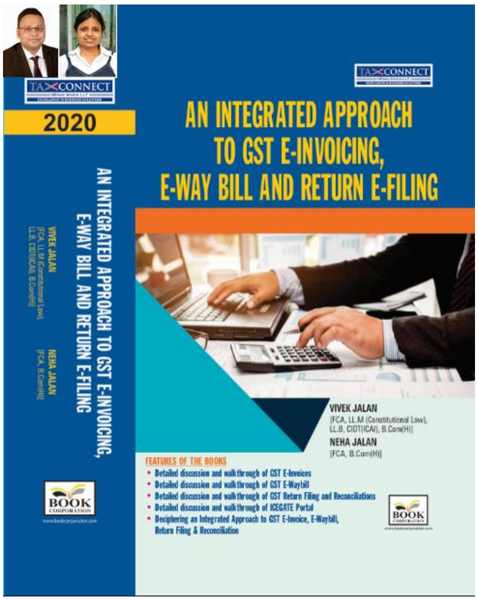
shall also be applied and issued from the CoO e-platform with effect from 25th February 2021. No manual application for such a CoO should be submitted to an issuing agency from 25th February 2021. Any manual applications submitted prior to the given date may however be processed by the issuing agencies.

It is informed that for these applications under the above-mentioned Trade Agreements, the e-CoO system shall generate all the existing set of CoO copies besides an additional copy i.e. electronic copy. The electronic copy shall bear the image signature of the officer and stamp of the issuing agency. The exporter may however get the remaining copies duly ink-signed by the issuing officer along with the stamp of the issuing office. The paper copies of the CoOs so issued may be collected by post or in person, for any submission to the Trade Agreement's.

[For further details please refer the Trade Notice]

IN STANDS

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



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

1. **Detailed discussion and walkthrough of GST E-Invoices.**
2. **Detailed discussion and walkthrough of GST E-Waybill.**
3. **Detailed discussion and walkthrough of GST Return Filing and Reconciliations.**
4. **Detailed discussion and walkthrough of ICEGATE Portal.**
5. **Deciphering an Integrated Approach to GST E-Invoice, E-Waybill, Return Filing & Reconciliation**

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
Phones: (033) 64547999
Cell : 9830010297, 9331018333
Order by email:bookcorporation@gmail.com
Website :www.bookcorporation.com

In Association With:

TAX CONNECT ACADEMY
1, Old Court House Corner
Kolkata 700001
Phones: (033) 40016761
Cell : 8017741711, 9830661235
Order by email: info@taxconnect.co.in
Website : www.taxconnect.co.in

IN STANDS

Section wise Compendium on GST

ABOUT THE BOOK: This publication includes:

1. **Linkage of Section, Rules, Notifications, Circulars, Orders, Advance Ruling, Court Decisions**
2. **Master Referencer of Section, Rules, Notifications, Circulars, Orders, Advance Ruling and Court Decisions**
3. **Section-wise Commentary**
4. **Practical Illustrations**

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]

Published by:

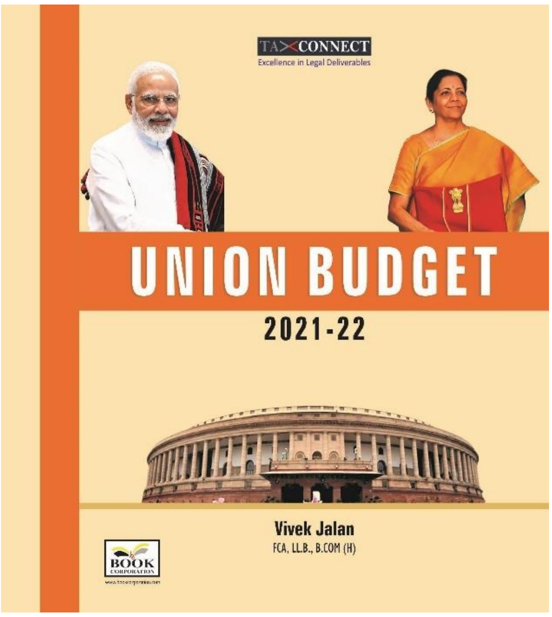
BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999
Cell : 9830010297, 9331018333
Order by email:bookcorporation@gmail.com
Website :www.bookcorporation.com

In Association With:

TAX CONNECT ACADEMY
1, Old Court House Corner
Kolkata 700001
Phones: (033) 40016761
Cell : 8017741711, 9830661235
Order by email: info@taxconnect.co.in
Website : www.taxconnect.co.in

IN STANDS

UNION BUDGET 2021



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

1. **Commentary on Budget**
2. **Finance Minister's Budget Speech**
3. **Budget at a Glance**
4. **Memorandum**
   a. **Direct Tax**
   b. **Customs**
   c. **Excise**
   d. **GST**
5. **Finance Bill**
6. **Notes on Clauses**

Authors:

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

Published by:

BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999
Cell : 9830010297, 9331018333
Order by email:bookcorporation@gmail.com
Website :www.bookcorporation.com

In Association With:

TAX CONNECT ACADEMY
1, Old Court House Corner
Kolkata 700001
Phones: (033) 40016761
Cell : 8017741711, 9830661235
Order by email: info@taxconnect.co.in
Website : www.taxconnect.co.in

LET'S DISCUSS FURTHER!

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

B-139, 2nd Floor, Transport Nagar, Noida-201301 (U.P)

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