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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,

INCOME TAX RETURNS 2021-22:

FINANCIAL TRANSACTIONS THAT WILL GET REPORTED TO THE I-T DEPARTMENT:

The Income Tax Department had notified the launch of pre-filled returns for ease and accuracy of filing. To facilitate this process, CBDT issued a circular on March 12, 2021, authorising various entities to report such transactions to the income tax department. These specified entities will be responsible for providing the details of capital gains transactions, dividend and interest income of the taxpayers. Currently, section 285BA of Income-tax Act 1961 governs the reporting of some specified financial transactions (SFT) by specified entities to the income tax authority. The section provides a list of transactions, their nature and threshold limit of a transaction pertaining to a particular taxpayer, beyond which the transacting entity shall have to report its details to the income tax authorities.

CLARIFICATION ON REPORTING 4-DIGIT/6-DIGIT HSNS:

Notification No. 12/2017-Central Tax dated June 28, 2017, as amended vide Notification No. 78/2020 – Central Tax, dated October 15, 2020, mandates taxpayers to declare specified digits, as follows, of Harmonised System of Nomenclature (HSN) / Service Accounting Code (SAC) Code on raising of tax invoices, w.e.f. April 1, 2021.

It may be noted that specific 6-digit HSNs, as available in the HSN/Customs Tariff (with corresponding description of goods) are allowed in the system. It also follows that the declaration of HSN at 4/6 Digits has to be out of valid HSN codes only.

However, there are instances that some taxpayers are trying to report truncated first 6-digits out of an otherwise valid 8-digit HSN; which are actually not available in Tariff at 6-digit level and with no corresponding description of goods; these are invalid and hence not being allowed in the System. Taxpayers may, therefore note that based on the harmonious interpretation of the Notifications, as referred above, read with Customs Tariff Act, 1975, as made applicable to GST; the number of digits of HSN, as specified vide Notifications No. 12/2017 & 78/2020 (Central Tax), are the minimum number of digits of HSN to be mentioned on the invoice.

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
18th April 2021	CMP-08	March 2021	Due Date for Summary of Outward and inward Supplies (For Composite Dealers)
20th April 2021	GSTR-3B	March 2021	Due Date for Summary of Outward and inward Supplies (For all monthly taxpayers)
20th April 2021	GSTR-5	March 2021	Due Date for Summary of Outward and inward Supplies (For Non-Resident Foreign Taxpayers)
20th April 2021	GSTR-5A	March 2021	Due Date for Summary of Outward and inward Supplies (For Non-Resident OIDAR Service Providers)
21st April 2021	NA	March 2021	Due Date for payment of Professional Tax
22nd April 2021	GSTR-3B	Jan-Mar 2021	Due Date for Summary of Outward and inward Supplies (For QRMP Taxpayers) having registration in states of 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
24th April 2021	GSTR-3B	Jan-Mar 2021	Due Date for Summary of Outward and inward Supplies (For QRMP Taxpayers) having registration in states of 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

INCOME TAX

CASE LAW

THE ASST. COMMISSIONER OF INCOME TAX CENTRAL CIRCLE - 2 (1), BANGALORE, THE ASST. COMMISSIONER OF INCOME TAX, CIRCLE-1, GULBARGA VERSUS M/S. KOTARKI CONSTRUCTIONS PVT. LTD.-2021 [KARNATAKA HIGH COURT]

Brief: Reopening of assessment u/s 147 - eligibility to claim deduction under Section 80IA - jurisdictional requirements for invocation of Section 147/148.

OUR COMMENTS: In the present case, Karnataka High Court held that on a reading of the contents of the order, we find that the reason set out does not have any nexus to the fact that there had been a failure on the part of the respondent/assessee in fully disclosing all material facts or that there was any basis for interfering on account of the said reason there had been any escapement of income. In fact, the primary jurisdictional requirement for reopening any assessment beyond a period of four years must be fulfilled strictly, otherwise it would be an arbitrary exercise of power.

In the instant case, on perusing the reasons recorded dated 15.3.2016 we do not find anything to the effect that the assessee had not disclosed fully and truly all material facts or that the assessee had not disclosed the fact that he was a developer. In fact the assessment for the assessment year 2010-11 was made on the basis that the respondent/assessee was a developer. If that was so, the impugned proceeding initiated on the premise that the assessee was a works contractor and not the developer is only a change of opinion and therefore does not fulfill the essential requirements of Sections 147/148 of the Act.

As speaking through the Hon'ble Chief Justice, opined that the concept of 'change of opinion' must be treated as an inbuilt limitation on the power of the Assessing Officer; that 'mere change of opinion' on consideration of the very same material does not give any ground to invoke Section 147 of the Act. In order to reopen the concluded assessment, there must be tangible material to come to the conclusion that there is escapement of income from assessment. These are the tests, which have to be satisfied before issuance of notice under Section 147/148 of the Act.

Having regard to the aforesaid observations and considering the same, in the light of the impugned notice dated 15.3.2016, we find that the reasons recorded do not also indicate that there was any tangible material which was the basis for issuance of the impugned notice.

We hold that the learned Single Judge was justified in coming to the conclusion that the jurisdictional requirements for invocation of Section 147/148 of the Act in the instant case were not satisfied and therefore, the impugned notice was only a case of 'change of opinion' and did not come within the scope and ambit of 'reason to believe'. Hence, the case is decided in favour of assessee.

[In favour of the petitioner]

CASE LAW

HINDUSTAN UNILEVER LIMITED VS UNION OF INDIA - 2021 [MADRAS HIGH COURT]

Brief: Claim of IGST credit on import of goods for home consumption – bona fide mistakes of mentioning incorrect GSTIN numbers in Bills of Entry - Mismatch of GSTIN with ICEGATE portal - rejection of request for amendment of Bills of Entry in terms of Section 149 of the Customs Act, 1962 on the basis that the system does not support such amendment once the Out of Charge is granted for the subject B/E – Meaning of term phrase 'on record'.

OUR COMMENTS: In the present case, Madras High Court held that the spirit and intent of Section 149 of the Customs Act is to facilitate the correction of error where the importer is in a position to establish that such error was inadvertent and bonafide - To say that the goods have already been cleared for home consumption and thus no amendment may be made, would fall in the face of the proviso to Section 149 which imposes a condition to be satisfied by an importer to request amendment after the goods have been cleared. The imposition of the condition itself means that a request for amendment may be considered, subject to satisfaction of the condition imposed - the phrase 'on record' would mean any documents that were available with the petitioner that were contemporaneous with imports must also be taken into consideration, to decide the question of existence of error. The Assessing Authority cannot restrict examination only to documents that are available on her record – The petitioner is permitted to place all records on material that it has in its possession to prove its plea in regard to the erroneous mention of the GSTIN numbers in the B/E - The petition succeeds and allowed. The purpose of transition to the goods and services tax regime is to facilitate the conduct of transactions pan India and all consequences thereof including the seamless availment of credit. The robustness of the information technology system is critical to this venture. It is thus incumbent upon the authorities to ensure that technology is kept up to date in order to facilitate a seamless exchange of data. The impugned order states that ICEA System is limited in its operation and cannot permit any changes once the goods have left for home consumption. This is clearly erroneous even in the context of the Customs Act that envisages amendments to be made even after goods have been cleared. The operation of the CGST/IGST Act cannot go back to the Jurassic age denying an assessee relief that it would have obtained under the earlier enactment. Measures must be put in place for this purpose and till such time this is done, amendment of documents must be considered manually. Hence, decided in favour of the petitioner.

[In favour of the petitioner]

FEMA

CASE LAW

ASHA JOHN DIVIANATHAN VERSUS VIKRAM MALHOTRA & ORS.-2021 [SUPREME COURT]

Brief: Mandation of apporval of RBI in case of transfer of immovable propoerty by the non-citizen of india.

OUR COMMENTS: In the present case, Supreme Court held that Foreigners should not be permitted/allowed to deal with real estate in India. The peremptory condition of seeking previous permission of the RBI before engaging in transactions specified in Section 31 of the 1973 Act and the consequences of penalty in case of contravention, the transfer of immovable property situated in India by a person, who is not a citizen of India, without previous permission of the RBI must be regarded as unenforceable and by implication a prohibited act. In this view of the matter, the appellant must succeed and would be entitled for the reliefs claimed in O.S. No. 10079 of 1984 for declaration that the gift deed and supplementary deed in favour of respondent No.1 are invalid, unenforceable and not binding on the plaintiff. A fortiori, the plaintiff is entitled for possession of the suit property from respondent no.1 and persons claiming through him and also mesne profits for the relevant period for which a separate inquiry needs to be initiated under Order 20 of the CPC, 1908. In the present case, the land was owned by a foreign citizen. The rigours of Section 31 must apply with full force. Additionally, it must be kept in mind that the stated notification was issued in 1993, around which time a change in policy regarding the investment opportunities for non-resident Indians and foreigners had been crystallised, by opening up of economy in India. In the present case, we are dealing with the transaction effected close to the coming into force of the 1973 Act i.e., in the year 1977 when considerations were different and governed by different policy manifested in the form of enactment of Section 31 of the 1973 Act, forbidding foreigners from dealing with real estate in India. The condition predicated in Section 31 of the 1973 Act of obtaining "previous" general or special permission of the RBI for transfer or disposal of immovable property situated in India by sale or mortgage by a person, who is not a citizen of India, is mandatory. Until such permission is accorded, in law, the transfer cannot be given effect to and for contravening with that requirement, the concerned person may be visited with penalty under Section 50 and other consequences provided for in the 1973 Act. Hence, the Trial Court as well as the High Court committed manifest error in dismissing the suit filed by the plaintiff for a declaration in respect of suit property and for consequential reliefs referred to therein. A priori, we conclude that the decisions of concerned High Courts taking the view that Section 31 of the 1973 Act is not mandatory and the transaction in contravention thereof is not void or unenforceable, is not a good law. However, transactions which have already become final including by virtue of the decision of the court of competent jurisdiction, need not be reopened or disturbed in any manner because of this pronouncement. This declaration/direction is being issued in exercise of our plenary power under Article 142 of the Constitution of India. For, there has been a paradigm shift in the general policy of investment by foreigners in India and more particularly, the 1973 Act itself stands repealed. Accordingly, we deem it appropriate to overrule the decisions of the High Courts, prospectively. The appeal is allowed.

[In favour of the appellant]

CUSTOMS

NOTIFICATIONS

IMPOSING ANTI-DUMPING DUTY ON IMPORTS OF NORMAL BUTANOL OR N-BUTYL ALCOHOL

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 21/2021-Customs (ADD) dated 12.04.2021** has imposed anti-dumping duty on imports of Normal Butanol or N-Butyl alcohol originating in or exported from European Union, Malaysia, Singapore, South Africa and United States of America for a further period of 5 years.

[For further details please refer the notification]

TARIFF NOTIFICATION IN RESPECT OF FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, ARECA NUT, GOLD AND SILVER

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 42/2021-Customs (N.T) dated 15.04.2021** has issued notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver in terms of $.

[For further details please refer the notification]

EXCHANGE RATE NOTIFICATION IN REALATION TO IMPORTED AND EXPORTED GOODS

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 43/2021-Customs (N.T) dated 15.04.2021** has issued notification in respect of exchange rates in relation to imported and exported goods in terms of Rupees conversion.

[For further details please refer the notification]

EXTENSION OF SEA CARGO MANIFEST AND TRANSHIPMENT (2ND AMENDMENT) REGULATIONS 2021

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 44/2021-Customs (N.T) dated 15.04.2021** has issued notification in respect of exchange rates in relation to imported and exported goods in terms of Rupees conversion.

[For further details please refer the notification]

DGFT

NOTIFICATION/PUBLIC NOTICES

AMENDMENT IN EXPORT POLICY OF INJECTION REMDESIVIR AND REMDESIVIR API

OUR COMMENTS: The Ministry of Finance, Government of India, Directorate General Of Foreign Trade **vide Notification No. 01/2015-2020 dated 11.04.2021** has prohibited The export of Injection Remdesivir and Remdesivir Active Pharmaceutical Ingredients (API) falling under the ITCHS Codes specified above or falling under any other HS Code with immediate effect.

[For further details please refer the notification]

ALLOCATION OF ADDITIONAL QUANTITY OF 3675.13 MT (RAW/REFINED) SUGAR TO UK UNDER TRQ SCHEME FOR THE YEAR 2020-21

OUR COMMENTS: The Ministry of Finance, Government of India, Directorate General Of Foreign Trade **vide Public Notice No. 01/2015-2020 dated 13.04.2021** has notified The additional quantity of raw/refined sugar 3675.13 MT to be exported to UK under TRQ upto 30.09.2021. The quota will be operated by Agricultural and Processed Food Products Export Development Authority (APEDA), New Delhi as the implementing agency for export of TRQ items to UK. Certificate of Origin, if required, for preferential export of sugar to UK, shall be issued by Additional Director General of Foreign Trade, Mumbai.

[For further details please refer the public notice]

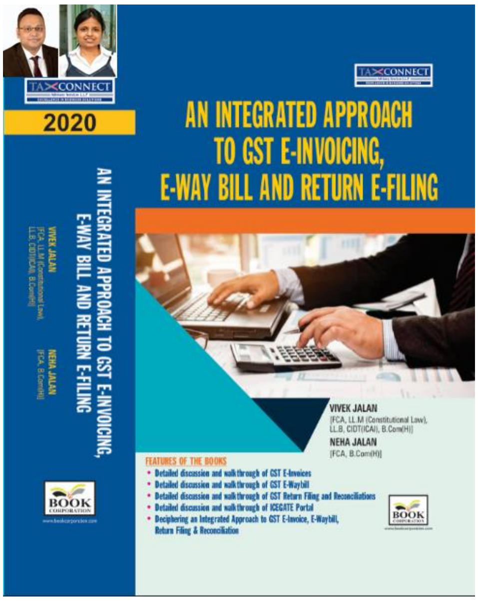
LATE CUT FOR MEIS APPLICATIONS FOR EXPORTS MADE IN THE FINANCIAL YEAR 2019-20

OUR COMMENTS: The Ministry of Finance, Government of India, Directorate General Of Foreign Trade **vide Public Notice No. 53/2015-2020 dated 09.04.2021** has notified that no late cut is applicable. A relaxation in the late cut provisions have been provided for Shipping bill (s) of the period 01.04.2019 to 31.03.2020 , so that if such shipping bills are submitted on or before 30.09.2021 for MEIS Claim, no late cut is applicable.

[For further details please refer the public 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
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IN STANDS

Section wise Compendium on GST

ABOUT THE BOOK: This publication includes:

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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:

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Kolkata 700001
Phones: (033) 64547999
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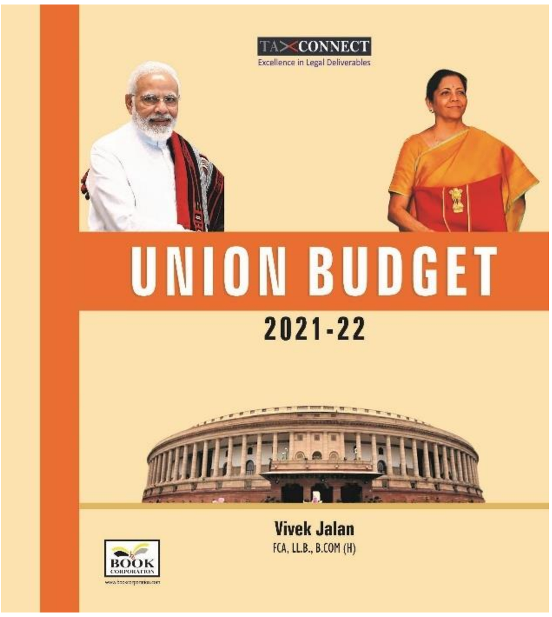
IN STANDS

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)]

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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

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

Contact Person: Poonam Khemka

Email: poonam.khemka@taxconnectdelhi.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: Rohit Sharma

Email: rohit.sharma@taxconnect.co.in

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