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EDITORIAL



Friends,

Over the past six months, the taxpayers witnessed the gradual implementation of various e-invoicing provisions based on the turnover of the taxpayers. Various notifications have been issued, prescribing the taxpayers, to comply with e-invoicing requirements.

The CBIC lowered the threshold for mandatory issuance of e- invoice (electronic invoice) under Goods & Services Tax (GST) to ₹20 crore from the earlier prescribed limit of ₹50 crore vide Notification No. 01/2022 – Central Tax issued on 24th February, 2022.

Consequently, a registered person (other than a government department, a local authority, a SEZ unit and those referred to in sub-rules (2), (3), (4) and (4A) of rule 54) having aggregate turnover exceeding ₹20 crores in any preceding financial year from 2017-18 onwards, shall mandatorily prepare invoices and other prescribed documents, in terms of Rule 48(4) of the CGST Rules, 2017 in respect of supply of goods or services or both to a registered person or for exports.

The said amendment shall come into force w.e.f. 01st April, 2022. The changes will bring a large number of medium and small enterprises under the ambit of e-invoicing. There could be some initial hiccups in implementation, albeit, in the long run the same is likely to result in more transparency, better tax administration and automation of tax compliance and filings.

GST – E Invoice is a system in which B2B invoices are authenticated electronically by GSTN for further use on the common GST portal. Under the electronic invoicing system, an identification number will be issued against every

invoice by the Invoice Registration Portal (IRP) to be managed by the GST Network (GSTN). All invoice information is transferred from einvoice1.gst.gov.in portal to both the GST portal and e-way bill portal in real-time.

Businesses have the following benefits by using e-invoice initiated by GSTN

- ✓ E-invoice resolves and plugs a major gap in data reconciliation under GST to reduce mismatch errors.
- ✓ E-invoices created on one software can be read by another, allowing interoperability and help reduce data entry errors.
- ✓ Real-time tracking of invoices prepared by the supplier is enabled by e-invoice.
- ✓ Backward integration and automation of the tax return filing process – the relevant details of the invoices would be auto-populated in the various returns, especially for generating the part-A of e-way bills.
- ✓ Faster availability of genuine input tax credit.
- ✓ Lesser possibility of audits/surveys by the tax authorities since the information they require is available at a transaction level.

Just to reiterate that we remain available over telecom or e-mail.

Truly Yours

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SYNOPSIS

S.NO.	TOPICS	PAGE NO.
1]	TAX CALENDER	4
2]	INCOME TAX	5
CASE LAW	DRUG FIRMS CAN'T CLAIM TAX BENEFIT FOR FREEBIES GIVEN TO DOCTORS: SUPREME COURT	
3]	GST	6
ADVISORY	UPCOMING GSTR-1 ENHANCEMENTS & IMPROVEMENTS	
4]	FEMA	7-8
CIRCULAR	REGULATIONS REVIEW AUTHORITY (RRA 2.0) – INTERIM RECOMMENDATIONS – DISCONTINUATION/MERGER/ONLINE SUBMISSION OF RETURNS	
5]	CUSTOMS	9
NOTIFICATION	SHIPPING BILL (POST EXPORT CONVERSION IN RELATION TO INSTRUMENT BASED SCHEME) REGULATIONS	
6]	DGFT	10
NOTIFICATION	AMENDMENT IN IMPORT POLICY OF ITEMS UNDER ITC(HS) 8524 AND 8525 OF CHAPTER 85 OF ITC(HS) 2022, SCHEDULE - I (IMPORT POLICY)	
7]	UNION BUDGET 2022-23	11
8]	GST PLEADING AND PRACTICE: WITH SECTION-WISE GST CASES & GST NOTICES AND THEIR REPLIES	12
9]	LET'S DISCUSS FURTHER	13

TAX CALENDAR

Due Date	Form/Return/ Challan	Reporting Period	Description
28 th February	ITR Form-1	AY 2021-22	Return of income for the assessment year 2021-22 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)
28 th February	GSTR – 9	Financial Year 2020-21	Annual GST return for the Financial Year 2020-21
28 th February	GSTR – 9C	January, 2022	Self Certified Reconciliation Statement for the Financial Year 2020-21

INCOME TAX

CASE LAW

DRUG FIRMS CAN'T CLAIM TAX BENEFIT FOR FREEBIES GIVEN TO DOCTORS: SUPREME COURT

BREIF: Assorted freebies given by pharmaceutical companies to doctors to influence their prescription of medicines can't be claimed by the firms as 'business expenditure' to reduce their tax outgo, the Supreme Court ruled on Tuesday.

OUR COMMENTS: The Hon'ble Supreme Court noted that acceptance of these freebies by doctors is punishable by the Medical Council of India. In pharmaceutical parlance, such freebies are called "drug promotional expenses".

These freebies are technically not 'free' – the cost of supplying such freebies is usually factored into the drug, driving prices up, thus creating a perpetual publicly injurious cycle. The threat of prescribing medication that is significantly marked up, over effective generic counterparts in lieu of such a quid pro quo exchange was taken cognizance of by the Parliamentary Standing Committee on health and family welfare," the judges said.

The court added that denial of the tax benefit cannot be construed as penalising the assessee pharmaceutical company. "Only its participation in what is plainly an action prohibited by law, precludes the assessee from claiming it as a deductible expenditure," the judgment added.

The Bench also pointed out medical practitioners have a quasi-fiduciary relationship with their patients. A doctor's prescription is considered the final word on the medication to be availed by the patient, even if the cost of such medication is unaffordable or barely within the economic reach of the patient – such is the level of trust reposed in doctors.

The Central Board of Direct Taxes (CBDT) had in its August 1, 2012, circular clarified that expenses incurred by pharmaceutical and allied health sector industries for distribution of incentives to medical practitioners are ineligible for the benefit of Explanation 1 to Section 37(1), which denies the application of the benefit for any purpose which is an 'offence' or 'prohibited by law'.

Order: The court order came while dismissing an appeal by Apex Laboratories Pvt Ltd, which claimed a full tax benefit on the expenditure of ₹4.72 Crore incurred by it during the financial year 2009-10 towards hospitality, conference fees, gold coins, LCD TVs, fridges, laptops, etc., to medical practitioners for creating awareness about its health supplement 'Zincovit'.

Noting that pharmaceutical companies have misused a legislative gap to actively perpetuate the commission of an offence, the top court upheld the previous decisions of the Madras high court and the tax tribunals that only the expenses incurred till December 14, 2009 (the date on which the 2002 Regulations came into force) were eligible for the tax benefit and not for the entirety of the amount.

It is also a settled principle of law that no court will lend its aid to a party that roots its cause of action in an immoral or illegal act, meaning that no one should be allowed to profit from any wrongdoing, stated the bench, adding a comprehensive view must be adopted to regulate the conduct when doctors and pharmacists are complementary and supplementary to each other in the medical profession.

Denial of the tax benefit cannot be construed as penalizing the assessee pharmaceutical company. Only its participation in what is plainly an action prohibited by law precludes the assessee from claiming it as a deductible expenditure. One arm of the law cannot be utilised to defeat the other arm of law – doing so would be opposed to public policy and bring the law into ridicule. The bench further noted that agreements between pharma companies and the medical practitioners in gifting freebies for boosting sales of prescription drugs is also violative of Section 23 of the Contract Act because the consideration involved in such pacts are unlawful and opposed to public policy.

GST

ADVISORY

UPCOMING GSTR-1 ENHANCEMENTS & IMPROVEMENTS

Our Comments: Upcoming GSTR-1 enhancements & improvements on the GST portal (www.gst.gov.in):

The statement of outward supplies in FORM GSTR-1 is to be furnished by all normal taxpayers on a monthly or quarterly basis, as applicable. Quarterly GSTR-1 filers have also been provided with an *optional* Invoice Furnishing Facility (IFF) for reporting their outward supplies to registered persons (B2B supplies) in the first two months of the quarter. Continuous enhancements & technology improvements in GSTR-1/IFF have been made from time to time to enhance the performance & user-experience of GSTR-1/IFF, which has led to improvements in Summary Generation process, quicker response time, and enhanced user-experience for the taxpayers.

The previous phase of GSTR-1/IFF enhancement was deployed on the GST Portal in November 2021. In that phase, new features like the revamped dashboard, enhanced B2B tables, and information regarding table/tile documents count were provided. In continuation to the same, the next Phase of the GSTR-1/IFF improvements would be implemented shortly on the Portal.

The following changes are being done in this phase of the GSTR-1/IFF enhancements:

- i. **Removal of 'Submit' button before filing:** The present two-step filing of GSTR-1/IFF involving 'Submit' and 'File' buttons will be replaced with a simpler *single-step filing* process. The upcoming 'File Statement' button will replace the present two-step filing process and will provide taxpayers with the flexibility to add or modify records till the filing is completed by pressing the 'File Statement' button.
- ii. **Consolidated Summary:** Taxpayers will now be shown a table-wise consolidated summary before

actual filing of GSTR-1/IFF. This consolidated summary will have a detailed & table-wise summary of the records added by the taxpayers. This will provide a complete overview of the records added in GSTR-1/IFF before actual filing.

- iii. **Recipient wise summary :** The consolidated summary page will also provide recipient-wise summary, containing the total value of the supplies & the total tax involved in such supplies for each recipient. The recipient-wise summary will be made available with respect to the following tables of GSTR-1/IFF, which have counter-party recipients:
 - Table 4A: B2B supplies
 - Table 4B: Supplies attracting reverse charge
 - Table 6B: SEZ supplies
 - Table 6C: Deemed exports
 - Table 9B: Credit/Debit notes
2. The functionality will be made available on the GST Portal shortly, and the same will be intimated to taxpayers. For detailed advisory & sample screenshots of the upcoming GSTR-1/IFF improvements & enhancements, please visit the government portal gst.gov.in

FEMA

CIRCULAR

REGULATIONS REVIEW AUTHORITY (RRA 2.0) – INTERIM RECOMMENDATIONS–DISCONTINUATION/ MERGER/ ONLINE SUBMISSION OF RETURNS

OUR COMMENTS: As part of the implementation of the interim recommendations of the RRA 2.0, it is proposed to discontinue/merge the returns listed in the Annex 1. Further, it is also proposed to convert, the paper based/ e-mail-based returns listed in the Annex 2, into online filing. The exact date of discontinuation/merger and online filing of the returns, would be notified in due course.

Annex - 1 List of Returns to be Discontinued/ Merged

S.No.	Return Name	Return Description
1	Details of guarantee availed and invoked from non-resident entities	Non-resident guarantee for fund based and nonfund based facilities (such as Letters of Credit/guarantees/Letter of Undertaking (LoU) /Letter of Comfort (LoC) entered into between two persons resident in India.

List of Returns to be converted into Online submission

S.No.	Return Name	Return Description
1	FII Weekly	All AD banks advised to report inflow/ of outflow of foreign funds on account of investment by FIIs/FPIs in the Indian capital market in a format which consists of two parts: Part A: Inflow/outflow- Fund Position and Part B: Residual Maturity Pattern
2	MTSS	Statement showing details of remittances received through Money Transfer Service Scheme during the quarter ended, within 15 days from the close of the quarter to which it relates.

3	Statement on default in MTT	Statement on default in Merchanting Trade Transactions (MTT)
4	Details of remittances made by NRO account	Remittances made out of NRO accounts up to 1 million USD per calendar year - Facilities to NRIs/PIOs and foreign nationals -liberalisation
5	Overseas Principal-wise list of Sub Agents	Overseas principal-wise list of sub-agents of MTSS Indian Agents
6	Declaration confirming the veracity of the list placed on RBI website	Confirmation of veracity of the list of sub-agents
7	List of additional locations	List of additional locations of MTSS Agents
8	Statement of Foreign Currency Account/s maintained in India in their names with AD Category-I Banks out of export proceeds of Foreign Currency Notes/ encashed Travellers' Cheques	Statement of Foreign Currency Account/s maintained in India in their names with AD Category-I Banks out of export proceeds of Foreign Currency Notes/ encashed Travellers' Cheques
9	Statement of the amount of foreign currency written off during a financial year	Statement of the amount of foreign currency written off during a financial year
10	Form RMC-F	RMC- Restricted Money Changing
11	Statement of the collateral held by MTSS Indian Agents	Statement of the collateral held by MTSS Indian Agents

FEMA

12	Details of Online Payment Gateway Service Providers (OPGSP) arrangements	Details of Online Payment Gateway Service Providers (OPGSP) arrangements
13	Extension of time in respect of clean credit for import of rough, cut and polished diamonds	Extension of time in respect of clean credit for import of rough, cut and polished diamonds
14	Advance remittances made for import of rough diamonds without a bank guarantee or standby letter of credit, where the amount of advance payment is equivalent to or exceeds USD 5,000,000/-	Advance remittances made for import of rough diamonds without a bank guarantee or standby letter of credit, where the amount of advance payment is equivalent to or exceeds USD 5,000,000/-
15	ESOP reporting	"Statement of shares repurchased by the issuing foreign company from Indian employees/ Directors under ESOP Schemes for the year ended March 31, (Year) (To be submitted on the letterhead of the Indian Company / Office / Branch through their AD bank)"
16	FLM-8 (Sale and purchase of foreign currency)	Summary statement of purchases and sale of foreign currency notes during the month reported by FFMCs and AD-Category II.
17	LO/BO/PO	Consolidated list of all the Branch Office (BO)/ Liaison Office (LO) / Project Office (PO) opened and closed by them during a month

18	Reporting of Long term Advance	Reporting of Long-term Advance of USD 100 million & more along with Progress Report to be submitted by Authorised Dealer Bank on utilization of long-term export Advances
19	Form ECB	Application and reporting of loan agreement details
20	Form ECB 2	Reporting of actual ECB transactions through AD Category -1 banks
21	Form TC	Compilation of short-term credit extended for imports and payments thereof

[For further details please refer to the Circular]

CUSTOMS

NOTIFICATION

SHIPPING BILL (POST EXPORT CONVERSION IN RELATION TO INSTRUMENT BASED SCHEME) REGULATIONS

OUR COMMENTS: CBDT vide notification number 11/2022 dated 22.02.2022, hereby makes the following regulations, namely: -

These regulations may be called the Shipping Bill (Post export conversion in relation to instrument based scheme) Regulations, 2022. They shall come into force on the date of their publication in the Official Gazette. These regulations shall apply to shipping bills or bills of export filed on or after the date of publication of these regulations in the Official Gazette.

Manner and time limit for applying for post export conversion of Shipping Bill in certain cases. - (1) The application for conversion shall be filed in writing within a period of one year from the date of order for clearance of goods under sub-section (1) of section 51 or section 69 of the Act, as the case may be:

Provided that the jurisdictional Commissioner of Customs, having regard to the circumstance under which the exporter was prevented from applying within the said period of one year, may consider and decide, for reasons to be recorded in writing, to extend the aforesaid period of one year by a further period of six months:

Provided further that the jurisdictional Chief Commissioner of Customs, having regard to the circumstances under which the exporter was prevented from applying within the said period of one year and six months, may consider and decide, for reasons to be recorded in writing, to extend the said period of one year and six months by a further period of six months.

(2) For the purpose of computing the period of one year under sub-regulation (1), the period, during which stay was granted by an order of a court or tribunal, shall be excluded.

(3) The jurisdictional Commissioner of Customs, may, in his discretion, authorize the conversion of shipping bill, subject to the following, namely: -

(a) on the basis of documentary evidence, which was in existence at the time the goods were exported;

(b) subject to conditions and restrictions provided in regulation 4;

(c) on payment of a fee in accordance with Levy of fees (Customs Documents) Regulations, 1970.

(4) Subject to the provision of sub-regulation (1), the jurisdictional Commissioner of Customs shall, where it is possible so to do, decide every application for conversion within a period of thirty days from the date on which it is filed.

4. Conditions and restrictions for conversion of Shipping Bill.

- (1) The conversion of shipping bill and bill of export shall be subject to the following conditions and restrictions, namely: -

(a) fulfilment of all conditions of the instrument-based scheme to which conversion is being sought;

(b) the exporter has not availed benefit of the instrument-based scheme from which conversion is being sought;

(c) no condition, specified in any regulation or notification, relating to presentation of shipping bill or bill of export in the Customs Automated System, has not been complied with;

(d) no contravention has been noticed or investigation initiated against the exporter under the Act or any other law, for the time being in force, in respect of such exports;

(e) the shipping bill or bill of export of which the conversion is sought is one that had been filed in relation to instrument based scheme.

[For further details please refer the Notification]

DGFT

NOTIFICATION

AMENDMENT IN IMPORT POLICY OF ITEMS UNDER ITC(HS) 8524 AND 8525 OF CHAPTER 85 OF ITC(HS) 2022, SCHEDULE - I (IMPORT POLICY)

OUR COMMENTS: The Central Government vide notification number 55/2015-2022, dated 24.02.2022 hereby amends the import policy of items under ITC(HS) 8524 and 8525 of Chapter 85 of ITC(HS) 2022, Schedule I (Import Policy) as follows –

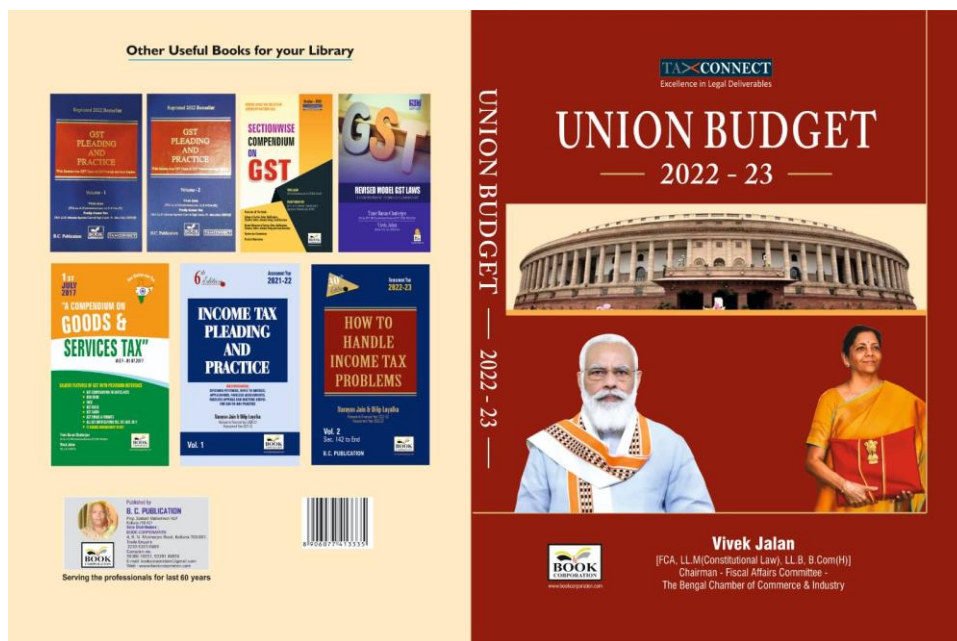
2. Effect of the Notification: Import policy of ITC(HS) 8524 and ITC(HS) 8525 89 00 is revised from 'Restricted' to 'Free' with immediate effect.

[For further details please refer the Notification]

ITC(HS) Code	Item Description	Existing Import Policy	Revised Import Policy
8524 11 00	-- Of liquid crystals	Restricted	Free
8524 12 00	-- Of organic light-emitting diodes (OLED)	Restricted	Free
8524 19 00	- Other	Restricted	Free
8524 91 00	-- Of liquid crystals	Restricted	Free
8524 92 00	-- Of organic light-emitting diodes (OLED)	Restricted	Free
8524 99 00	-- Other	Restricted	Free
8525 89 00	-- Other	Restricted	Free

:IN STANDS

UNION BUDGET 2022-23



CONTENTS

1. **Commentary on Budget**
2. **Budget at a glance**
3. **Finance Minister's Budget Speech**
4. **Finance Bill**
5. **Memorandum**
6. **Notes on Clauses**

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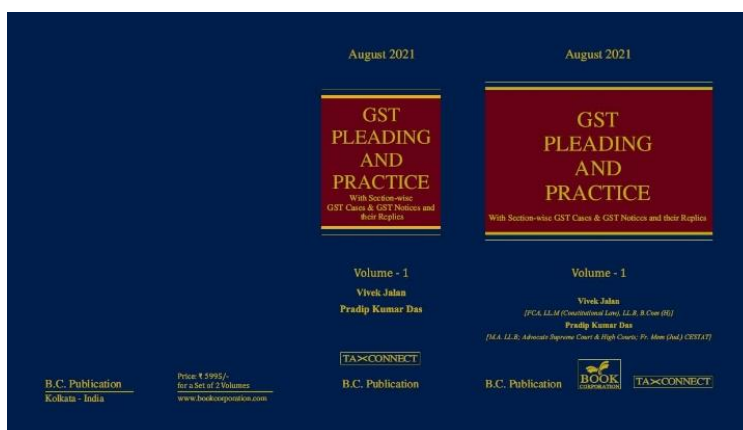
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:IN STANDS

GST PLEADING AND PRACTICE: With Section-wise GST Cases & GST Notices and their Replies



ABOUT THE BOOK: This publication includes:

1. GST Notices and their Replies
2. Orders and Appeals under GST
3. Text of provisions under IGST Act 2017 & CGST Act 2017
4. CGST & IGST Section-wise Synopsis of Case Laws and Notification/Circulars Gist
5. CGST & IGST Section-wise Synopsis of "Question of Law" answered under GST
6. Completely Updated Synopsis of Case Laws under GST by Supreme Court, High Court, AAARs & AARs

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