TAX CONNECT
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TAX CONNECT

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INCOME TAX

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CENTRAL EXCISE

SERVICE TAX

STATE TAXES

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EDITORIAL

Friends,

The GST Law provides for payments and refund mechanism. This had cast aspersions in the minds of exporters that their working capital would be blocked. **In this regard, the GST Law is very Liberal and it provides for 90% of reassessment refunds within 2 weeks of application.** Infact there is a provision of interest to be paid by the Govt. in case of any delay. Also application for refunds will be entirely online with no requirement of manual intervention.

Again in a meeting with an exporter, doubts were cast that at present also there is a provision of pre-assessment refund under VAT, which is stuck up for months. In this regard, it may be noted that states have their limitation w.r.t. their cash position and hence there may be delay. However under GST the refunds would be controlled by the centre and it is expected to be smooth as is the case with duty drawbacks which today get credited to the bank account directly without any hassle!

With respect to GST Implementation, the FM has clarified that he is willing to wait for consensus to emerge on GST laws and will not push for a decision by vote despite the threat of a delay in rolling out the new tax regime from April. **Hence it seems that GST now is delayed to at least June-July 2017. In a way this can be a blessing in disguise as Trade & Industry will get some more time to be ready for the herculean transformation!**

Now coming to the present taxes,

In Service Tax, it has been held that tax liability of co-owners from renting of immovable property should be determined by considering their individual rental receipts and not collective one.

In Income Tax, explanatory notes have been provided on provisions of the taxation and investment regime for Pradhan Mantri Garib Kalyan Yojana, 2016 as contained in Chapter IX-A of the Finance Act, 2016.

In Excise & Customs, various notifications have been amended which have been discussed further in the bulletin.

In **WBVAT,** West Bengal Sales Tax (Settlement Of Dispute) Act, 1999 has been amended.

Also, some of the provisions of The West Bengal Taxation Laws (Amendment) Act, 2016 have been made effective from 01.01.2017.

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

Truly Yours

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SYNOPSIS

GOODS & SERVICE TAX (GST)

REVISED DRAFT MODEL GST LAW (NOVEMBER 2016): IGST LAW - SOME NEW CONCEPTS & DEFINITIONS

The revised GST Model Law in November has brought in many changes in the existing law and has also introduced some new concepts. We hereby continue to discuss some of the key changes in this issue.

Changes in place of supply of services - applicable in cases where location of supplier and location of recipient are in India (for simplicity referred as "Domestic Transactions")

- **Immovable property:** Adding the word "directly" construes an immediate link of a service with an immovable property. Only for such directly linked services, place of supply shall be the location of immovable property.

  The new law (Sec 9) has added the word "directly". Hence place of supply shall be the location of immovable property only for services directly in relation to an immovable property.

- **Immovable property, boat or a vessel is intended to be located outside India:-** The earlier IGST law stated that if the boat or a vessel is intended to be located outside India, then the place of supply was the location of the boat or a vessel. However, in the new law, if the boat or a vessel is intended to be located outside India, then the location of recipient shall be the place of supply.

  As per the new law (Sec 9): If such boat or a vessel is intended to be located outside India, then the location of recipient of services shall be the place of supply.

- **Organizing an event outside India:** As per the new IGST Law, services of organizing an event outside India shall be the place of recipient and not the place where event is held.

  As per the new law Sec 9: If the event is organized outside India, the place of supply shall be the location of the recipient whether registered or not.

- **Telecommunication services:** New IGST Law, brings more clarity in cases where pre-paid vouchers are sold through agents.

  As per the new law Sec 9: Place of supply in such cases where such service is provided through selling agent or a re-seller or a distributor of SIM card or re-charge voucher, shall be address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply or place of supply.

Place of supply of services - applicable in cases where location of supplier or location of recipient is outside India (for simplicity referred as "International Transactions")

- **Physical presence of goods is required to provide the service :** As per Sec. 10(3) of the New IGST Law, place of supply in case of services supplied in respect of goods that are required to be made physically available by the recipient of service to the supplier of service, or to a person acting on behalf of the supplier of service in order to provide the service shall be the location where the services are actually performed. If such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of service. An exception has been created in case of service supplied in respect of goods that are temporarily imported into India for repairs and are exported after repairs without being put to any use in India, other than that which is required for such repairs. In such case place of supply shall be the location of recipient.

GOODS & SERVICE TAX (GST) contd..

- **Physical presence of individual is required to provide the service:** As per Sec. 10(3), place of supply in case of services supplied to an individual, represented either as the recipient of service or a person acting on behalf of the recipient, which require the physical presence of the receiver or the person acting on behalf of the recipient, with the supplier for the supply of the service shall be the location where the services are actually performed.

- **Immovable property including directly related services:** Under the New IGST law, place of supply shall be the place where the immovable property is located.

- **Admission to events:** Under the New IGST law, place of supply shall be the place where the event is actually held.

- **Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders:** Under the New IGST law, place of supply shall be the location of the supplier of service.

- **Intermediary services:** Under the New IGST law, place of supply shall be the location of the supplier of service.

- **Services consisting of hiring of means of transport other than aircrafts and vessels except yachts, upto a period of one month:** Under the New IGST law, place of supply shall be the location of the supplier of service.

- **Transportation of goods other than by way of mail or courier:** Under the New IGST law,the place of supply shall be the place of destination of the goods.

- **Passenger transportation:** Under the New IGST law, place of supply shall be the place where the passenger embarks on the conveyance for a continuous journey.

- **On board services:** Under the New IGST law, place of supply shall be the first scheduled point of departure of that conveyance for the journey.

- **Online information and database access or retrieval services:** Place of supply shall be the location of the recipient of service.

  Person receiving such services shall be deemed to be located in the taxable territory if any two of the following non-contradictory conditions are satisfied, namely:-

  (i) the location of address presented by the recipient of service via internet is in taxable territory;
  (ii) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of service settles payment has been issued in the taxable territory;
  (iii) the billing address of recipient of service is in the taxable territory;
  (iv) the internet protocol address of the device used by the recipient of service is in the taxable territory;
  (v) the bank of recipient of service in which the account used for payment is maintained is in the taxable territory;
  (vi) the country code of the subscriber identity module (SIM) card used by the recipient of service is of taxable territory;
  (vii) the location of the fixed land line through which the service is received by the recipient is in taxable territory.

TAX CALENDAR

Due date	Compliances from 8th Jan, 2017 to 14th Jan, 2017	State/Region
10th Jan, 2017	Deposit of WCT of previous month (VAT Act)	Chhattisgarh, Madhya Pradesh, West Bengal, Nagaland, Meghalaya, Manipur, Assam, Mizoram, Arunachal Pradesh
	Filing of monthly/quarterly WCT return (VAT Act)	Kerala
	Issuance of monthly/quarterly WCT certificate (VAT Act)	Madhya Pradesh, Manipur, Karnataka, Kerala
	Deposit of VAT of previous month (VAT Act)	Chhattisgarh
	Deposit of Ptax of previous month (Commercial Tax Act)	Andhra Pradesh , Madhya Pradesh
14th Jan, 2017	Deposit of VAT of previous month (VAT Act)	Rajasthan
	Filing of monthly/quarterly WCT return (VAT Act)	Odisha
	Deposit of Entry tax of previous month (Entry Tax Act)	Rajasthan

COURT DECISIONS

ANIL SAINI, KABAL SINGH, NEELAM SAINI, SURINDER KAUR, JASWINDER SINGH, PARMOD KUMAR CHAUDHARY, SUKHJEET JODHA VERSUS CCE, CHANDIGARH [CESTAT CHANDIGARH]

BRIEF: Tax liability of co-owners from renting of immovable property should be determined by considering their individual rental receipts and not collective one.

OUR COMMENTS: In the above case, the assessees are co-owners of a property. They let out the said property on rent and received the rent separately as per their share in the property hence. They did not pay service tax on the amount of rent as it was within the threshold limit and they were entitled to avail benefit of Notification No. 06/2005-ST dated 01.03.2005.

The Revenue contended that as the assessees have jointly let out the property and total rent received on the property is more than threshold limit of Notification No. 06/2005-ST dated 01.03.2005 ibid, therefore, they are liable to pay service under the category of Renting of Immovable Property Services. Accordingly a show cause notice was raised demanding service tax, interest and penalty.

The issue that needs to be decided in this case is whether the assessees are to be treated as association of persons or other wise and service tax liability on it arises, should be confined without the benefit of the notification No. 6/2005-S.T.

The Hon'ble CESTAT noted the following:

- rented property belongs to four separate persons but the service tax has been demanded by the department from the appellants by clubbing the rent received by all the co-owners

- City survey Extract as evidence regarding ownership of the rented property shows that the said property was purchased in 2003 and is owned jointly by all the four co-owners.

-Further, the lease agreements with M/s Max New York Life Insurance co. Ltd., Oriental bank of Commerce, Axis Bank, Kotak Mahindra Bank and HDFC Standard Life Insurance Ltd. are also entered into by the appellants in their individual capacity.

Thus, the ownership of the Property and providing of taxable renting of immovable Property by the four appellants in this case is in their individual capacity and, therefore, their tax liability should have been determined by considering their individual rental receipts and not collective one.

The demand of service tax is not sustainable as the appellants are entitled for benefit of Notification No. 06/2005-ST dated 01.03.2005

Accordingly, the demand was set aside.

Ref: CCE, Nasik Vs. Deoram Vishrambhai Patel [CESTAT MUMBAI].

[Decided in favour of assessee]

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

AMENDMENTS IN THE FIRST SCHEDULE TO THE CENTRAL EXCISE TARIFF ACT

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 49/2016-Central Excise (N.T.) dated 31.12.2016** has amended **First Schedule to the Central Excise Tariff Act, 1985** w.e.f. 01.01.2017.

The readers may refer the notification for details.

AMENDMENTS IN NOTIFICATION NO. 49/2008-CENTRAL EXCISE (N.T.), DATED THE 24TH DECEMBER, 2008

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 50/2016-Central Excise (N.T.) dated 31.12.2016** has amended **Notification No. 49/2008-Central Excise (N.T.), dated the 24th December, 2008 (MRP based duty of Excise - Prescribes rate of abatement)** w.e.f. 01.01.2017.

The readers may refer the notification for details.

AMENDMENTS IN VARIOUS NOTIFICATIONS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 37/2016-Central Excise dated 31.12.2016** has amended **the following notifications:**

1. Notification No. 74/93-Central Excise, dated the 28th February, 1993 - Exemption to specified goods manufactured in a State Government factory and intended for use in any of its department
2. Notification 10/96- Central Excise, dated 23rd July,1996- Exemption to goods within the factory of their production in the manufacture of specified goods
3. Notification 49/2003-Central Excise, dated 10th June, 2003: Uttarakhand or Himachal Pradesh Units Exemption from Excise Duty on Specified Goods
4. Notification 50/03-Central Excise dated 10th June, 2003: Exempts the goods specified in the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985
5. Notification 30/2004 –Central Excise dated 9th July, 2004: Exemption to specified goods of chapters 50 to 63
6. Notification 1/2011-Central Excise, dated 1st March, 2011: Effective rate of duty 2 (earlier 1) on certain items on which exemption has been withdrawn, without availing cenvat credit
7. Notification 2/2011-Central Excise, dated 1st March, 2011: Option to pay duty at 6 (earlier 5) with cenvat credit on which exemption has been withdrawn
8. Notification 7/2012 Central Excise, dated 17th March, 2012 : Effective rate of duty for certain goods falling under under Chapter 52 to 63
9. Notification No. 12/2012-Central Excise, dated 17th March, 2012: Prescribes effective rate of duty on goods falling under chapter 1 to 96

The readers may refer the notification for details.

CUSTOMS

NOTIFICATIONS/CIRCULARS

AMENDMENTS IN THE FIRST SCHEDULE TO THE CUSTOMS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 150/2016-Customs (N.T.) dated 31.12.2016** has amended **First Schedule to the Customs Tariff Act, 1975** w.e.f. 01.01.2017.

The readers may refer the notification for details.

AMENDMENTS IN VARIOUS NOTIFICATIONS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 67/2016-Customs dated 31.12.2016** has amended **the following notifications:**

1. Notification No. 105/1999-Customs,dated the 10th August, 1999: Concessional rates of duties on goods when imported from SAARC countries under SAARC Preferential Trade Agreement, 1995
2. Notification 26/2000 – Customs, dated the 1st March, 2000: Concessional rate of duty on specified goods of Sri Lankan origin imported from Sri Lanka
3. Notification 85/2004- Customs, dated the 31st August, 2004: Exemption Notification for items covered under India-Thailand Free Trade Agreement
4. Notification 73/2005- Customs, dated the 22nd July, 2005: Exemption to specified goods of the origin of Republic of Singapore, when imported into India from Republic of Singapore
5. Notification 10/2008- Customs, dated the 15th January, 2008: Prescribes effective rate of duty (concessional rate of duty) on certain goods imported from Singapore subject to Origin of goods are of Singapore
6. Notification 96/2008 – Customs, dated the 13th August, 2008: Duty free tariff preference for Least Developed Countries
7. Notification 57/2009 – Customs, dated the 30th May, 2009: Regarding exemption to specified goods when imported to India from specified countries
8. Notification 12/2012 Customs, dated the 17th March,2012: Prescribes effective rate of duty on import of goods
9. Notification 75/2005- Customs, dated the 22nd July,2005: Exemption to specified goods of the origin of Republic of Singapore, when imported into India from Republic of Singapore
10. Notification 74/2005- Customs, dated the 22nd July, 2005: Exemption to specified goods of the origin of Republic of Singapore, when imported into India from Republic of Singapore
11. Notification 28/1995- Customs, dated the 16th March,1995: Exemption to specified goods of the origin of Republic of Singapore, when imported into India from Republic of Singapore
12. Notification No. 76/2003- Customs, dated the 13th May,2003: Exemption to specified goods, when imported from the Transitional Islamic State of Afghanistan
13. Notification No. 68/2012- Customs, dated the 31st December,_ 2012: Concessional rate of duty - Goods imported from Srilanka & Pakistan under SAFTA
14. Notification No. 21/2012-Customs, dated the 17th March, 2012: Exempts import of goods from additional duty leviable u/s 3(5)
15. Notification 72/2005- Customs, dated the 22nd July, 2005: Extent of Tariff Concession on specified goods imported from P R China, Bangladesh, Korea R P or Sri Lanka under Bankok Agreement
16. Notification 24/2005 – Customs, dated the 1st March, 2005: Exemption to specified goods to Chapter 38, 84, 85 and 90 and all goods for the manufacture thereof
17. Notification 101/2007- Customs, dated the 11th September, 2007: Tariff concessions on specified items under Indo-Chile preferential trading agreement
18. Notification_ 151/2009- Customs, dated the 31st December, 2009: Exempts goods when imported into India from the Republic of Korea, from whole of the duty of customs

NOTIFICATIONS & CIRCULARS

EXPLANATORY NOTES ON PROVISIONS OF THE TAXATION AND INVESTMENT REGIME FOR PRADHAN MANTRI GARIB KALYAN YOJANA, 2016 AS CONTAINED IN CHAPTER IX-A OF THE FINANCE ACT, 2016

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Circular No.43 of 2016 dated 27.12.2016** has provided explanatory notes on provisions of the Taxation And Investment Regime For Pradhan Mantri Garib Kalyan Yojana, 2016 as contained in Chapter Ix-A of The Finance Act, 2016.

- The Scheme provides for declaring undisclosed income and pay tax, surcharge and penalty totaling in all to 49.9 per cent.(Tax, surcharge, penalty) of such declared income.

- A mandatory deposit of not less than 25% of such income shall be made in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 (PMGKY Deposit Scheme') commenced on 17.12.2016 and open till 31.03.2017. The deposit shall bear no interest and the amount deposited shall have a lock-in period of four years.

- Any income in the form of cash or deposit and chargeable to tax for any AY commencing on or before 01.04.2017.

- No deduction of any expenditure or allowance or set-off of any loss shall be allowed

- Declaration can be made in Form-1 anytime on or after 17th December, 2016 but on or before 31st March, 2017.

- A declaration under the Scheme can be filed:

- Electronically under digital signature with CIT(CPC) Bengaluru or jurisdictional Principal CIT/CIT notified under section 120

- Electronically through Electronic Verification Code (EVC) or in print form with jurisdictional Principal CIT /CIT notified under section 120.

- The declaration shall not be eligible in certain specified cases

- A declaration shall be void if made by misrepresentation or suppression of facts or without payment of tax and surcharge or penalty or without depositing the requisite amount in the PMGKY Deposit Scheme

- Any tax, surcharge or penalty paid shall not be refundable under any circumstances.

- A declarant under this Scheme shall not be entitledto re-open any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act, 1957 in respect of the declared income.

TAMIl NADU

GST DATA MIGRATION

OUR COMMENTS: The Commercial Taxes Department, Government of Tamil Nadu has notified that the dealer data migration to GST portal is opened to dealers of Tamil Nadu from 1st January 2017 upto 15th January 2017.

The provisional id and password has been sent to all the dealers through the registered e-mail.

If they face any problem they can call the GST Call Centre No.0124-4688999 and Tamil Nadu Commercial Taxes Call Centre Toll Free No.1800 103 6751.

The dealers who have not received the Provisional id and password can contact their respective Assessment Circles for clarification.

WEST BENGAL

AMENDMENT IN WEST BENGAL SALES TAX (SETTLEMENT OF DISPUTE) ACT, 1999

OUR COMMENTS The Legislative, Law Department, Government of West Bengal, vide Notification **No. 1918-F.T. dated 30.12.2016** has amended Rules 2, 6 and Form 1 of West Bengal Sales Tax(Settlement Of Dispute) Act, 1999.

The readers may refer the notification for details.

Further, with reference to Notification No. 1075-L. dated 14.12.2016 it has been clarified that earlier the Department inadvertently disseminated incorrect information regarding interest and penalty under the amended Settlement of Dispute Scheme.

Now it is, clarified that no interest and penalty is to be paid for settlement of disputes irrespective of the types of disputes. Earlier, it was not required to be paid only with respect to disputes relating to Declaration Forms.

DUE DATE OF DISPOSAL OF APPLICATIONS OF REVISIONS FILED U/S 87 EXTENDED TO 28.02.2017

OUR COMMENTS The Finance Department, Government of West Bengal, vide Notification **No. 1916-F.T. dated 30.12.2016** has extended the date up to the 28th day of February, 2017 within which the applications for revision filed u/s 87 between the 01.07.2015 and 30.09.2015 shall he disposed of.

THE WEST BENGAL TAXATION LAWS (AMENDMENT) ACT, 2016

OUR COMMENTS The Legislative, Law Department, Government of West Bengal, vide Notification **No. 1135-F.T. dated 30.12.2016 has notified The West Bengal Taxation Laws (Amendment) Act, 2016 is** an Act to amend the West Bengal Sales Tax Act, 1994, the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, and the West Bengal Value Added Tax Act, 2003 has been assented to by the Governor and

Vide Notification No. 1917 - FT 1st day of January, 2017 has been appointed as the date on which section 2, section 3 and section 4, of the said Act shall come into force**.**

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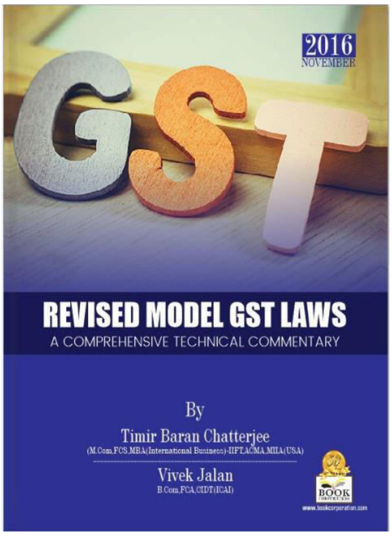
IN STANDS: REVISED MODEL GST LAWS : A COMPREHENSIVE TECHNICAL COMMENTARY



ABOUT THE BOOK: While the Government is moving at a rapid pace, yet it is still a question whether the Corporates are GST Ready or not. It is high time that the law needs to be analysed and implemented into every facet of the business including sales and marketing, Logistics, procurement, HR, IT and of course Finance and Taxation. The book contains an exhaustive coverage of the Revised Model GST in the form of a Section wise technical commentary. It provides an insight into the following:

1. Brief about the major changes between the Revised law and the earlier law.
2. Revised Model GST Law November 2016
3. Revised Model IGST Law November 2016
4. GST Compensation Law
5. GST Return Rules
6. GST RefundRules
7. GST Registration Rules
8. GST Payment Rules
9. GST Invoice Rules

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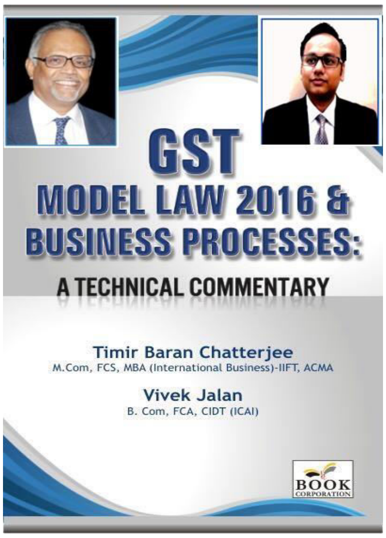
IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



ABOUT THE BOOK: GST Bill is going to be passed in July 2016 and GST is expected to go live from 1st April 2017! In this backdrop, as our initiative to get GST READY, we have launched this publication. This books provides an insight into the following –

1. Procedural provisions under The Model GST Law 2016
2. Glimpse of the Model GST Law 2016
3. Model GST Law 2016
4. GST Valuation (Determination of The Value of Supply of Goods and Services) Rules, 2016
5. The Integrated Goods and Services Tax Act, 2016
6. GST Registration Process
7. GST Return Process
8. GST Payment Process
9. GST Refund Process
10. Eco system for GST and GST Suvidha Provider

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BOOK EXCLUSIVELY ON WORKS CONTRACT (SERVICE TAX AND VAT)

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Works Contract has been one of the most complex and litigation prone areas in Indirect Taxes. However with good understanding of all the provisions under Service Tax & VAT which hit Works Contracts & proper planning, Trade & Industry can not only avoid litigation but can also save around 5% - 10% on indirect taxes which by no means is an ordinary saving in the competitive market. For Trade & Industry, the problems on the subject have been many. Over the last few years we have received queries and replied to the issues at various forums.

Vide this publication, we have made an attempt to cover in detail all issues related to **Service Tax:** Valuation, Point of Taxation, Place of Taxation, Abatement, Reverse Charge, Input Tax Credit Mechanism & **VAT**: Contractual Transfer Price, Modes of Valuation, WIP, STDS as well as **GST** . We have also focused on the issues faced by various sectors on account of Works Contract.

This book is divided into Seven Parts covering several broad areas. Each area has the provisions directly from the Statue in the beginning and detailed discussions on the provisions in the form of questions and answers thereafter. Since litigations on the subject have been manifold, we have also covered judicial pronouncements extensively.

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