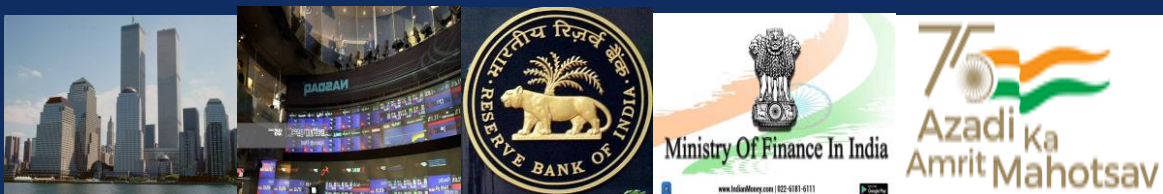


TAX CONNECT

Knowledge Partner:



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

TAX CONNECT

Mumbai :Unit No. 312, Omega Business Park, Near-Kaamgar Hospital, Road No. 33, Wagle Industrial Estate, Thane(West), Maharashtra – 400604

Bangalore:H. No.- 2102, 8th Cross, 15th Main, Kodihalli, HAL 3rd Stage, 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, Room No.-13 (N), Kolkata-700001

:Room No. 119, 1st Floor, "Diamond Arcade" 1/72, Cal Jessore Road, Kolkata – 700055

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

Contact: +91 9830661254

Website: www.taxconnect.co.in

Email: info@taxconnect.co.in

EDITORIAL



Friends,

The consistency in tax collection of INR one lakh crore plus has now become a new normal. GST collection for July, 2022 are out and encouraging. The buoyancy in tax collection continues steadily. The gross GST revenue collected in the month of July 2022 is Rs.1,48,995 crore of which CGST is Rs. 25,751 crore, SGST is Rs. 32,807 crore, IGST is Rs. 79,518 crore (including Rs. 41,420 crore collected on import of goods) and Cess is Rs. 10,920 crore (including Rs. 995 crore collected on import of goods). This is second highest revenue since introduction of GST. For five months in a row now, the monthly GST revenues have been more than Rs. 1.4 lakh crore, showing a steady increase every month. The growth in GST revenue till July 2022 over the same period last year is 35% and displays a very high buoyancy. The enhanced collection is also looked at as a result of better compliance, better reporting, consistent economic recovery and curbing tax evasion. With no compensation to states in 2022-23, now states are also aggressive on recovery of taxes.

E-invoicing will be mandatory if aggregate turnover exceeds INR 10 crore in any financial year from 2017-18 and onwards. CBIC has reduced mandatory e-invoicing threshold limit from INR 20 crore to INR 10 crore of aggregate turnover w.e.f. 01.10.2022. The present threshold limit for mandatory e-invoices is INR 20 crore.

New Functionality in GSTR-3B: As per section 9(5), an Electronic Commerce Operator (ECO) is required to pay tax on the supply of certain services notified by the

government such as Passenger Transport services, Accommodation services, Housekeeping Services & Restaurant Services, if such services are supplied through ECO. For reporting of such supplies, a new Table 3.1.1 has been added in GSTR-3B as per Notification No. 14/2022 – Central Tax dated 05th July 2022 wherein both, ECOs and registered persons can report their supplies made under section 9(5) respectively.

Accordingly, An ECO is required to report supplies made u/s 9(5) in Table 3.1.1(i) of GSTR-3B and shall not include such supplies in Table 3.1(a) of GSTR-3B. The applicable tax on such supplies shall be paid by ECO in Table 3.1.1(i) of GSTR-3B in cash only and not by ITC.

A registered person who is making supplies of such services as specified u/s 9(5) through an ECO, shall report such supplies in Table 3.1.1(ii) and shall not include such supplies in Table 3.1(a) of GSTR-3B. The registered person is not required to pay tax on such supplies as the ECO is liable to pay tax on such supplies.

NIL GSTR-1 Returns: GSTN has introduced a new option to file a 'NIL' GSTR-1 return by way of selecting the check box. There will be no need to go through the process of generating the summary.

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

Truly Yours

Editor:

Vivek Jalan

Partner - Tax Connect Advisory Services LLP

Co-Editors:

Rohit Sharma

Senior Manager – Tax Connect Advisory Services LLP

Rajani Kant Choudhary

Senior Manager – Tax Connect Advisory Services LLP

SYNOPSIS

S.NO.	TOPICS	PAGE NO.
1]	TAX CALENDER	4
2]	INCOME TAX	5-7
NOTIFICATION	REDUCTION OF TIME LIMIT FOR VERIFICATION OF INCOME TAX RETURN FROM WITHIN 120 DAYS TO 30 DAYS OF TRANSMITTING THE DATA OF ITR	
NOTIFICATION	INCOME ACCRUED OR ARISEN TO, OR RECEIVED BY, A NON-RESIDENT AS A RESULT OF TRANSFER OF OFFSHORE DERIVATIVE INSTRUMENTS OR OVER-THE-COUNTER DERIVATIVES, UNDER CLAUSE (4E) OF SECTION 10 OF THE ACT, SHALL BE EXEMPTED	
NOTIFICATION	U/S 10(46) OF IT ACT 1961- CENTRAL GOVERNMENT NOTIFIED, TELENGANA STATE POLLUTION CONTROL BOARD A BOARD CONSTITUTED BY THE STATE GOVERNMENT OF TELENGANA	
NOTIFICATION	SEEKS TO AMEND NOTIFICATION REGARDING SECURITIES LISTED ON A RECOGNISED STOCK EXCHANGE LOCATED IN ANY INTERNATIONAL FINANCIAL SERVICES CENTRE	
3]	GST	8-12
NOTIFICATION	SEEKS TO IMPLEMENT E-INVOICING FOR THE TAXPAYERS HAVING AGGREGATE TURNOVER EXCEEDING RS.10 CR FROM 1ST OCTOBER 2022.	
CIRCULAR	CLARIFICATIONS REGARDING APPLICABLE GST RATES & EXEMPTIONS ON CERTAIN SERVICES	
CIRCULAR	CLARIFICATION REGARDING GST APPLICABILITY ON LIQUIDATED DAMAGES, COMPENSATION AND PENALTY ARISING OUT OF BREACH OF CONTRACT OR OTHER PROVISIONS OF LAW	
CIRCULAR	CLARIFICATION REGARDING GST RATES & CLASSIFICATION (GOODS) BASED ON THE RECOMMENDATIONS OF THE GST COUNCIL IN ITS 47TH MEETING HELD ON 28-29TH JUNE, 2022	
4]	FEMA	13
NOTIFICATION	FOREIGN EXCHANGE MANAGEMENT (BORROWING AND LENDING) (THIRD AMENDMENT) REGULATIONS, 2022	
CIRCULAR	EXTERNAL COMMERCIAL BORROWINGS (ECB) POLICY – LIBERALISATION MEASURES	
5]	CUSTOMS	14
NOTIFICATION	RATE OF EXCHANGE OF ONE UNIT OF FOREIGN CURRENCY EQUIVALENT TO INDIAN RUPEES – SUPERSESSION NOTIFICATION NO. 64/2022-CUSTOMS (N.T.), DATED 21ST JULY 2022	
6]	DGFT	15
NOTIFICATION	AMENDMENT IN IMPORT POLICY CONDITION OF HS CODE 29335200 UNDER CHAPTER 29 OF ITC (HS) 2022, SCHEDULE – I (IMPORT POLICY)	
NOTIFICATION	AMENDMENT IN IMPORT POLICY CONDITION OF HS CODE 29021100 UNDER CHAPTER 29 OF ITC (HS) 2022, SCHEDULE – I (IMPORT POLICY)	
7]	UNION BUDGET 2022-23	16
8]	GST PLEADING AND PRACTICE: WITH SECTION-WISE GST CASES & GST NOTICES AND THEIR REPLIES	17
9]	LET'S DISCUSS FURTHER	18

TAX CALENDAR

Due Date	Form/Return	Reporting Period	Description
7 th August	TDS Payment	July 2022	Monthly payment of TDS for the month of July 2022
10 th August	GSTR 7	July 2022	Monthly return to be filed by person who deduct tax at source or TDS under the Goods and Services Tax (GST).
10 th August	GSTR 8	July 2022	Monthly return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST.
11 th August	GSTR 1	July 2022	Monthly Statement of Outward Supplies for business exceeding turnover of 5 crore or opted to file monthly return
13 th August	GSTR 6	July 2022	Monthly return required to be furnished by an input service distributor (ISD) at the GST Portal. It contains the details of ITC received by an ISD and also contains all the documents issued for distribution of ITC and the manner of distribution of such credit against all the relevant tax invoices.
13 th August	GSTR 1 (IFF)	July 2022	Facility provided to quarterly taxpayers who are in QRMP scheme, to file their details of outward supplies in first two months of the quarter, to pass on the credit to their recipients.

INCOME TAX

NOTIFICATION

REDUCTION OF TIME LIMIT FOR VERIFICATION OF INCOME TAX RETURN FROM WITHIN 120 DAYS TO 30 DAYS OF TRANSMITTING THE DATA OF ITR ELECTRONICALLY

OUR COMMENTS: The Central Board of Direct Taxes (CBDT) vide Notification No. 05 of 2022 dated 29.07.2022 notified as under:

The CBDT vide Circular No. 3/2009 dated 21-05-2009 notified the new Income Tax Return (ITR) forms for Assessment Year 2009-10 and provided the facility of furnishing ITR in the following manner:

- i. Furnishing the return in paper form
- ii. Furnishing the return electronically under digital signature
- iii. Transmitting the data in the return electronically and thereafter submitting the verification of the return in form ITR-V to CPC within 30 days after transmitting the data electronically
- iv. Furnishing a bar coded return in paper form.

2. Further as per clarifications provided in para 9 of the said circular, the date of transmitting the data electronically will be the date of furnishing the return if the form ITR-V is submitted within 30 days after the date of transmitting the data electronically. In case, form ITR-V is submitted after the above-mentioned period, it will be deemed that the return in respect of which the form ITR-V has been filled was never submitted and it shall be incumbent on the assessee to electronically re-transmit the data and follow it up by submitting the new form ITR-V within 30 days. Later, the CBDT extended the time-limit for filing ITR-V to 120 days from the date of uploading the return of income. (Press Release dated 27.01.2010).

3. The CBDT vide Notification no. 02/2012/F.No.142/27/2011-SO (TPL) dated 04.01.2012, notified the Centralised Processing of Returns Scheme, 2011 (CPR Scheme 2011). Rule 14 of CPR Scheme 2011 delegates the power to specify the mode, manner and time for verification of ITR-V.

4. It has been decided that in respect of any electronic transmission of return data on or after the date this Notification comes into effect, the time-limit for e-

verification or submission of ITR-V shall now be 30 days from the date of transmitting/uploading the data of return of income electronically

5. It is clarified that where the return data is date electronically transmitted before the on which this Notification comes into effect, the earlier time limit of 120 days would continue to apply in respect of such returns.

6. It is further clarified:

(i) Where ITR data is electronically transmitted and e-verified/ITR-V submitted within 30 days of transmission of data - in such cases the date of transmitting the data electronically shall be considered as the date of furnishing the return of income.

(ii) Where ITR data is electronically transmitted but e-verified or ITR-V submitted beyond the time-limit of 30 days of transmission of data - in such cases the date of e-verification/ITR-V submission shall be treated as the date of furnishing the return of income and all consequences of late filing of return under the Act shall follow.

7. Duly verified ITR-V in the prescribed format and in the prescribed manner should be sent by speed post only to

Centralised Processing Centre, Income Tax Department,
Bengaluru - 560500, Karnataka.

8. The date of dispatch of Speed Post of duly verified ITR-V shall be considered for the purpose of determination of the 30 days period, from the date of transmitting the data of Income-tax return electronically.

9. This Notification shall be applicable for electronically transmitted Income-tax return data filed on the e-filing portal (www.incometax.gov.in). This issues by the power conferred to the undersigned under the Rule 14 of Centralized Processing of Returns Scheme 2011 (CPR Scheme 2011) dated 04.01.2012, notified by the CBDT Notification No. 02/2012- F. No. 142/27/2011-SO(TPL).

10. This notification will come into effect from 01.08.2022.

[For further details please refer the Notification]

INCOME TAX

NOTIFICATION

INCOME ACCRUED OR ARISEN TO, OR RECEIVED BY, A NON-RESIDENT AS A RESULT OF TRANSFER OF OFFSHORE DERIVATIVE INSTRUMENTS OR OVER-THE-COUNTER DERIVATIVES, UNDER CLAUSE (4E) OF SECTION 10 OF THE ACT, SHALL BE EXEMPTED

OUR COMMENTS: The Central Board of Direct Taxes (CBDT) vide Notification No. 87/2022 dated 01.08.2022 notified In exercise of the powers conferred by clause (4E) of section 10 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. Short title and commencement.-

(1) These rules may be called the Income-tax (Twenty Third Amendment) Rules, 2022.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 21AK, -

(A) in sub-rule (1), -

(a) in the opening paragraph, after the words “non-deliverable forward contracts”, the words “or offshore derivative instruments or over-the-counter derivatives,” shall be inserted;

(b) in clause (i), after the words “non-deliverable forward contract”, the words “or offshore derivative instrument or over-the-counter derivative” shall be inserted;

(c) in clause (ii), after the word “contract”, the words “, instrument or derivative” shall be inserted;

(B) for the Explanation, following shall be substituted, namely:-

“Explanation.-For the purpose of this rule, the expression,-

(i) “derivative” shall have the same meaning as assigned to it in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956(42 of 1956);

(ii) “a non-deliverable forward contract” shall mean a contract for the difference between an exchange rate agreed before and the actual spot rate at maturity, with the spot rate being taken as the domestic rate or a market determined rate and such contract being settled with a single payment in a foreign currency;

(iii) “offshore banking unit” means a banking branch Unit located in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA of the Act;

(iv) “offshore derivative instrument” shall have the same meaning as assigned to it in clause (o) of sub-regulation (1) of regulation (2) of the SEBI Foreign Portfolio Investor Regulations, 2019;

(v) “over-the-counter derivatives” shall mean a derivative contract that is not traded on an exchange but instead is privately negotiated between a purchaser and a seller; and

(vi) “permanent establishment” shall have the meaning as assigned to it in clause (iiia) of section 92F of the Act.

[For further details please refer the Notification]

NOTIFICATION

U/S 10(46) OF IT ACT 1961- CENTRAL GOVERNMENT NOTIFIES, TELANGANA STATE POLLUTION CONTROL BOARD A BOARD CONSTITUTED BY THE STATE GOVERNMENT OF TELANGANA

OUR COMMENTS: The Central Board of Direct Taxes (CBDT) vide Notification No. 88/2022 dated 2.08.2022 notified In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, the Telangana State Pollution Control Board (PAN AAAGT0080Q), a Board constituted by the State Government of Telangana under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), in respect of the following specified income arising to that Board, namely:-

(a) consent fee received under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(b) analysis fees or air ambient quality survey fees or noise level survey fees;

INCOME TAX

(c) reimbursement of the expense received from Central Pollution Control Board towards National Water Quality Monitoring Programme and National Air Quality Monitoring Programme like schemes;

(d) authorisation fees;

(e) cess reimbursement and Cess appeal fees;

(f) grants from State or Central Governments;

(g) fees received under the Right to Information Act, 2005 (22 of 2005);

(h) interest on loans and advances given to the staff;

(i) miscellaneous income like tenders fees etc.;

(j) penalties for non-compliance and Invoking of Bank Guarantees; and

(k) interest earned on (a) to (j) above.

2. This notification shall be effective subject to the conditions that the Telangana 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.

3. This notification shall be deemed to have been applied for the financial years 2016-2017, 2017-2018, 2018-2019, 2019-2020 and 2020-2021 subject to the outcome of the Special Leave Petition filed by Central Board of Direct Taxes vide Diary No.19832/2022 in the Hon'ble Supreme Court of India against the Common order dated 26.07.2021 in W.P.4834/2020 and 15629/2020 by the High Court for the State of Telangana.

[For further details please refer the Notification]

NOTIFICATION

SEEKS TO AMEND NOTIFICATION REGARDING SECURITIES LISTED ON A RECOGNISED STOCK EXCHANGE LOCATED IN ANY INTERNATIONAL FINANCIAL SERVICES CENTRE

OUR COMMENTS: The Central Board of Direct Taxes (CBDT) vide Notification No. 89/2022 dated 3.08.2022 notified In exercise of the powers conferred by sub-clause (d) of clause (viib) of section 47 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance, (Department of Revenue), number 16/2020, dated the 5th March, 2020, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), vide number S.O. 986(E), dated 5th March, 2020, namely:-

In the said notification, -

(i) in the first para, after clause (v), the following clause shall be inserted, namely: -

“(vi) Bullion Depository Receipt with underlying bullion,”

(ii) in the Explanation, after clause (b), the following clause shall be inserted, namely: -

“(c) “Bullion Depository Receipt with underlying bullion” shall have the same meaning as assigned to it in clause (iii) of Explanation by the Department of Economic Affairs, Ministry of Finance vide its notification number S.O. 2957 (E), published in Gazette of India, Extraordinary, vide number, F.No.3/7/2020-EM dated the 31st August, 2020.”

2. This notification shall come into force with effect from the date of its publication in the Official Gazette.

[For further details please refer the Notification]

GST

NOTIFICATION

SEEKS TO IMPLEMENT E-INVOICING FOR THE TAXPAYERS HAVING AGGREGATE TURNOVER EXCEEDING RS.10 CR FROM 1ST OCTOBER 2022.

Our Comments : The Central Board of Indirect Taxes & Customs vide Notification No. 17/2022 –Central Tax dated 01.08.2022 notified In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017, the Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 13/2020 – Central Tax, dated the 21st March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 196(E), dated 21st March, 2020, namely:-

In the said notification, in the first paragraph, with effect from the 1st day of October, 2022, for the words “twenty crore rupees”, the words “ten crore rupees” shall be substituted.

[For further details please refer the Notification]

CIRCULAR

CLARIFICATIONS REGARDING APPLICABLE GST RATES & EXEMPTIONS ON CERTAIN SERVICES

Our Comments: The Government of India, Ministry of Finance, Department of revenue vide circular number 177/09/2022-TRU dated 03.08.2022 circulated Clarifications regarding applicable GST rates & exemptions on certain services.

2. The issues have been examined by GST Council in the 47th meeting held on 28th and 29th June, 2022. The issue-wise clarifications as recommended by the GST Council are below:

3. Rate of GST applicable on supply of ice-cream by ice-cream parlors during the period from 01.07.2017 to 05.10.2021: Past cases of payment of GST on supply of ice-cream by ice-cream parlors @ 5% without ITC shall be treated as fully GST paid to avoid unnecessary litigation. Since the decision is only to regularize the past practice, no refund of GST shall be allowed, if already paid at 18%. With

effect from 6.10.2021, the ice Cream parlors are required to pay GST on supply of ice-cream at the rate of 18% with ITC.

4. Applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions: It is clarified that the amount or fee charged from prospective students for entrance or admission, or for issuance of eligibility certificate to them in the process of their entrance/admission as well as the fee charged for issuance of migration certificates by educational institutions to the leaving or ex-students is covered by exemption under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

5. Whether storage or warehousing of cotton in baled or ginned form is covered under entry 24B of Notification No. 12/2017-Central Tax (Rate) which exempted services by way of storage and warehousing of raw vegetable fibres such as cotton before 18.07.2022: It is clarified that service by way of storage or warehousing of cotton in ginned and or baled form was covered under entry 24B of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 in the category of raw vegetable fibres such as cotton. It may however be noted that this exemption has been withdrawn w.e.f. 18.07.2022

6. Whether exemption under Sl. No. 9B of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 covers services associated with transit cargo both to and from Nepal and Bhutan: As recommended by the GST Council, it is clarified that exemption under Sl. No. 9B of Notification 12/2017- Central Tax (Rate) covers services associated with transit cargo both to and from Nepal and Bhutan.

It is also clarified that movement of empty containers from Nepal and Bhutan, after delivery of goods there, is a service associated with the transit cargo to Nepal and Bhutan and is therefore covered by the exemption.

7. Applicability of GST on sanitation and conservancy services supplied to Army and other Central and State Government departments: It is clarified that if such services are procured by Indian Army or any other Government Ministry/Department which does not perform

GST

any functions listed in the 11th and 12th Schedule, in the manner as a local authority does for the general public, the same are not eligible for exemption under Sl. No. 3 and 3A of Notification 12/2017- Central Tax (Rate).

8. Whether the activity of selling of space for advertisement in souvenirs is eligible for concessional rate of 5%: It is clarified sale of space for advertisement in souvenir book is covered under serial number (i) of entry 21 of Notification No. 11/2017-Central Tax (Rate) and attracts GST @ 5%.

9. Taxability and applicable rate of GST on transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time: It is clarified that such renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator falling under Heading 9966 and not service of transportation of goods by road. This being so, it is not eligible for exemption under Sl. No. 18 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017. On such rental services of goods carriages where the cost of fuel is included in the consideration charged from the recipient of service, GST rate has been reduced from 18% to 12% with effect from 18.07.2022. Prior to 18.07.2022, it attracted GST at the rate of 18%.

10. Whether location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitute part of the lease premium or of upfront amount charged for long term lease of land and are eligible for the same tax treatment: It is clarified that location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for exemption under Sl. No. 41 of notification no. 12/2017- Central Tax (Rate) dated 28.06.2017.

11. Applicability of GST on payment of honorarium to the Guest Anchors: It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability. However, guest anchors whose aggregate turnover in a financial year does not exceed Rs 20 lakhs (Rs 10 lakhs

in case of special category states) shall not be liable to take registration and pay GST.

12. Whether the additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST: It is clarified that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges.

13. Applicability of GST on services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF): It is clarified that services by way of IVF are also covered under the definition of health care services for the purpose of exemption notification No. 12/2017- Central Tax (Rate) dated 28.06. 2017.

14. Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST: It is clarified that sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST. It may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.

15. Situations in which corporate recipients are liable to pay GST on renting of motor vehicles designed to carry passengers: It is clarified that where the body corporate hires the motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under Heading 9966, and the body corporate shall be liable to pay GST on the same under RCM. It may be seen that reverse charge thus would apply on act of renting of vehicles by body corporate and in such a case, it is for the body corporate to use in the manner as it likes subject to agreement with the person providing vehicle on rent.

However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under Heading 9964 and the body corporate shall not be liable to pay GST on the same under RCM.

GST

16. Whether hiring of vehicles by firms for transportation of their employees to and from work is exempt under Sr. No. 15(b) of Notification No. 12/2017-Central Tax (Rate) transport of passengers by non-air conditioned contract carriage: It is clarified that 'charter or hire' excluded from the above exemption entry is charter or hire of a motor vehicle for a period of time, where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.

In other words, the said exemption would apply to passenger transportation services by non-air conditioned contract carriages falling under Heading 9964 where according to explanatory notes, transportation takes place over pre-determined route on a pre-determined schedule. The exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider.

17. Whether supply of service of construction, supply, installation and commissioning of dairy plant on turn-key basis constitutes a composite supply of works contract service and is eligible for concessional rate of GST prior to 18.07.2022: It is clarified that a contract of the nature described here for construction, installation and commissioning of a dairy plant constitutes supply of works contract. There is no doubt that dairy plant which comes into existence as a result of such contracts is an immovable property.

It is also clarified that such works contract services were eligible for concessional rate of 12% GST under serial number 3(v)(f) of notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 prior to 18.07.2022. With effect from 18.07.2022, such works contract services would attract GST at the rate of 18% in view of amendment carried out in notification No. 11/2017- Central Tax (Rate) vide notification No. 03/2022- Central Tax (Rate).

18. Applicability of GST on tickets of private ferry used for passenger transportation: It is clarified that this exemption would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government.

It is further clarified that, the expression 'public transport' used in the exemption notification only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.

[For further details please refer the Circular]

CIRCULAR

CLARIFICATION REGARDING GST APPLICABILITY ON LIQUIDATED DAMAGES, COMPENSATION AND PENALTY ARISING OUT OF BREACH OF CONTRACT OR OTHER PROVISIONS OF LAW

Our Comments: The Government of India, Ministry of Finance, Department of revenue vide circular number 178/10/2022-GST dated 03.08.2022 circulated Clarification regarding GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law.

In certain cases/instances, questions have been raised regarding taxability of an activity or transaction as the supply of service of agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act. Applicability of GST on payments in the nature of liquidated damage, compensation, penalty, cancellation charges, late payment surcharge etc. arising out of breach of contract or otherwise and scope of the entry at para 5 (e) of Schedule II of Central Goods and Services Tax Act, 2017 (hereinafter referred to as, "CGST Act") in this context has been examined in the following paragraphs.

A reasonable view that can be taken with regard to taxability of liquidated damages is that where the amount paid as 'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases liquidated damages are mere a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.

GST

Examples of such cases are damages resulting from damage to property, negligence, piracy, unauthorized use of trade name, copyright, etc. Other examples that may be covered here are the penalty stipulated in a contract for delayed construction of houses. It is a penalty paid by the builder to the buyers to compensate them for the loss that they suffer due to such delayed construction and not for getting anything in return from the buyers. Similarly, forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or by Government or local authority in the event of a successful bidder failing to act after winning the bid, for allotment of natural resources, is a mere flow of money, as the buyer or the successful bidder does not get anything in return for such forfeiture of earnest money. Forfeiture of Earnest money is stipulated in such cases not as a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers or bidders. Such payments being merely flow of money are not a consideration for any supply and are not taxable. The key in such cases is to consider whether the impugned payments constitute consideration for another independent contract envisaging tolerating an act or situation or refraining from doing any act or situation or simply doing an act. If the answer is yes, then it constitutes a 'supply' within the meaning of the Act, otherwise it is not a "supply".

The compensation paid for cancellation of coal blocks pursuant to the order of the Supreme Court in the above case was not taxable.

The fine or penalty that the supplier or a banker imposes, for dishonour of a cheque, is a penalty imposed not for tolerating the act or situation but a fine, or penalty imposed for not tolerating, penalizing and thereby deterring and discouraging such an act or situation. Therefore, cheque dishonor fine or penalty is not a consideration for any service and not taxable.

Fines and penalty chargeable by Government or a local authority imposed for violation of a statute, bye-laws, rules or regulations are not leviable to Service Tax. The same holds true for GST also.

The provisions for forfeiture of salary or recovery of bond amount in the event of the employee leaving the employment before the minimum agreed period are incorporated in the employment contract to discourage non-serious candidates from taking up employment. The

said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation. Further, the employee does not get anything in return from the employer against payment of such amounts. Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.

The facility of accepting late payments with interest or late payment fee, fine or penalty is a facility granted by supplier naturally bundled with the main supply. It is not uncommon or unnatural for customers to sometimes miss the last date of payment of electricity, water, telecommunication services etc. Almost all service providers across the world provide the facility of accepting late payments with late fine or penalty. Even if this service is described as a service of tolerating the act of late payment, it is an ancillary supply naturally bundled and supplied in conjunction with the principal supply, and therefore should be assessed as the principal supply. Since it is ancillary to and naturally bundled with the principal supply such as of electricity, water, telecommunication, cooking gas, insurance etc. it should be assessed at the same rate as the principal supply. However, the same cannot be said of cheque dishonor fine or penalty as discussed in the preceding paragraphs.

Both the components of the price, the minimum fixed charges/capacity charges and the variable/energy charges are charged for sale of electricity and are thus not taxable as electricity is exempt from GST. Power purchase agreements may have provisions that the power producer shall not supply electricity to a third party without approval of buyer. Such agreements which ensure assured supply of power to State Electricity Boards/DISCOMS are ancillary arrangements; the contract is essentially for supply of electricity.

Forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or such forfeiture by Government or local authority in the event of a successful bidder failing to act after winning the bid for allotment of natural resources, is a mere flow of money, as the buyer or the successful bidder does not get anything in return for such forfeiture of earnest money. Forfeiture of earnest money is stipulated in such cases not as a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty

GST

for discouraging the non-serious buyers or bidders. Such payments being merely flow of money are not a consideration for any supply and are not taxable.

[For further details please refer the Circular]

CIRCULAR

CLARIFICATION REGARDING GST RATES & CLASSIFICATION (GOODS) BASED ON THE RECOMMENDATIONS OF THE GST COUNCIL IN ITS 47TH MEETING HELD ON 28-29TH JUNE, 2022

Our Comments : The Government of India, Ministry of Finance, Department of revenue vide circular number 179/11/2022-GST dated 03.08.2022 circulated Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 47th meeting held on 28th – 29th June, 2022 at Chandigarh.

Based on the recommendations of the GST Council in its 47th meeting held on 28th-29th June at Chandigarh, clarifications, with reference to GST levy, related to the following are being issued through this circular:

2. Electric vehicles whether or not fitted with a battery pack, attract GST rate of 5%: It is clarified that electrically operated vehicle is to be classified under HSN 8703 even if the battery is not fitted to such vehicle at the time of supply and thereby attract GST at the rate of 5% in terms of entry 242A of Schedule I of notification No. 1/2017-Central Tax (Rate).

3. Stones otherwise covered in S. No. 123 of Schedule-I (such as Napa stones), which are not mirror polished, are eligible for concessional rate under said entry: It is clarified that S. No. 123 in schedule-I to the notification No. 1/2017-Central Tax (rate) dated 28.06.2017 covers minor polished stones.

4. Mangoes under CTH 0804 including mango pulp, but other than fresh mangoes and sliced, dried mangoes, attract GST at 12% rate: It is hereby clarified that mangoes,

fresh falling under heading 0804 are exempt; Mangoes, sliced and dried, falling under 0804 are chargeable to a concessional rate of 5%; while all other forms of dried mango, including Mango pulp, attract GST at the rate of 12%. To bring absolute clarity, the relevant entry at S. No. 16 of Schedule-II of notification no. 1/2017-Central Tax (Rate), dated 28th June, 2017, has been amended vide notification No. 6/2022-Central Tax (Rate), dated the 13th July, 2022.

Fresh mangoes, falling under heading 0804, continue to remain exempt from GST [S. No. 51 of notification No. 2/2017-Central Tax (Rate), dated the 28th June, 2017].

5. Treated sewage water attracts Nil rate of GST: It is hereby clarified that supply of treated sewage water, falling under heading 2201, is exempt under GST. Further, to clarify the issue, the word 'purified' is being omitted from the above-mentioned entry vide notification No. 7/2022-Central Tax (Rate), dated the 13th July, 2022.

6. Nicotine Polacrilex Gum attracts a GST rate of 18%: It is hereby clarified that the Nicotine Polacrilex gum which is commonly applied orally and is intended to assist tobacco use cessation is appropriately classifiable under tariff item 2404 91 00 with applicable GST rate of 18% [Sl. No. 26B in Schedule III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017].

7. Fly ash bricks and aggregate - condition of 90% fly ash content applied only to fly ash aggregate, and not fly ash bricks: It is clarified that the condition of 90 per cent. or more fly ash content applied only to Fly Ash Aggregates and not to fly ash bricks and fly ash blocks. Further, with effect from 18th July, 2022 the condition is omitted from the description.

8. Applicability of GST on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi: It is hereby clarified that the subject goods which inter alia is used as cattle feed ingredient are appropriately classifiable under heading 2302 and attract GST at the rate of 5% vide S. No.103A of Schedule-I of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017 and that for the past, the matter would be regularized on as is basis as mentioned in para 8.6.

[For further details please refer the Circular]

GST

FEMA

NOTIFICATION

FOREIGN EXCHANGE MANAGEMENT (BORROWING AND LENDING) (THIRD AMENDMENT) REGULATIONS, 2022

Our Comments: The Reserve Bank of India vide notification number FEMA.3(R)(3)/2022-RB dated 28.07.2022 notified In exercise of the powers conferred by sub-section (2) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India hereby makes the following amendments to the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 (Notification No. FEMA.3(R)/2018-RB dated December 17, 2018) (hereinafter referred to as 'the Principal Regulations'), namely:

1. Short Title & Commencement:

(i) These Regulations may be called the Foreign Exchange Management (Borrowing and Lending) (Third Amendment) Regulations, 2022.

(ii) They shall come into force from the date of notification in the official gazette.

2. Amendment to Paragraph 2 of Schedule 1:

After Paragraph 8 of Schedule 1 to the Principal Regulations, the following shall be added;

“8A: The limit of USD 750 million or equivalent per financial year is temporarily increased to USD 1500 million or equivalent. This dispensation will be available for ECBs raised till December 31, 2022.”

[For further details please refer the Notification]

CIRCULAR

EXTERNAL COMMERCIAL BORROWINGS (ECB) POLICY – LIBERALISATION MEASURES

Our Comments: The Foreign Exchange Management Act vide circular number RBI/2022-23/98 dated 01.08.2022 circulated - Attention is invited to paragraph 2.2 of FED Master Direction No.5 on External Commercial Borrowings, Trade Credits and Structured Obligations, dated March 26, 2019 (as amended from time to time), in terms of which eligible ECB borrowers are allowed to raise ECB up to USD 750 million or equivalent per financial year under the

automatic route, and paragraph 2.1.vi. *ibid*, wherein the all-in-cost ceiling for ECBs has been specified.

2. As announced in paragraph five of the press release on “Liberalisation of Forex Flows” dated July 06, 2022, it has been decided, in consultation with the Central Government, to:

i) increase the automatic route limit from USD 750 million or equivalent to USD 1.5 billion or equivalent.

ii) increase the all-in-cost ceiling for ECBs, by 100 bps. The enhanced all-in-cost ceiling shall be available only to eligible borrowers of investment grade rating from Indian Credit Rating Agencies (CRAs). Other eligible borrowers may raise ECB within the existing all-in-cost ceiling, as hitherto.

The above relaxations would be available for ECBs to be raised till December 31, 2022.

3. AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers.

4. The aforesaid Master Direction No. 5, is being updated to reflect these changes.

5. Necessary amendments to the relevant regulations have been made through the Foreign Exchange Management (Borrowing and Lending) (Amendment) Regulations, 2022, notified vide notification No. FEMA.3(R)(3)/2022-RB dated July 29, 2022.

6. The directions contained in this circular have been issued under section 10(4) and 11(2) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/ approvals, if any, required under any other law.

[For further details please refer the Circular]

CUSTOMS

NOTIFICATION

RATE OF EXCHANGE OF ONE UNIT OF FOREIGN CURRENCY EQUIVALENT TO INDIAN RUPEES – SUPERSESSION NOTIFICATION NO. 64/2022-CUSTOMS (N.T.), DATED 21ST JULY 2022

OUR COMMENTS: The Ministry of Finance (department of revenue) vide notification No. 66/2022- Customs (N.T.) dated 04.08.2022 In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 64/2022-Customs(N.T.), dated 21st July, 2022 except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 5th August, 2022, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	56.45	54.10
2.	Bahraini Dinar	217.25	204.20
3.	Canadian Dollar	62.90	60.75
4.	Chinese Yuan	11.95	11.60
5.	Danish Kroner	11.00	10.65
6.	EURO	82.20	79.20
7.	Hong Kong Dollar	10.30	9.95
8.	Kuwaiti Dinar	267.25	250.55
9.	New Zealand Dollar	51.30	49.00
10.	Norwegian Kroner	8.30	8.05

11.	Pound Sterling	98.15	94.80
12.	Qatari Riyal	22.30	20.90
13.	Saudi Arabian Riyal	21.80	20.50
14.	Singapore Dollar	58.45	56.55
15.	South African Rand	4.90	4.60
16.	Swedish Kroner	7.90	7.65
17.	Swiss Franc	84.20	81.05
18.	Turkish Lira	4.55	4.30
19.	UAE Dirham	22.30	20.95
20.	US Dollar	80.25	78.55

SCHEDULE-II

Sl. No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	60.35	58.35
2.	Korean Won	6.25	5.85

[For further details please refer the Notification]

DGFT

NOTIFICATION

AMENDMENT IN IMPORT POLICY CONDITION OF HS CODE 29335200 UNDER CHAPTER 29 OF ITC (HS) 2022, SCHEDULE – I (IMPORT POLICY)

OUR COMMENTS: Ministry of Commerce and Industry vide notification no. 23/2015-2020 dated 01.08.2022 notified In exercise of powers conferred by Section 3 and Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy (FTP), 2015-2020, as amended from time to time, the Central Government hereby amends the policy condition of HS Code 29335200 under Chapter 29 of ITC (HS) 2022, Schedule - I (Import Policy), with immediate effect, as under:

2. Effect of this Notification:

Import of Malonylurea (Barbituric Acid) and its salts

HS code	Item description	Import Policy	Existing Policy Condition	Revised Policy Condition
29335200	Compounds containing a pyrimidine ring (whether or not hydrogenated) or piperazine ring in the structure: - Malonylurea (Barbituric Acid) and its salts	Free	Subject to Policy Condition No. 3 of Chapter 29 i.e. "No Objection Certificate (NOC) is required from Narcotics Commissioner, Gwalior, before import of the item"	Deleted

shall be allowed without NOC from Narcotics Commissioner, Gwalior.

This issues with the approval of Minister of Commerce & Industry

[For further details please refer the Notification]

NOTIFICATION

AMENDMENT IN IMPORT POLICY CONDITION OF HS CODE 29021100 UNDER CHAPTER 29 OF ITC (HS) 2022, SCHEDULE – I (IMPORT POLICY)

OUR COMMENTS: Ministry of Commerce and Industry vide notification no. 24/2015-2020 dated 04.08.2022 In exercise of powers conferred by Section 3 and Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby amends the policy condition of HS code 29021100 under Chapter 29 of ITC (HS) 2022, Schedule - I (Import Policy) as under :

HS code	Item description	Import Policy	Existing Policy Condition	Revised Policy Condition
29021100	Cyclanes, cyclones and cycloterpenes: --Cyclohexane	Free	Imports of Hexane, Food Grade must conform to IS 3470	Deleted

2. Accordingly, "Hexane, Food Grade" at Sl. No. 52 of Appendix III to Schedule 1 - Import Policy- ITC(HS) 2022, is removed from the list of 'Items under mandatory BIS certification'.

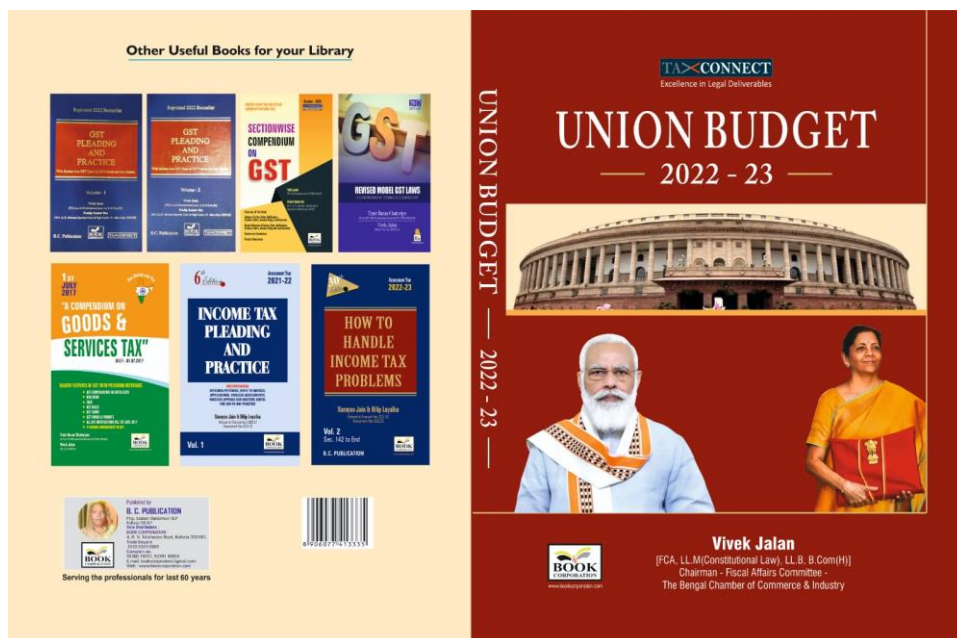
3. Effect of this Notification:

The requirement for BIS certification for import of "Hexane, Food Grade" is removed, with immediate effect.

[For further details please refer the Notification]

: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

Authors:

Vivek Jalan

[FCA, LL.M (Constitutional Law), LL.B, 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

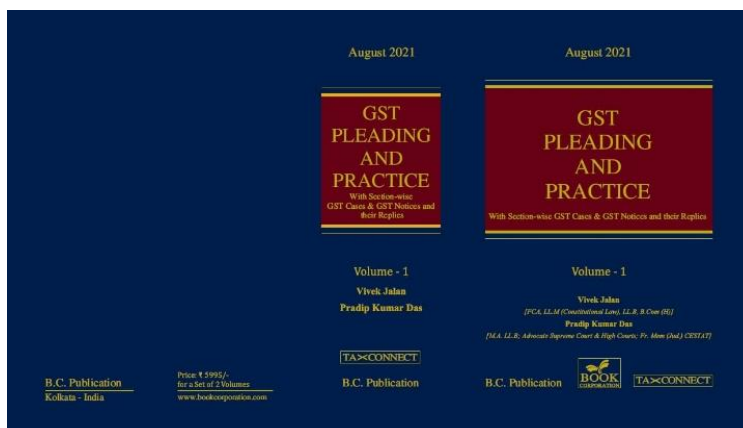
Cell: 7003384915, 9830661254

Order by email: info@taxconnect.co.in

Website : www.taxconnect.co.in

: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

Authors:

Vivek Jalan

[FCA, LL.M (Constitutional Law), LL.B, 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: 9830661254

Order by email: info@taxconnect.co.in

Website : www.taxconnect.co.in

LET'S DISCUSS FURTHER!

OUR OFFICES:

MUMBAI

Unit No. 312, Omega Business Park, Near Kaamgar Hospital, Road No. 33, Wagle Industrial Estate, Thane West, Maharashtra- 400604

Contact Person: Rajani Kant Choudhary.

Email:
rajnikant.choudhary@taxconnect.co.in

BANGALORE

H. NO.- 2102, 8th Cross, 15th Main, Kodihalli, HAL 3rd Stage, Bengaluru, Karnataka-560008

Contact Person: Poonam Khemka

Email: poonam.khemka@taxconnect.co.in

DELHI

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

Contact Person: Poonam Khemka

Email:
poonam.khemka@taxconnect.co.in

KOLKATA

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

Contact Person: Govind Agarwal

Email: govind.agarwal@taxconnect.co.in

KOLKATA

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

Contact Person: Uttam Kumar Singh

Email:
uttam.singh@taxconnect.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

Disclaimer:

This e-bulletin is for private circulation only. Views expressed herein are of the editorial team and are based on the information, explanation and documents available on Government portal platforms. Tax Connect or any of its employees do not accept any liability whatsoever direct or indirect that may arise from the use of the information contained herein. No matter contained herein may be reproduced without prior consent of Tax Connect. While this e-article has been prepared on the basis of published/other publicly available information considered reliable, we do not accept any liability for the accuracy of its contents.

Tax Connect 2022. All rights reserved.