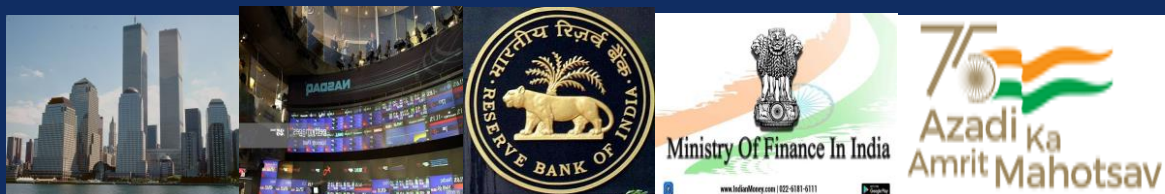


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EDITORIAL



Friends,

The export fraternity and the freight forwarding industries were expecting the extension of the GST exemption on services by way of transportation of goods by vessel or aircraft from customs station of clearance in India to a place outside India. However, the Central Govt. has not indicated any extension of the exemption for the time being.

The earlier exemption for GST on air and ocean export freight granted by the CBIC until 30th September 2022 has now lapsed. Back in 2018, the tax authority released a notification to provide GST exemption for goods transportation charges by aircraft/vessels from India to any place outside India. However, the exemption was extended from time to time and the same was available till 30 September 2022. However, there had been no extension of this notification implying that sunset has taken place and the exporters would now be paying the GST on the Air/Sea freight. Thus, w.e.f. 01st October 2022, the following transactions would be taxable under GST:

- a. Ocean Export freight billed to customers in India.
- b. Air Export freight billed to customers in India.

The tax levy on freight will also impact the airlines, shipping and freight forwarding industries. The upcoming GST Council meeting may take up the matter, but until then,

the taxpayers must pay GST and claim tax credits on the ocean and air freight.

Please note that impact of GST on Export Freight is anyways neutral, as:

- i) GST (5% / 18%) charged on Export Freight by Indian Air Line / Shipping Line will be available as ITC to Freight Forwarder; and
- ii) GST (5% / 18%) charged by Freight Forwarder will be available as ITC to Indian Exporter.

Thus, the ITC of GST (5% / 18%) on Export Freight is not getting blocked anywhere in the transaction chain and is fully available as ITC to the Indian Freight Forwarder & Indian Exporter. Further, Indian Exporter can even claim the refund of the ITC accumulated due to Exports of Goods (irrespective of whether they are Exempted or Taxable Goods). Thus, this GST on Export Freight is not a cost for Indian Freight Forwarder / Indian Exporter. Wherever, this ITC is getting accumulated due to Exports of Goods, there will be an issue of blockage of working capital till the time its refund is sanctioned.

Truly Yours

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

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TAX CALENDAR

Due Date	Form/Return/ Challan	Reporting Period	Description
10 th October	GSTR 7	September 2022	Return to be filed by the persons who is required to deduct TDS (Tax deducted at source) under GST
10 th October	GSTR 8	September 2022	Return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST
11 th October	GSTR 1	September 2022	Taxpayers having an aggregate turnover of more than Rs. 1.50 Crores or opted to file Monthly Return.
13 th October	GSTR 1 - IFF (QRMP)	July to September 2022	GST return for the taxpayers who opted for QRMP scheme.
13 th October	GSTR 6	September 2022	Input Service Distributors to provide the details of their distributed input tax credit & inward supplies for the month of Sep. 2022.
15 th October	TDS Certificate	August 2022	Due date for issue of TDS Certificate for tax deducted under Section 194IA, 194IB, 194M in the month of August, 2022.
15 th October	TCS Payment	July to September 2022	Quarterly statement of TCS deposited for the quarter ending September 30, 2022
15 th October	Form 24G	September 2022	Form 24G to be filed by an office of the Government where TDS/TCS for the month of September 2022 has been paid without the production of a challan.
15 th October	Form No. 3BB	September 2022	Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of September, 2022
15 th October	Form No. 15G/15H	Q.E. September 2022	Due date for Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September, 2022.

INCOME TAX

NOTIFICATION

MEANING OF 'NON-REPORTING FINANCIAL INSTITUTION' HAS BEEN AMENDED IN RULE 114F(5) OF THE INCOME-TAX RULES, 1962

OUR COMMENTS: The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance vide Notification No. 112/2022 dated 07-10-2022 notified that In exercise of the powers conferred by section 285BA 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 (Thirty 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, in rule 114F, in sub-rule (5),—

(A) for clauses (i), (j) and (k), the following shall be substituted, namely: -

“(i) a financial institution with a local client base, in case of any U.S. reportable account;

(j) a local bank, in case of any U.S. reportable account;

(k) a financial institution with only low value accounts, in case of any U.S. reportable account;”;

(B) in the *Explanation*, in clause (D) for the words and brackets “the Government of any country or territory outside India on income that it derives from sources within such country or territory outside India (or would be entitled to such benefits if it derived any such income)” the words and brackets “the United States of America on income that it derives from sources within the United States of America (or would be entitled to such

benefits if it derived any such income)” shall be substituted.

[For further details please refer the Notification]

CASE LAW

CORRECT HEAD OF INCOME - GAIN ON SALE AND PURCHASE OF SHARES - NORMAL BUSINESS PROFIT OR SHORT TERM CAPITAL GAIN: CALCUTTA HIGH COURT

OUR COMMENTS: The matter under consideration was that the Shares by way of investment were held for period varying from one day to more than 100 days - whether the tribunal was right in reversing the order passed by the CIT(A) holding that the gain made by the assessee on sell and purchase of shares was business profit and not short term capital gains?

It has been held by the Hon'ble High Court that transaction is not necessarily in the nature of trade because the purchase was made with the intention of resale. Further it was pointed out where the purchase of any article or of any capital investment, for instance shares is made without the intention to resell it at a profit, the resale under such changed circumstances would only be realization of capital and would not stamp the transaction with a business character.

If the above legal principles are applied to the facts of the case on hand, the only irresistible conclusion is to approve the view of the CIT(A) who had considered all the relevant materials and details which were placed by the assessee. The learned tribunal had failed to note that the assessee had maintained a separate account for investment, which fact was very material to consider the nature of transactions effected by the assessee during the relevant period.

Thus, for the above reasons, the hon'ble High Court had of the considered view that the learned tribunal erred in reversing the order passed by the CIT(A).

[Decided in favour of assessee]

GST

CASE LAW

VALIDITY OF ASSESSMENT CUM PENALTY CUM INTEREST ORDER - VIOLATION OF PRINCIPLES OF NATURAL JUSTICE : ANDHRA PRADESH HIGH COURT

OUR COMMENTS : It was held that on 15.02.2022 a show-cause notice was issued and thereafter personal hearing notices were issued on 21.03.2022, 05.05.2022 and 11.05.2022. There is no dispute to the fact that the petitioner submitted reply on 01.03.2022 which was received in the office of the 1st respondent on 16.04.2022. As is evident from the copy of the objections, dated 01.03.2022, submitted by the petitioner, the petitioner raised disputed questions of facts - there is no whisper or there is no request in the reply to the show-cause, dated 01.03.2022, that the petitioner is not aware of the contents of the slips that were seized from the business premises of the petitioner. It is an admitted fact that the petitioner produced other books of accounts on notice from the assessing authority as such he has knowledge about the contents of the slips. A perusal of the objections, dated 01.03.2022, would show that the petitioner has knowledge of the contents of the slips also. He never made any request to furnish copies of the material alleged to have been seized.

The case of ITC LIMITED VERSUS THE ASSISTANT COMMISSIONER COMMERCIAL TAXES [2009 (9) TMI 1071 - ANDHRA PRADESH HIGH COURT], was a case where the petitioner made an application for furnishing the report of the Enforcement Official but the respondent declined to furnish on the ground that the report of the Enforcement Official is communicated for internal circulation.

This Court held that when a report of the Enforcement Official is relied upon in a show cause notice, the request for a copy when asked by the assessee has to be furnished - In the case on hand, the basis for issuance of show-cause notice to the petitioner was the material seized from the business premises of the petitioner and the petitioner could submit his objections to the show-cause notice without there being any further request to supply the material, which was seized from the business premises of the petitioner. So, the decision of this Court in ITC Limited, Sarapaka, Khammam District will not be of any help to the petitioner, to prove that there was violation of principles of natural justice.

There is no denial of the fact that the petitioner is disputing correctness of the amounts that was arrived at by the 1st respondent. It is well settled under Article 226 of the Constitution of India, this Court cannot go into factual aspects. Further, there is no dispute that the petitioner has a right of Appeal under Section 107 of the CGST Act, 2017.

As the petitioner has an alternative remedy of appeal under Section 107 of the GST Act and as the petitioner failed to succeed in establishing that there has been violation of the principles of natural justice, it is held that the Writ Petition is liable to be dismissed. It is open to the petitioner to avail the remedy available under law, in which event the period of pendency of Writ Petition before this Court be given set-off while calculating the period of limitation - Petition dismissed.

FEMA

CASE LAW

SHOW CAUSE NOTICE IS NOT AN EMPTY FORMALITY, ITS PURPOSE IS TO GIVE A REASONABLE OPPORTUNITY TO THE AFFECTED PERSONS TO CONTEND THAT THEY HAVE NOT COMMITTED ANY BREACH : BOMBAY HIGH COURT

OUR COMMENTS: It was held that Issuance of a show cause notice is not an empty formality. Its purpose is to give a reasonable opportunity to the affected persons to contend that they have not committed any breach. Proper opportunity should be given to the person likely to be affected by the order proposed to be made a notice of the action intended to be taken, inform him about the materials on the basis of which the appropriate authority proposes to take action and give a fair and reasonable opportunity to such person to represent his case and to correct or controvert the material sought to be relied upon against him.

It is essential for a show cause notice to indicate the precise scope of the notice and also to indicate the points on which the recipient of the show cause notice give a reply.

In our view, there is nothing in the show cause notice to give any indication as to what are the allegations to which petitioner should furnish a statutory explanation. In paragraph 9 of the show cause notice, it is stated that without obtaining the prior permission of RBI, petitioner has repatriated the sale proceeds to M/s Salvation Army but the provisions relied upon in the show cause notice by respondent no.2 has nothing to do with repatriation of any sale proceeds. Further, Regulation 8 of the said Regulation only provides 'save as otherwise provided in the act or regulations no person resident outside India shall transfer any immovable property in India'. It does not refer to any acquisition.

As could be seen from the show cause notice itself the admitted position is Mrs. Meerabai Dawson held immovable property in India, which she inherited from her parents, who were resident in India. The Executors of the Will of Mrs. Meerabai Dawson only disposed the immovable property that she had inherited from her parents who were residents in India, and repatriated the sale proceeds to the beneficiaries of her Will. The beneficiaries did not transfer any property in India from respondent no.2 to allege breach of Regulation 8. Moreover, petitioner was, admittedly, only the power of attorney holder and legal counsel of the Executor's of the Will of Mrs. Meerabai Dawson and therefore, cannot be held liable in the facts of the present case.

We are inclined to exercise our jurisdiction under Article 226 of the Constitution of India and quash and set aside the impugned show cause notice.

[Decided in favour of the assessee]

CUSTOMS

NOTIFICATION

EFFECTIVE RATE OF AGRICULTURE INFRASTRUCTURE AND DEVELOPMENT CESS ON IMPORTS OF PLATINUM

OUR COMMENTS: The Ministry of Finance (Department of Revenue) vide Notification No. 53/2022-Customs dated 03.10.2022 notified In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) read with section 124 of the Finance Act, 2021 (13 of 2021), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 11/2021- Customs, dated the 1st February, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 69(E), dated the 1st February, 2021, namely :-

In the said notification, in the Table, after Sl. No. 15 and the entries relating thereto, the following S. Nos. and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
"15A.	7110	Goods, other than the following: - (a) Platinum and Palladium for use in the manufacture of: - (i) all goods, including Noble Metal Compounds and Noble Metal Solutions, falling under heading 2843; (ii) all goods falling under sub-heading 3815 12; (iii) catalytic convertors falling under tariff item 8421 32 00; Provided that, the importer follows the	1.5%".

procedure set out in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022;

(b) Rhodium

[For further details please refer the notification]

NOTIFICATION

EFFECTIVE RATES OF CUSTOMS DUTY AND IGST FOR GOODS IMPORTED INTO INDIA ON IMPORTS OF PLATINUM

OUR COMMENTS: The Ministry of Finance (Department of Revenue) vide Notification No. 52/2022-Customs dated 03.10.2022 notified In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section (3) of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 785(E), dated the 30th June, 2017, namely :-

In the said notification, in the Table, against S. No. 364B, in column (2), for the entry "7107 00 00, 7109 00 00, 7110, 7111 00 00, 7112, 7118", the entry "7107 00 00, 7109 00 00, 7111 00 00, 7112, 7118" shall be substituted.

[For further details please refer the Notification]

CUSTOMS

NOTIFICATION

RATE OF EXCHANGE OF ONE UNIT OF FOREIGN CURRENCY EQUIVALENT TO INDIAN RUPEES

OUR COMMENTS: The Ministry of Finance (Department of Revenue) vide Notification No. 87/2022 -Customs (N.T.) dated 06.10.2022 notified In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 78/2022-Customs(N.T.), dated 15th September, 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 7th October, 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	54.55	52.15
2.	Bahraini Dinar	223.15	209.85
3.	Canadian Dollar	61.10	59.10
4.	Chinese Yuan	11.65	11.30
5.	Danish Kroner	11.05	10.70
6.	EURO	82.40	79.45
7.	Hong Kong Dollar	10.55	10.20

8.	Kuwaiti Dinar	271.95	255.65
9.	New Zealand Dollar	48.75	46.45
10.	Norwegian Kroner	07.90	07.65
11.	Pound Sterling	94.35	91.10
12.	Qatari Riyal	23.10	21.70
13.	Saudi Arabian Riyal	22.40	21.05
14.	Singapore Dollar	58.30	56.45
15.	South African Rand	04.75	04.45
16.	Swedish Kroner	07.60	07.35
17.	Swiss Franc	84.75	81.70
18.	Turkish Lira	04.50	04.25
19.	UAE Dirham	22.90	21.55
20.	US Dollar	82.45	80.70

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	57.35	55.50
2.	Korean Won	6.00	5.65

NOTIFICATION

AMENDMENT IN NOTIFICATION RELATING TO LAND CUSTOMS STATIONS AND ROUTES FOR IMPORT AND EXPORT OF GOODS BY LAND OR INLAND WATER WAYS

OUR COMMENTS: The Ministry of Finance (Department of Revenue) vide Notification No. 86/2022-Customs (N.T.) dated 30.09.2022 notified In exercise of the powers conferred by clauses (b) and (c) of sub-section (1) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following further amendments in

CUSTOMS

the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 63/1994-Customs (N.T.) dated the 21st November, 1994, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 830 (E), dated the 21st November, 1994, namely: -

In the said notification, in the TABLE, against serial number 2 relating to Bangladesh, against item (13) in column (3) relating to Phulbari, for the entry in column (4), the following entries shall be substituted, namely: -

(1)	(2)	(3)	(4)
			"(a) Road connecting Phulbari in India and Bangla Bandhu in Bangladesh.
			(b) The pipeline of M/s Numaligarh Refinery Ltd. connecting NRL Siliguri Marketing Terminal in India to Parbatipur in Bangladesh."

[For further details please refer the Notification]

amendments is the deletion of certain conditions related to transferee-holder of the scrip.

Further, the Electronic Duty Credit Ledger Regulations, 2021 issued vide notification No. 75/2021-Customs (N.T.) dated 23.09.2021 have been amended vide notification No. 79/2022 - Customs (N.T.) dated 15.09.2022. In Regulations 6(2) and 7(3) of the principal regulations, the words "two years" have been substituted for the words "one year". The effect of these amendments is that the validity period of scrips is increased from one year to two years from the date of their generation.

It is requested to issue suitable public notice and standing order in this regard.

[For further details please refer the circular]

CIRCULAR

AMENDMENTS TO REBATE OF STATE AND CENTRAL TAXES AND LEVIES (ROSCTL) SCHEME

OUR COMMENTS: The Ministry of Finance (Department of Revenue) vide Circular No 22/2022-Customs dated 26.09.2022 circulated that the RoSCTL scheme notification No. 77/2021- Customs (N.T.) dated 24.09.2021 has been amended vide notification No. 76/2022 – Customs (N.T.) dated 14.09.2022 whereby the para 4(2), para 5(5) and the words "or the transferee" in para 6 of the principal notification have been deleted. The effect of these

DGFT

NOTIFICATION

AMENDMENT IN FOREIGN TRADE POLICY (FTP) 2015-2020

OUR COMMENTS: Ministry of Commerce and Industry vide Notification no. 37/2015-2020 dated 29.09.2022 notified In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 read with paragraph 1.02 of the Foreign Trade Policy (FTP) 2015-2020, as amended, the Central Government hereby makes, with immediate effect, the following amendments in the FTP 2015-2020:

In para 1.01, the phrase 'shall remain in force upto 30th September 2022 unless otherwise specified' is substituted by the phrase 'shall remain in force up to 31.03.2023 unless otherwise specified.'

Effect of this Notification: The existing Foreign Trade Policy 2015-2020 which is valid up to 30th September 2022 is extended upto 31st March, 2023.

[For further details please refer the Notification]

PUBLIC NOTICE

AMENDMENT IN PARA 2.107 (TRQ UNDER FTA/CECA) OF HANDBOOK OF PROCEDURE 2015-2020

OUR COMMENTS: The Ministry of Commerce and Industry vide public notice no. 28/2015-2020 dated 06.10.2022 notified In exercise of powers conferred under paragraph 1.03 and 2.04 of the Foreign Trade Policy, 2015-20, the Directorate General of Foreign Trade hereby amends Annexure-IV of Appendix-2A notified vide earlier Public Notice No. 06/2015-20 dated 01.05.2022 and Public Notice 23/2015-20 dated 29.08.2022 as follows -

1. TRQs already issued for import under tariff head 7108 during 1st and 2nd Quarter of the FY 2022-23 shall be revalidated from 30.09.2022 to 30.11.2022. The TRQ Allottees may apply for revalidation online using the following steps: DGFT Website (<https://dgft.gov.in>) → Services → Import Management System → Tariff Rate Quota (TRQ)

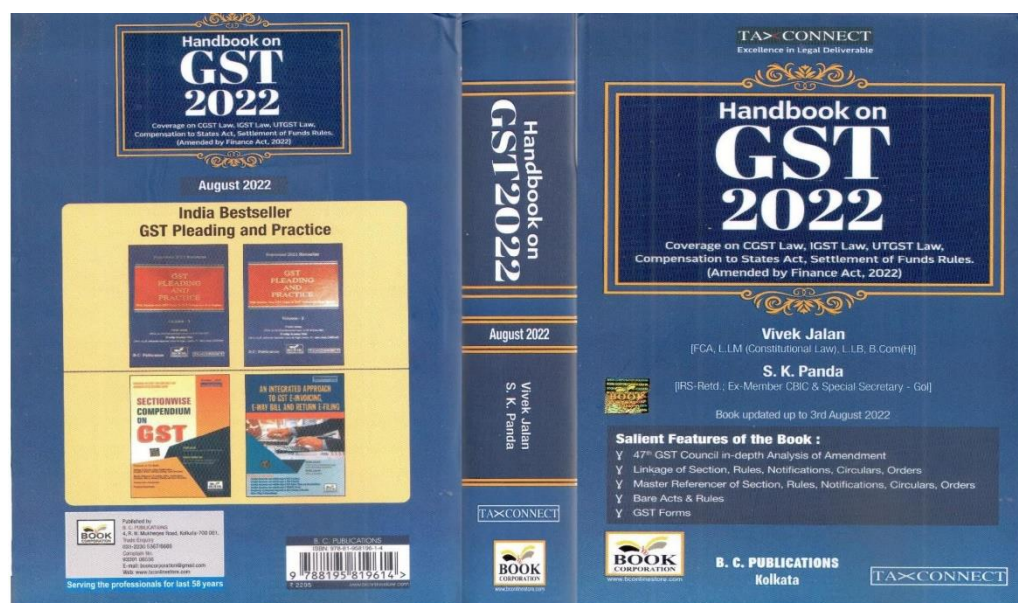
2. The last date for application TRQ under tariff head 7108 for the 3rd Quarter of FY 2022-23 has been extended from 31.08.2022 to 10.10.2022.

Effect of this Public Notice: Last date for applications for TRQs under tariff head 7108 for the 3rd Quarter of the FY 2022-23 is extended till 10.10.2022. TRQ issued under tariff head 7108 for the import in 1st and 2nd Quarter of the FY 2022-23 shall be revalidated till 30.11.2022.

[For further details please refer the public notice]

:IN STANDS

HANDBOOK ON GST 2022



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5. GST Forms

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How to Handle GST LITIGATION: Assessment, Scrutiny, Audit & Appeal



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7. Discussion on Recent Instruction on GST-Summons, Arrest and Bail

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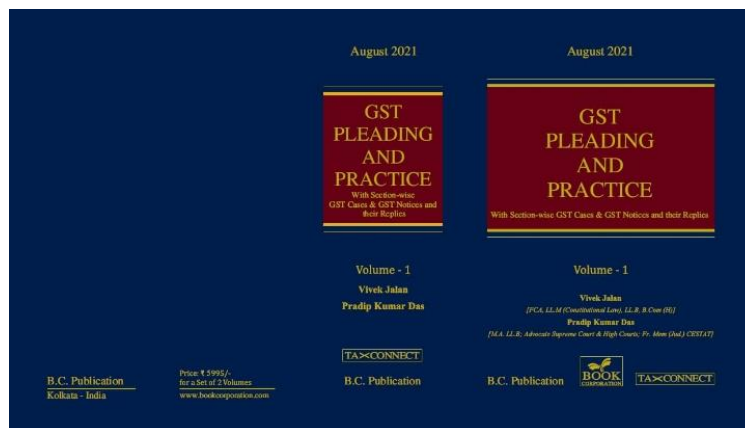
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GST PLEADING AND PRACTICE: With Section-wise GST Cases & GST Notices and their Replies



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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