

# TAX CONNECT

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## 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, 8<sup>th</sup> Cross, 15<sup>th</sup> Main, Kodihalli, HAL 3<sup>rd</sup>Stage, Bengaluru, Karnataka- 560008

**New Delhi**:B-139, 2<sup>nd</sup>Floor, Transport Nagar, Noida-201301 (U.P)

**Kolkata** : 6, Netaji Subhas Road, 3rd Floor, Royal Exchange Building, Kolkata - 700001

:Room No. 119, 1<sup>st</sup>Floor, “Diamond Arcade” 1/72, Cal Jessore Road, Kolkata – 700055

**Dubai**:AziziFeirouz, 803, 8<sup>th</sup> Floor, AL Furjan, Opposite Discovery Pavillion, Dubai, UAE

**Contact:** +91 9830661254

**Website:** [www.taxconnect.co.in](http://www.taxconnect.co.in)

**Email:** [info@taxconnect.co.in](mailto:info@taxconnect.co.in)

## EDITORIAL



**Friends,**

Form 26Q is used to file TDS details on payments made other than salary. The form contains the details of the total amount that is paid during the quarter and the TDS amount that has been deducted. Form 26Q has to be submitted on a quarterly basis.

The original due date for filing the Form 26Q for the period July 2022 to September 2022 is 31<sup>st</sup> October 2022. The Central Board of Direct Taxes (CBDT) has extended the due date for filing of TDS Statement in Form 26Q from 31<sup>st</sup> October 2022 to 30<sup>th</sup> November, 2022.

A press release issued by the Board on 27<sup>th</sup> October 2022 stated that “Considering the difficulties in filing of TDS statement in the revised and updated Form 26Q, the Central Board of Direct Taxes (CBDT) has extended the due date of filing of Form 26Q for the second quarter of Financial Year 2022-23 from 31<sup>st</sup> October, 2022 to 30<sup>th</sup> November, 2022. CBDT Circular No. 21/2022 in F.No.275/25/2022-IT(B) dated 27.10.2022 issued.

We understand that the CBDT has extended the deadline since the Taxpayers have been experiencing a number of technical issues recently, including challan mismatches, challan verification failures and auto adjustments of challans, which made it impossible to file a TDS return on

Form 26Q. CBDT has acknowledged it, extending the deadline by one month and giving tax deductors a much-needed reprieve.

However, no such exemption is offered for TDS returns that apply to transactions involving salaries (Form 24Q) and non-residents.

We hope that since the due date for filing Form 26Q has been extended, the government will incorporate the option to report the TDS deducted u/s 194R- TDS on benefits or perquisite provided and other new provisions in updated Form 26Q w.e.f. this quarter.

Recently, the government also extended the deadline for filing income tax returns by businesses till November 7 for the assessment year 2022-23. The last date for filing ITR by companies who are required to get their accounts audited was October 31.

**Truly Yours**

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

**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

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# TAX CALENDAR

Due Date	Form/Return/ Challan	Reporting Period	Description
30 <sup>th</sup> October	TDS Challan	September 2022	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of September, 2022
30 <sup>th</sup> October	TCS Certificate	Q.E. September 2022	Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2022
31 <sup>st</sup> October	Form 3CEAB	FY 2021-22	Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2021-22
31 <sup>st</sup> October	Annual Audited Account	FY 2021-22	Due date for furnishing of Annual audited accounts for each approved program under section 35(2AA)
31 <sup>st</sup> October	Form 3CEB	AY 2022-23	Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction.
31 <sup>st</sup> October	Non TDC Return	Q.E. September 2022	Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September 30, 2022
31 <sup>st</sup> October	Copies of Form No. 60	April to September 2022	Copies of the declaration received in Form No. 60 during April 1,2022 to September 30,2022 to the concerned Director/Joint Director
31 <sup>st</sup> October	Audit Report	AY 2022-23	Audit report under section 44AB for the assessment year 2022-23 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
31 <sup>st</sup> October	Form 24Q	Q.E. Sep 2022	Return of TDS deducted on salary paid during the period July 2022 and September 2022.

# INCOME TAX

## CIRCULAR

### **CBDT EXTENDED THE DUE DATE FOR FILING OF TDS STATEMENT IN FORM 26Q FOR THE SECOND QUARTER OF FINANCIAL YEAR 2022-23**

**OUR COMMENTS :** The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance vide Circular No. 21/2022 dated 27-10-2022 circulated On consideration of difficulties arising in timely filing of TDS statement in Form 26Q on account of revision of its format and consequent updation required for its filing, the Central Board of Direct Taxes, in exercise of its powers under section 119 of the Income Tax Act, 1961, hereby extends the due date of filing of Form 26Q for the second quarter of financial year 2022-23 from 31<sup>st</sup> of October, 2022 to 30<sup>th</sup> of November, 2022.

However, no such exemption is offered for TDS returns that apply to transactions involving salaries (Form 24Q) and non-residents.

**[For further details please refer the Circular]**

## CIRCULAR

### **EXTENSION OF DUE DATE FOR FURNISHING RETURN OF INCOME FOR THE ASSESSMENT YEAR 2022-23**

**OUR COMMENTS :** The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance vide Circular No. 20/2022 dated 26-10-2022 circulated In consequence to extension of due date for various reports of audit in the case of assessee referred in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act to 07<sup>th</sup> October 2022 by Circular No. 19/2022 dated 30.09.2022, Central Board of Direct Taxes (CBDT), in exercise of its powers

under Section 119 of the Income-tax Act, 1961 (Act), extends the due date of furnishing of Return of Income under sub-section (1) of section 139 of the Act for the Assessment Year 2022-23, which is 31<sup>st</sup> October 2022 in the case of assessee referred in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act, to **07<sup>th</sup> November, 2022.**

**[For further details please refer the circular]**

## GST

## ADVISORY

## IMPLEMENTATION OF MANDATORY MENTIONING OF HSN CODES IN GSTR-1

**OUR COMMENTS:** As per Notification No. 78/2020 – Central Tax dated 15th October, 2020, it is mandatory for the taxpayers to report minimum 4 digit or 6 digit of HSN Code in table-12 of GSTR-I on the basis of their Aggregate Annual Turnover (AATO) in the preceding Financial Year. To facilitate the taxpayers, these changes are being implemented in a phase-wise manner on GST Portal.

Part I & Part II of Phase 1 has already been implemented from 01st April 2022 & 01st August 2022 respectively and is currently live on GST Portal. From 01st November, 2022, Phase-2 would be implemented on GST Portal and the taxpayers with up to Rs 5 crore turnover would be required to report 4-digit HSN codes in their GSTR-1.

**[For further details please refer the Advisory]**

their TRAN-1 or TRAN-2 Forms only through their newly allotted GSTINs. Kindly do not use the old GSTIN for filing of TRAN forms.

The respective tax administrations of both the regions are also advised to accordingly facilitate the taxpayers and keep the above information in mind while processing the TRAN claims under the new GSTINs by linking both the old and revised TRAN-1 forms filed by such taxpayers.

**[For further details please refer the Advisory]**

## ADVISORY

## ADVISORY ON FILING TRAN FORMS FOR TAXPAYERS FROM DAMAN AND DIU &amp; LADAKH

**OUR COMMENTS:** Due to reorganization of the state of Jammu & Kashmir and merger of the Union territories of Dadra and Nagar Haveli and Daman and Diu, the taxpayers of Ladakh and earlier 'Daman and Diu' region have been allotted new GSTINs. There is therefore a doubt as to how to file the TRAN-1 and whether it would be linked with the old TRAN-1 or not.

The aggrieved taxpayers of both the above-mentioned regions are hereby informed that they can file or revise

## FEMA

### CASE LAW

**OFFENCE UNDER FEMA - ELIGIBLE CHARGE AGAINST PETITIONER IN SCN - NO PERMISSION WAS GIVEN FOR REPATRIATION OF SALE PROCEEDS TO PERSON RESIDENT OUTSIDE INDIA AND THAT ACQUISITION AND TRANSFER OF IMMOVABLE PROPERTY BY HER HEIRS RESIDING OUTSIDE INDIA WOULD BE COVERED: BOMBAY HIGH COURT**

**OUR COMMENTS:** Petitioner has contravened the provisions of Section 6(3)(i) of FEMA read with Rule 8 of FEMA (Acquisition and Transfer of Immovable Property in India) Regulations 2000 (FEMA Regulations) and thereby petitioner has rendered itself liable to be proceeded against under Section 13(1) read with Section 42(1) of FEMA - 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

## 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 26.10.2022 circulated that the undersigned is directed to say 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 amendments is the deletion of certain conditions related to transferee-holder of the scrip.

2. 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.

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

Hindi version follows.

**[For further details please refer the circular]**

## CASE LAW

**ADVANCE AUTHORIZATION SCHEME - ISSUANCE OF REVALIDATION AND ENHANCEMENT OF VALUE OF IMPORT ENTITLEMENT - DISCHARGE OF EXPORT OBLIGATION OR NOT - NON-UTILISATION OF ADVANCE AUTHORIZATION SCHEME - ELIGIBILITY TO FILE NECESSARY APPLICATION FOR DUTY DRAW BACK IN TERMS OF 4.28 (IV) OF PARA HANDBOOK OF PROCEDURES TO 2004-09 - VALIDITY PERIOD OF AN ADVANCE AUTHORIZATION : MADRAS HIGH COURT**

**OUR COMMENTS:** It was held that the validity of an import licence/ certificate/ Authorisation/ permission is decided with reference to the date of shipment/ dispatch of the goods from the supplying country as given in Paragraph 9.11 A of the Handbook and not the date of arrival of the goods at an Indian port - The subject Advance Authorisation came with a validity period 24 months from the date of their issue. Unless, they were revalidated before their expiry for a period of 6 months, the rights cannot be claimed except in accordance with the provisions of the Foreign Trade Policy and the relevant Handbook of Procedure.

**Revalidation of import/export license/certificate/authorisation/permission - HELD THAT:-** As per the provisions for the Handbook of Procedures of Foreign Trade Policy 1992-97, the application for revalidation was required to be made within a month of the expiry of the license (for initial period) or before the expiry of license (later period). Subsequently, these time limits prescribed for filing application for Enhancement/Reduction in the value of Advance Authorization as well as for Revalidation of Advance Authorizations have been removed under Paras 4.21 and 4.23 respectively under the Handbook of Procedures issued under the respective respondent of Foreign Trade Policy.

**Enhancement/reduction in the value of authorization - HELD THAT:-** As per para 4.21 of Handbook of Procedure, the concerned Regional Authority could consider the request for enhancement or reduction in the value of the authorization. As per para 4.21.1 of the Handbook of Procedure to Foreign Trade Policy 2004-09, request for pro rata enhancement in the value and quantity may be made either before or after exports. It further stipulates that in such cases where there is a change in standard input output norm SION prior to export of the product, pro rata enhancement shall be given after calculating entitlement on revised SION.

**Application after expiry of last date - HELD THAT:-** Paragraph 9.13 of the HOP which states DGFT may, on his own or otherwise, call for records of any case pending with or decided by an officer subordinate to him or an



## CUSTOMS

officer of any EPC/FIEO including a Group/ Committee of officers nominated, appointed or authorised by him and pass such orders as he may deem fit is also not relevant. Claim for Exemption from the Policy / Procedure under 2.5 of 2009-14 Policy and later 2.58 of 2015-2020 is without merits - The application was filed on 16.02.2011 for the first time after the extension of two years. Thus, the application was beyond the limitation. Paragraph 9.3 of the Foreign Trade Policy therefore cannot come to the rescue of the petitioner.

**Period of discharging the export obligation - HELD THAT:-**

Period of export obligation (EO) under an Advance Authorisation commences from the date of issue of Authorisation, unless otherwise specified. Export obligation issued under FTP 2004-09, 2009-14 and 2015-20 were to be fulfilled within 18, 24 and 36 months respectively - As per Paragraph 4.22 of the Handbook of Procedure with effect from 27.8.2009 the normal period of discharge of export obligation to 18 months.

No applications were filed within the time prescribed for extending the period of export obligation. Since, such a request was made for the first time on 16.2.2011, it was correctly rejected on 02.06.2011. Further, it is also not clear about the quantity imported and quantity that was lying unutilized on these dates when the period expired. The case of the petitioner does not fall within the above specified period. In any event no application was filed by the petitioner in time. Therefore, the petitioner has no case made on merits - Request for revalidation of an Advance Authorisation can be made once for 6 months from the expiry of date of its validity in terms of Paragraph 4.23 of the Handbook of Procedure and/or for enhancement/reduction in the entitlement in terms of Paragraph 4.21 of the Hand Book of procedure can be made only either before or after export.

This writ petition is disposed of with the following directions:-

(i) Fourth respondent Adjudicating Authority is directed to dispose the Show Cause Notice issued on 10.05.2013

within a period of twelve months from the date of receipt of a copy of this order.

(ii) To the extent, the petitioner has utilized the Advance Authorisations, it shall file necessary documents for discharging its Export Obligation undertaken.

iii) To the extent, the petitioner has not utilized the Advance Authorisations it shall file necessary application for duty draw back in terms of 4.28 (iv) of Para Handbook of Procedures to 2004-09.

**[For further details please refer the case law]**

# DGFT

## PUBLIC NOTICE

### WITHDRAWAL OF PUBLIC NOTICE NO. 06/2015-2020 DATED 14.06.2021 REGARDING AMENDMENT IN APPENDIX 2T OF FOREIGN TRADE POLICY 2015-2020

**OUR COMMENTS:** The Ministry of Commerce and Industry vide public notice no. 33/2015-2020 dated 25.10.2022 notified In exercise of powers conferred under paragraph 2.04 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Director General of Foreign Trade hereby specifies the procedure to implement the provisions of FT (D&R) Act as follows:

1. The Public Notice No. 6/2015-2020 dated 14.06.2021 is withdrawn.

2. In pursuance of Gazette Notification No. S.O. 3515 (E) dated 29.07.2022 regarding addition of 'cashew nuts and its products' to the First Schedule to the Agricultural and Processed Food Products Export Development Authority Act, 1985 (2 of 1986), the Director General of Foreign Trade hereby makes the following changes in Appendix - 2T of Foreign Trade Policy, 2015-2020:

S.No.	Name of Export Promotion Councils/ Commodity Boards	Details of products falling with their jurisdiction	Revised details of products falling with their jurisdiction
4	Cashew Export Promotion Council of India	Cashew Kernels Cashewnut Shell Liquid Kardanol	--
35	Agricultural and Processed Food Products Export Development Authority (APEDA)	1. Fruits, Vegetable and their products 2. Meat and meat products 3. Poultry and poultry products 4. Dairy products 5. Confectionary,	1. Fruits, Vegetable and their products 2. Meat and meat products 3. Poultry and poultry products 4. Dairy products 5. Confectionary, biscuits and bakery products

biscuits and bakery products	6. Honey, jaggery and sugar products
6. Honey, jaggery and sugar products	7. Cocoa and its products, chocolates of all kinds
7. Cocoa and its products, chocolates of all kinds	8. Alcoholic and non-alcoholic beverages
8. Alcoholic and non-alcoholic beverages	9. Cereals and cereals products
9. Cereals and cereals products	10. Groundnuts, peanuts and walnut
10. Groundnuts, peanuts and walnut	11. Pickles, chutneys and papads
11. Pickles, chutneys and papads	12. Guar Gum
12. Guar Gum	13. Floriculture and floriculture products
13. Floriculture and floriculture products	14. Herbal and medicinal plants
14. Herbal and medicinal plants	15. Cashew Kernels
	16. Cashewnut Shell Liquid
	17. Kardanol

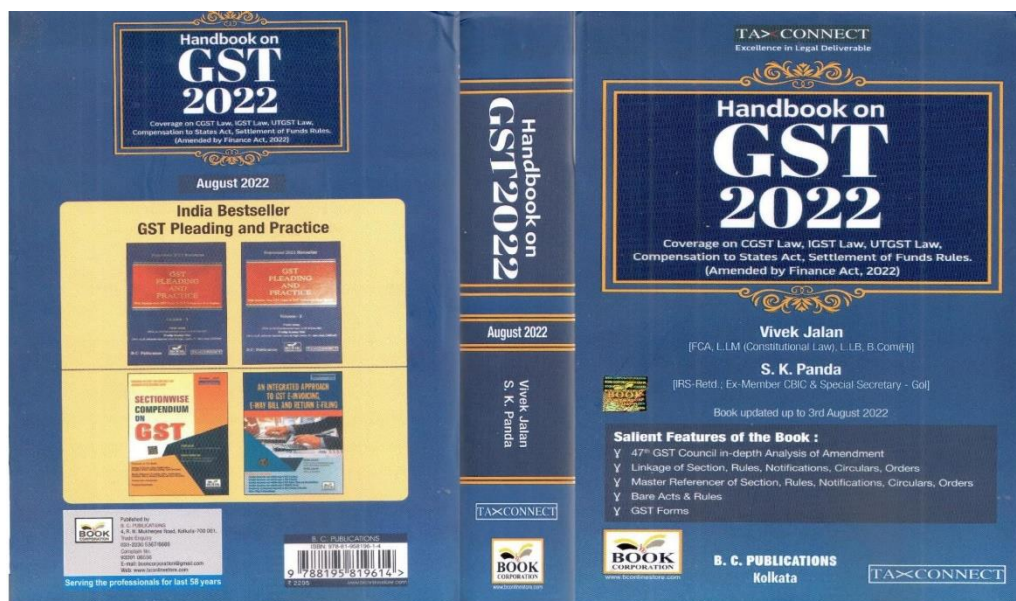
**Effect of the Public Notice:** DGFT Public Notice No. 6/2015-2020 dated 14.06.2021 is withdrawn. In pursuance of Gazette Notification No. S.O. 3515 (E) dated 29.07.2022 regarding addition of 'cashew nuts and its products' to the First Schedule to the APEDA Act, 1985 (2 of 1986), APEDA is designated as the agency authorized to issue RCMCs for Cashew Kernels, Cashewnut Shell Liquid and Kardanol, with immediate effect.

This issues with the approval of the Competent Authority.

**[For further details please refer the public notice]**

## **:IN STANDS**

### **HANDBOOK ON GST 2022**



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2. Linkage of Section, Rules, Notifications, Circulars, Orders
3. Master Reference of Section, Rules, Notifications, Circulars, Orders
4. Bare Acts & Rules
5. GST Forms

#### **Author:**

**Vivek Jalan**

[FCA, LL.M (Constitutional Law), LL.B, B.Com(H)]

**S.K. Panda**

[IRS-Retd.; Ex-Member CBIC & Special Secretary – GoI]

#### **Published by:**

**BOOK CORPORATION**

4, R. N. Mukherjee Road

Kolkata 700001

Phones: (033) 64547999

Cell: 9830010297, 9331018333

Order by email: [bookcorporation@gmail.com](mailto:bookcorporation@gmail.com)

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Phones: (033) 40016761

Cell: 7003384915, 9830661254

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



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1. 50 Most Burning issues in GST-Litigation
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6. Discussion on SOP on Scrutiny of Returns and GST Audit Manual by CBIC under respective Sections
7. Discussion on Recent Instruction on GST-Summons, Arrest and Bail

### **Authors:**

**Vivek Jalan**

[FCA, LL.M (Constitutional Law), LL.B, B.Com(H)]

**Bikramjit Ghosh**

[FCA, 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](mailto:bookcorporation@gmail.com)

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**TAX CONNECT ACADEMY**

6, Netaji Subhas Road,  
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Phones: (033) 40016761

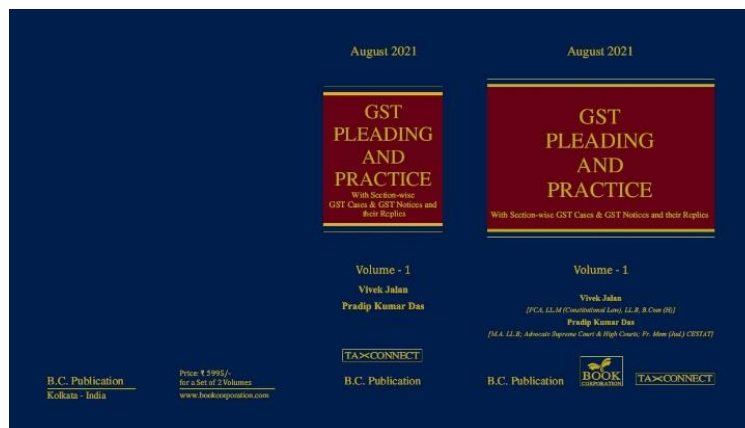
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## **:IN STANDS**

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



#### **ABOUT THE BOOK:** This publication includes:

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

#### **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

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Website : [www.taxconnect.co.in](http://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:** Priyanka Vishwakarma  
**Email:** priyanka.vishwakarma@taxconnect.co.in

#### BANGALORE

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

**Contact Person:** Anil Pal  
**Email:** anil.pal@taxconnectdelhi.co.in

#### DELHI

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

**Contact Person:** Poonam Khemka  
**Email:** poonam.khemka@taxconnect.co.in

#### KOLKATA

6, Netaji Subhas Road, 3<sup>rd</sup> Floor, Royal Exchange Building, Kolkata - 700001

**Contact Person:** Rajni Kant Choudhary  
**Email:** rajnikant.choudhary@taxconnect.co.in

#### KOLKATA

R No 119; 1st Floor; Diamond Arcade; 1/72, Cal Jessore 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

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