

TAX CONNECT

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EDITORIAL



Friends,

Extension of “Angel Tax” was a set-back of sorts for start Ups. Section 56(2) (viib) of the Income Tax Act required that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares. Now this provision is applicable to NRIs also. The logic behind application of angel tax had earlier been cited as to prevent generation and circulation of unaccounted money through share premium received from investors in a closely held company in excess of its fair market value. How this logic applies to NRI funding had not been explained. It was expected that the NRI funding to new companies and start-ups also might now come under scrutiny, just like resident funding, as it was very difficult to convince field officers about the valuation of startups. This would impact the growth of startups, which went against the Government’s broad focus. One logic given for the introduction of this amendment was that it prevented start-ups to over value their shares as was seen in case of recent IPOs. However, the question which was to be asked was that in such case, how can Unicorns be created, a policy which The Government prides itself with.

Now the CBDT has issued a paper for modification of the policy so as to not to apply for start-ups registered with DPIIT. This comes as a relief of sorts.

Further other reliefs are also proposed on aspects of angel tax. While some are applicable exclusively to investment by NRIs, some are applicable to investment by both residents and NRs. The existing Rule 11UA prescribes two methods (viz. NAV or DCF) for determining FMV of shares issued to investors. CBDT proposes to include five more valuation methods for NRI investors. Price matching facility will be available for both resident and NRI investment. 90-day window period will be available for merchant banker valuation.

Important is the aspect of Safe harbour valuation tolerance limit of 10%. Existing angel tax provision and Rule 11UA does not provide for any safe harbour valuation tolerance limit. As per the press release, a tolerance limit of 10% shall be introduced to factor in variations due to forex fluctuations, bidding processes and other economic indicators, etc. which may affect the valuation of the unquoted equity shares during multiple rounds of investment. While it is not expressly mentioned, it appears to apply to investment by both residents and NRIs.

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
7 th June	Deposit of TDS/TCS	May 2023	Due date for deposit of Tax deducted/collected for the month of May, 2023. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
10 th June	GSTR-8	May 2023	A return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST
10 th June	GSTR-7	May 2023	GSTR-7 is a monthly return filed by individuals who deduct tax at source or TDS under the Goods and Services Tax (GST)

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NOTIFICATION

EXEMPTION TO BUYERS OF PSU SHARES DURING SELLOFF UNDER STRATEGIC DISINVESTMENT

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 35/2023 dated 31.05.2023 notified In exercise of the powers conferred by clause (XI) of the proviso to clause (x) of sub-section (2) of section 56 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 (Eighth Amendment) Rules, 2023.

(2) They shall come into force from the 1st day of April, 2023 and shall be applicable for the assessment year 2023-2024 and subsequent assessment years.

2. In the Income-tax Rules, 1962, in rule 11UAC, for clause (4), the following clause shall be substituted, namely: —

“(4) any movable property, being equity shares, of a public sector company or a company, received by a person from a public sector company or the Central Government or any State Government under strategic disinvestment.

Explanation - For the purposes of this clause, 'strategic disinvestment' shall have the same meaning as assigned to it in clause (iii) of Explanation to clause (d) of sub-section (1) of section 72A.”.

[For further details please refer the notification]

NOTIFICATION

DEDUCTION U/S 80G - PROVISIONAL APPROVAL SHALL BE EFFECTIVE FROM THE ASSESSMENT YEAR RELEVANT TO THE PREVIOUS YEAR IN WHICH SUCH APPLICATION IS MADE

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 34/2023 dated 30.05.2023 notified In exercise of the powers conferred by clauses (i), (ii), (iii) and (iv) of the first proviso to sub-section (5) of

section 80G and the third proviso to sub-section (5) of section 80G 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 (7th Amendment) Rules, 2023.

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

2. In the Income-tax Rules, 1962, in rule 11AA, for sub-rule (7), the following sub-rule shall be substituted, namely:-

“(7) In case of an application made under clause (iv) of the first proviso to sub-section (5) of section 80G of the Act, the provisional approval shall be effective from the assessment year relevant to the previous year in which such application is made.”.

[For further details please refer the notification]

NOTIFICATION

E-APPEALS SCHEME, 2023

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 33/2023 dated 29.05.2023 notified in exercise of the powers conferred by sub-section (5) of section 246 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:

Short title and commencement.—

(1) This Scheme may be called the e-Appeals Scheme, 2023.

(2) It shall come into force on the date of its publication in the Official Gazette.

Scope of the Scheme.— The Scheme shall apply to appeals, in respect of such persons or class of persons, incomes or class of incomes, cases or class of cases, as covered under section 246 of the Act except the cases excluded under sub-section(6) of that section.

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Appeal Authority under the Scheme.—(1) The Joint Commissioner (Appeals) [hereinafter referred to as the JCIT (Appeals)], shall dispose of the appeals filed before it or allocated or transferred to it, in accordance with the provisions of this Scheme.

(2) The JCIT (Appeals) shall have such income-tax authority, ministerial staff, executive or consultant to assist in the disposal of appeals, as may be considered necessary by the Board.

Allocation of appeals.—The Principal Director General of Income-tax (Systems) or the Director General of Income tax (Systems), as the case may be, shall, with the approval of the Central Board of Direct Taxes, devise a process to randomly allocate or transfer the appeals, referred to in paragraph 3, to the JCIT(Appeals).

Procedure in appeal.—(1) The appeal referred to in paragraph 3 shall be disposed of by the JCIT(Appeals) under this Scheme as per the following procedure, namely:—

(I) On assignment of an appeal, the JCIT (Appeals),”

(a) may condone the delay in filing appeal if the appeal is filed beyond the time permitted under section 249 of the Act and record the reasons for such condonation or otherwise in the appeal order passed under clause (IX);

(b) shall give notice to the appellant asking him to file his submission within the date and time specified in such notice and also send a copy of such notice to the Assessing Officer;

(c) may obtain further information, document or evidence from the appellant or any other person;

(d) may obtain a report of the Assessing Officer on grounds of appeal or information, document or evidence furnished by the appellant;

(e) may request the Assessing Officer for making further inquiry under sub-section (4) of section 250 of the Act and submit a report thereof;

(f) shall serve a notice upon the appellant or any other person, or the Assessing Officer to submit such information, document or evidence or report, as the case may be, as may be specified by it or relevant to the appellate proceedings, on a specified date and time;

(II) the appellant or any other person, as the case may be, shall furnish response as required in sub-clauses (b), (c) or (f) of clause (I), within the date and time specified therein, or such extended date and time as may be allowed on the basis of an application made in this behalf, to the JCIT (Appeals);

(III) the Assessing Officer shall furnish a report as required under sub-clauses (d), (e) or (f) of clause (I), within the date and time specified therein or such extended date and time as may be allowed on the basis of an application made in this behalf, to the JCIT (Appeals);

(IV) the appellant may file additional grounds of appeal to the JCIT (Appeals), in such form, as may be specified, specifying therein the reason for omission of such grounds in the appeal filed by him;

(V) where the additional ground of appeal is filed,—

(a) the JCIT (Appeals) shall admit such additional ground in case of orders passed under sub-section (1) of section 143 of the Act or under section 200A of the Act or in any other case where the appealable order is an order passed by the Central Processing Centre;

(b) in any other case, the JCIT (Appeals) shall send the additional ground to the Assessing Officer for providing comments if any;

(c) the Assessing Officer shall furnish their comments, within the date and time specified or such extended date and time as may be allowed on the basis of an application made in this behalf, to the JCIT (Appeals);

(d) the JCIT (Appeals) shall, after taking into consideration the comments, if any, received from the Assessing Officer,—

(A) if he is satisfied that the omission of such additional ground from the memorandum of appeal was not wilful or there was sufficient cause, admit the additional ground; or

(B) in any other case, for reasons to be recorded in writing in the appeal order passed under clause (IX) not admit the additional ground;

(VI) the appellant may furnish additional evidence, other than the evidence produced by him during the course of proceedings before the Assessing Officer, to the JCIT

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(Appeals), in such form, as may be specified, specifying therein as to how his case is covered by the exceptional circumstances specified in sub-rule (1) of rule 46A of the Rules;

(VII) where the additional evidence is furnished,—

(a) the JCIT (Appeals) shall admit such additional evidence in case of orders passed under sub-section (1) of section 143 of the Act or under section 200A of the Act or any such case where the appealable order is an order passed by the Central Processing Centre;

(b) in any other case, the JCIT (Appeals) shall send the additional evidence to the Assessing Officer for furnishing a report on the admissibility of additional evidence in accordance with rule 46A of the Rules;

(c) the Assessing Officer shall furnish the report, as referred to in sub-clause (b), within such date and time as specified or such extended date and time as may be allowed on the basis of an application made in this behalf, to the JCIT (Appeals);

(d) the JCIT (Appeals) may, after considering the additional evidence and the report, if any, furnished by the Assessing Officer admit or reject the additional evidence, for reasons to be recorded in writing, and the same shall form a part of the appeal order passed under clause (IX);

(e) the JCIT (Appeals) shall, if he admits such evidence, before taking such evidence into account in the appellate proceedings, prepare a notice to provide an opportunity to the Assessing Officer to examine such evidence or to cross-examine such witness, as may be produced by the appellant, or to produce any evidence or document, or any witness in rebuttal of the evidence or witness produced by the appellant, and furnish a report thereof and send such notice to the Assessing Officer;

(f) the Assessing Officer shall furnish the report within the date and time specified or such extended date and time as may be allowed on the basis of an application made in this behalf, to the JCIT (Appeals);

(g) the Assessing Officer may request the JCIT (Appeals) to direct the production of any document or evidence by the appellant, or the examination of any witness, as may be relevant to the appellate proceedings;

(h) the JCIT (Appeals) for the purposes of making enquiries in the appeal proceedings as referred to in sub-clauses (c) or (e) of clause (I) or where the request referred to in sub-clause (g) is received, may, if it deems fit, send a notice —

(A) directing the appellant to produce such document or evidence, as it may specify; or

(B) for examination of any other person, being a witness;

(i) the appellant or any other person, as the case may be, shall furnish his response to the notice referred to in sub-clause (h), within the date and time specified in the notice or such extended date and time as may be allowed on the basis of application made in this behalf, to the JCIT (Appeals);

(VIII) where the JCIT (Appeals) intends to enhance an assessment or a penalty or reduce the amount of refund,—

(a) the JCIT (Appeals) shall prepare a show-cause notice containing the reasons for such enhancement or reduction, as the case may be, and shall serve the notice upon the appellant;

(b) the appellant shall, within the date and time specified in the notice or such extended date and time as may be allowed on the basis of application made in this behalf, furnish his response to the JCIT (Appeals).

(IX) The JCIT (Appeals) shall, thereafter,—

(a) prepare in writing, an appeal order in accordance with the provisions of section 251 of the Act stating the points for determination, the decision thereon and the reason for decision; and

(b) send such order after signing the same digitally to the appellant along with the details of the penalty proceedings, if any, to be initiated therein;

(c) communicate such order to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in the line with sub-section (7) of section 250 of the Act;

(d) communicate such order to the Assessing Officer for such action as may be required under the Act;

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(e) where initiation of penalty has been recommended in the order, serve a notice upon the appellant calling upon him to show cause as to why penalty should not be imposed upon him under the relevant provisions of the Act.

(2) Notwithstanding anything contained in sub-paragraph (1), the appeal may be transferred at any stage of the appellate proceedings, if considered necessary, by an order in accordance with section 120 of the Act, to such JCIT (Appeals) as may be specified in the order.

7. Penalty proceedings— (1) The JCIT (Appeals) may, in the course of appeal proceedings, for non-compliance of any notice, direction or order issued under this Scheme on the part of the appellant or any other person, as the case may be, send a notice to the appellant or any other person for initiation of any penalty proceedings calling upon them to show cause as to why penalty should not be imposed upon him under the relevant provisions of the Act.

(2) The appellant or any other person, as the case may be, shall furnish a response to the show-cause notice referred to in sub-paragraph (1) of this paragraph or in sub-clause (e) of clause (IX) of sub-paragraph (1) of paragraph 6, within the date and time specified in such notice or such extended date and time as may be allowed on the basis of application made in this behalf, to the JCIT (Appeals).

(3) The JCIT (Appeals) shall, after taking into account all the relevant material available on the record, including the response furnished, if any, by the appellant or any other person, as the case may be, —

(a) prepare a penalty order and serve a copy of such order after digitally signing the same; or

(b) for reasons to be recorded in writing, drop the penalty and send an intimation thereof,

to the appellant or any other person, as the case may be, and the Assessing Officer, for such action as may be required under the Act.

8. Rectification Proceedings. — (1) With a view to rectifying any mistake apparent from the record the JCIT (Appeals) may amend any order passed by it in accordance with the provisions of the Act, by an order to be passed in writing.

Appellate Proceedings.—(1) An appeal against an order passed by the JCIT (Appeals) under this Scheme shall lie

before the Income Tax Appellate Tribunal having jurisdiction over the jurisdictional Assessing Officer of the appellant assessee.

(2) Subject to the provisions of paragraph 3 of the Scheme, where any order passed by the JCIT (Appeals) is set-aside and remanded back to the JCIT (Appeals) by the Income Tax Appellate Tribunal or High Court or Supreme Court, the order shall be assigned to a JCIT (Appeals) for further action in accordance with the provisions of this Scheme.

10. Exchange of communication by electronic mode.—For the purposes of this Scheme,—

(a) all communications between the JCIT (Appeals) and the appellant, or his authorised representative, shall be exchanged by electronic mode, to the extent technologically feasible; and

(b) all internal communications between the JCIT (Appeals), the Assessing Officer and the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, shall be exchanged by electronic mode.

11. Authentication of electronic record.— For the purposes of this Scheme, an electronic record shall be authenticated by,—

(i) the JCIT (Appeals), in case of order passed under clause (IX) of sub-paragraph (1) of paragraph 6 or under sub-paragraph (3) of paragraph 7 or under sub-paragraph (5) of paragraph 8, by affixing his digital signature;

(ii) the appellant or any other person, by affixing his digital signature or under electronic verification code or by logging into his registered account in the designated portal;

Explanation. — For the purposes of this paragraph, “electronic verification code” shall have the same meaning as referred to in sub-rule (3) of rule 12 of the Rules.

12. Delivery of electronic record.—(1) Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being the appellant, by way of,—

(a) placing an authenticated copy thereof in the appellant’s registered account; or

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(b) sending an authenticated copy thereof to the registered e-mail address of the appellant or his authorised representative; or

(c) uploading an authenticated copy on the Mobile App of the appellant followed by a real time alert.

(2) Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered e-mail address of such person followed by a real time alert.

(3) The appellant shall furnish his response to any notice or order or any other electronic communication, under this Scheme, through his registered account, and once an acknowledgement is sent upon successful submission of response, the response shall be deemed to be authenticated.

(4) The time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the Information Technology Act, 2000 (21 of 2000).

13. No personal appearance under the Scheme .—(1) A person shall not be required to appear either personally or through authorised representative in connection with any proceedings under this Scheme.

(2) The appellant or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the JCIT (Appeals) and the concerned JCIT (Appeals) shall allow the request for personal hearing and communicate the date and time of hearing to the appellant.

(3) Such hearing shall be conducted through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board.

(4) Any examination or recording of the statement of the appellant or any other person shall be conducted by the JCIT (Appeals) under this Scheme, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent

technologically feasible, in accordance with the procedure laid down by the Board.

(5) The Board shall establish suitable facilities for video conferencing or video telephony including telecommunication application software which supports video conferencing or video telephony at such locations as may be necessary, so as to ensure that the appellant, or his authorised representative, or any other person is not denied the benefit of this Scheme merely on the ground that such appellant or his authorised representative, or any other person does not have access to video conferencing or video telephony at his end.

14. Functions of the Principal Chief Commissioner of Income-tax National Faceless Appeal Centre.—The Principal Chief Commissioner of Income-tax (National Faceless Appeal Centre), with the prior approval of Board, for the effective functioning of the Office of the JCIT (Appeals) set-up under this Scheme, shall perform the following functions, namely:___

(i) transfer in and transfer out of cases from e-appeal Scheme;

(ii) transfer of cases from one JCIT(Appeals) to another;

(iii) co-ordinate with the Principal Director General or Director General of Income tax (Systems) for devising processes for allocation of appeals, if required;

(iv) approval of Formats of notices or letter;

(v) issuing Standard Operating Procedures for various processes and for conducting Video Conference; and

(vi) any other procedural function assigned by the Board from time to time.

15. Power to specify format, mode, procedure and processes.—The Principal Director General or the Director General of Income-tax (Systems) shall, in consultation with the Principal Chief Commissioner of Income-tax National Faceless Appeal Centre, if required, lay down the standards, procedures and processes for effective functioning of the Office of the JCIT (Appeals) set-up under this Scheme, in an automated and mechanised environment, including format, mode, procedure and processes with the prior approval of the Board, in respect of the following, namely:-

(i) service of the notice, order or any other communication;

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(ii) receipt of any information or documents from the person in response to the notice, order or any other communication;

(iii) issue of acknowledgment of the response furnished by the person;

(iv) provision of “e-appeal” facility including login account facility, tracking status of appeal, display of relevant details, and facility of download;

(v) accessing, verification and authentication of information and response including documents submitted during the appellate proceedings;

(vi) receipt, storage and retrieval of information or documents in a centralised manner; and

(vii) any other function assigned by the Board from time to time.

16. Application of provisions of the Act.- Save as otherwise provided in this Scheme, the provisions of clause (28CA) of section 2, section 120, section 129, section 131, section 133, section 134, section 136, section 140, section 154, section 155, section 282, section 282A, section 283, section 284, Chapter XX and Chapter XXI, and other provisions of the Act, shall apply to the procedure in disposal of appeal by the JCIT (Appeals) under this Scheme.

[For further details please refer the notification]

NOTIFICATION

INCOME-TAX (SIXTH AMENDMENT) RULES, 2023 - IMPLEMENTATION OF CHANGES MADE BY FINANCE ACT, 2023 - FIRST APPELLATE AUTHORITY BEING JOINT COMMISSIONER (APPEALS) [JCIT(A)] WITH THE COMMISSIONER (APPEALS) CIT(A)

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 32/2023 dated 29.05.2023 notified In exercise of powers conferred by sub-section (1) of section 249 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 Income-tax (Sixth Amendment) Rules, 2023.

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

2. In the Income-tax Rules, 1962,—

(I) In rule 45,—

(A) in the marginal heading, for the words and brackets “Commissioner (Appeals)”, the words and brackets “Joint Commissioner (Appeals) or Commissioner (Appeals)” shall be substituted;

(B) in sub-rule (1), for the words and brackets “Commissioner (Appeals)”, the words and brackets “Joint Commissioner (Appeals) or the Commissioner (Appeals)” shall be substituted;

(II) In rule 46A,—

(A) in the marginal heading, for the words “Deputy Commissioner”, the words “Joint Commissioner” shall be substituted;

(B) for the words “Deputy Commissioner” wherever they occur, the words “Joint Commissioner” shall be substituted;

(III) In Appendix-II, in FORM NO. 35,—

(A) in the heading, before the words “Commissioner of Income-tax”, the words and brackets “Joint Commissioner (Appeals) or the” shall be inserted;

(B) before the word “Commissioner” wherever they occur, the words and brackets “Joint Commissioner (Appeals) or” shall be inserted.

[For further details please refer the notification]

GST

ADVISORY

ADVISORY ON FILING OF DECLARATION IN ANNEXURE V BY GOODS TRANSPORT AGENCY (GTA) OPTING TO PAY TAX UNDER FORWARD CHARGE MECHANISM

OUR COMMENTS: The GSTIN vide advisory dated 30.05.2023 advised that The GTAs, who commence business or cross registration threshold on or after 1st April, 2023, and wish to opt for payment of tax under forward charge mechanism are required to file their declaration in Annexure V for the FY 2023-24 physically before the concerned jurisdictional authority.

The declaration may be filed within the specified time limits, as prescribed in the Notification. No. 05/2023-Central Tax (Rate), dated. 09.05.2023.

[For further details please refer the advisory]

INSTRUCTION

2- FACTOR AUTHENTICATION FOR E-WAY BILL AND E-INVOICE SYSTEM

OUR COMMENTS: To enhance the security of e-Way Bill/e-Invoice System, NIC is introducing 2- Factor Authentication for logging in to e-Way Bill/e-Invoice system. In addition to username and password, OTP will also be authenticated for login.

There are 3 different ways of receiving the OTP. You may enter any of the OTP and login to system. The various modes of generating OTP are explained below:

1. **SMS:** OTP will be sent to your registered mobile number as SMS.

2. **On 'Sandes' app:** Sandes is a messaging app provided by the government so that you can send and receive messages. You may download and install the Sandes app on your registered mobile number and receive the OTP in it.

3. **Using 'NIC-GST-Shield' app:** 'NIC-GST-Shield' is a mobile app provided by eWay Bill /e-Invoice System, so that OTP can be generated by using the app.

This app can be downloaded only from the e-Waybill / e-Invoice portal from the link 'Main Menu 2-Factor Authentication Install NIC-GST-Shield'. Download, install and register this app on your registered mobile number. You should ensure the time displayed in the app should be in sync with E-Waybill/e-Invoice system. On opening the

app, OTP is displayed. You may enter this OTP and continue the authentication. The OTP gets refreshed after every 30 seconds. You will not require internet or any dependency on mobile network for generating the OTP on this app.

Registration for 2-Factor Authentication:

On logging to e-Waybill System go to Main Menu 2 Factor Authentication and confirm the registration. Once confirmed, the system will ask OTP along with username and password. The OTP authentication is based on individual user accounts. The sub users of GSTIN will have separate authentication depending on their registered mobile number in the e-Way Bill/ e- Invoice System. Once you have registered for 2 Factor authentication, then the same is applicable for both e-Way bill and e-Invoice system.

You may de-register this facility anytime using the link '2 Factor Authentication Registration / Deregistration'. This facility is presently being introduced on an optional basis; however, in future it will be made mandatory.

[For further details please refer the instruction]

PRESS RELEASE

₹1,57,090 CRORE GROSS GST REVENUE COLLECTED FOR MAY 2023; CLOCKS 12% YEAR-ON-YEAR GROWTH.

OUR COMMENTS: The gross Good & Services Tax (GST) revenue collected in the month of May, 2023 is ₹1,57,090 crore of which CGST is ₹28,411 crore, SGST is ₹35,828 crore, IGST is ₹81,363 crore (including ₹41,772 crore collected on import of goods) and cess is ₹11,489 crore (including ₹1,057 crore collected on import of goods).

The government has settled ₹35,369 crore to CGST and ₹29,769 crore to SGST from IGST. The total revenue of Centre and the States in the month of May 2023 after regular settlement is ₹63,780 crore for CGST and ₹65,597 crore for the SGST.

The revenues for the month of May 2023 are 12% higher than the GST revenues in the same month last year. During the month, revenue from import of goods was 12% higher and the revenues from domestic transactions (including import of services) are 11% higher than the revenues from these sources during the same month last year.

FEMA

DISCUSSION

CHANGES IN FEMA RULES: DEBIT, CREDIT CARDS TO HAVE PARITY; BUSINESS VISITS OF EMPLOYEES EXEMPTED FROM LIBERALIZED REMITTANCE SCHEME (LRS)

OUR COMMENTS: The finance ministry recently said the changes in FEMA rules, which brings overseas international credit card spending under RBI's liberalized remittance scheme (LRS), are intended to bring in parity in tax treatment of remittances using debit and credit cards.

The ministry said since credit card spending overseas has now been brought under LRS, such remittances would be liable to tax collected at source (TCS) at applicable rates. If the TCS payee is a taxpayer, he or she can claim credit and adjust it against his/her I-T or advance tax liability.

The Union Budget 2023-24 had hiked TCS rates to 20 per cent, from 5 per cent currently, on overseas tour packages and funds remitted under LRS (other than for education and medical purposes). The new TCS rates will come into effect from July 1, 2023.

A day after amending the Foreign Exchange Management (Current Account Transaction) Rules, the ministry issued a list of FAQ (frequently asked questions) detailing the reasons for inclusion of foreign spending using credit cards.

It said that instances came to notice of the tax authorities that remittances under LRS by some individuals were 'disproportionately high' to their disclosed sources of income.

A person on overseas visit can use international debit cards, international credit cards or other methods for undertaking current account transactions.

Although the payments by debit cards were covered under the LRS, expenditures through credit cards were not accounted for under the specified LRS limit, which has led to some individuals exceeding the LRS limits, the ministry said.

This exemption to international credit cards was provided under erstwhile Rule 7 of FEMA Rules.

Data collected from top money remitters under LRS also revealed that international credit cards were being issued with limits in excess of the present LRS limit of USD 2.50 lakh.

The ministry further said that the Reserve Bank of India too had on numerous occasions written to the government pointing to the need to remove the differential treatment to debit and credit card spendings.

"The differential treatment between debit cards and credit cards needed to be removed in the interest of uniformity and equity in the treatment of modes of drawal of foreign exchange and for capturing total expenditures under LRS for prudent foreign exchange management and to prevent by-passing of LRS limits," the ministry said.

Under the RBI's LRS scheme, an individual can remit up to USD 2.5 lakh annually overseas without approval of the RBI. Remittances beyond the USD 2.5 lakh or its equivalent in foreign currency would require approval from the RBI.

The FAQ also clarified that TCS of 5 per cent will be levied on expenses exceeding Rs 7 lakh towards medical treatment and education, while other expenses including investment in real estate, foreign tour and travel would attract 20 per cent.

For those availing loans for overseas education, a lower TCS rate of 0.5 per cent would be levied above the Rs 7-lakh threshold.

The ministry said the primary impact of higher TCS rate would only be on investment in assets such as real estate, bonds, stocks outside India by HNI and tour travel packages or gifts to non-residents.

"If the TCS is of a person not being a taxpayer, then the 20 per cent rate on such presumed income is not high. The tax rate slab of 20 per cent starts in the new regime for incomes over Rs 12 lacs and is 30 per cent for incomes over Rs 15 lacs," the ministry said.

The ministry also clarified that LRS does not cover business visits of an employee. When an employee is being deputed by an entity, such expenses will be treated as residual current account transactions outside LRS and may be permitted by the AD without any limit, subject to verifying the bona fide of the transaction.

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. 39/2023-Customs(N.T) dated 01.06.2023 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. 36/2023-Customs(N.T.), dated 18th May, 2023 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 2nd June, 2023, 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	
		(a) (For Imported Goods)	(b) (For Export Goods)
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	55.00	52.65
2.	Bahraini Dinar	225.85	212.40
3.	Canadian Dollar	61.90	59.85
4.	Chinese Yuan	11.80	11.45
5.	Danish Kroner	12.05	11.65
6.	EURO	89.85	86.70
7.	Hong Kong Dollar	10.70	10.35
8.	Kuwaiti Dinar	276.90	260.30
9.	New Zealand Dollar	51.00	48.70
10.	Norwegian Kroner	7.60	7.35
11.	Pound Sterling	104.45	101.00

12.	Qatari Riyal	23.40	21.95
13.	Saudi Arabian Riyal	22.60	21.35
14.	Singapore Dollar	62.10	60.10
15.	South African Rand	4.30	4.05
16.	Swedish Kroner	7.75	7.50
17.	Swiss Franc	92.40	89.00
18.	Turkish Lira	4.10	3.85
19.	UAE Dirham	23.20	21.80
20.	US Dollar	83.40	81.70

SCHEDULE-II

Sl. No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(a) (For Imported Goods)	(b) (For Export Goods)
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	60.15	58.25
2.	Korean Won	6.45	6.05

[For further details please refer the notification]

NOTIFICATION

FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, ARECA NUT, GOLD AND SILVER

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification No. 38/2023-Customs(N.T) dated 31.05.2023 notified In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

CUSTOMS

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

“TABLE-1

Sl. No.	Chapter/ heading/ subheading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	898
2	1511 90 10	RBD Palm Oil	984
3	1511 90 90	Others – Palm Oil	941
4	1511 10 00	Crude Palmolein	994
5	1511 90 20	RBD Palmolein	997
6	1511 90 90	Others – Palmolein	996
7	1507 10 00	Crude Soya bean Oil	976
8	7404 00 22	Brass Scrap (all grades)	4873

TABLE-2

Sl. No.	Chapter/ heading/ subheading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1.	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017- Customs dated 30.06.2017 is availed	629 per 10 grams
2.	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017- Customs dated 30.06.2017 is availed	754 per kilogram
3.	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semimanufactured forms of silver falling under sub-	754 per kilogram

		heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	
4.	71	(i) Gold bars, other than tola bars, bearing manufacturer’s or refiner’s engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, —gold findings means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	629 per 10 grams

TABLE-3

Sl. No.	Chapter/ heading/ subheading/tariff item	Description of goods	Tariff value (US \$ Per Metric Ton)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	10379 (i.e., no change)

CUSTOMS

2. This notification shall come into force with effect from the 01st day of June, 2023.

[For further details please refer the notification]

CIRCULAR

FACELESS ASSESSMENT – RE-ORGANISATION OF NATIONAL ASSESSMENT CENTRES AND FACELESS ASSESSMENT GROUPS

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Circular No. 13/2023-Cus dated 31.05.2023 circulated that Reference is invited to Circular No.40/2020-Customs dated 04.09.2020 on the constitution of National Assessment Centres (NACs), their roles and responsibilities, the co-ordination to be done by the Co-conveners of the NACs with directorates and Board etc. Further vide para 3.3 and 3.4 of Circular No.14/2021-Customs dated 07.07.2021, NACs and the Faceless Assessment Groups (FAGs) were re-organized to promote specialization.

2. Recently, Board has further reviewed the performance of Faceless Assessment and has deliberated upon certain aspects relating to the functioning and structure of the NACs and FAGs, in view of fresh measures taken in relation to Faceless Assessment such as implementation of Anonymised Escalation Mechanism (AEM) to address grievances in delays in assessments and implementation of Standard Examination Orders to enhance uniformity of examinations. Accordingly, it is proposed to effect the following changes in the scheme of Faceless Assessment.

Changes to NAC Structure:

3. Following changes are made to the structure of NACs :

a. The number of NACs has been reduced to 8, from the existing 11 (i.e. by merging chemicals I, II and III into Chemicals and by merging Automobiles & Instruments and Misc. products/project imports into Automobiles, Instruments, Misc. products & Project Imports).

b. Each of the 8 NACs would now be convened by one Pr. Chief/Chief Commissioner as indicated in column 1 of the Table in the Annexure as mentioned in the circular. (On the basis of the assessable value of goods imported in the zone in the ascending order).

Re-organization of Faceless Assessment Groups:

4. In alignment with the changes to NAC, Faceless Assessment Groups (FAG) for different commodities listed in the Column (2) of the table in annexure as mentioned in the circular to this circular has been identified based on the imported goods handled by these goods on basis of assessable value. This is done to further promote specialization.

5. Except for the changes in the NACs stipulated in paras above, the Conveners would be responsible for carrying out all the roles and responsibilities entrusted to Co conveners and outlined in Circular No.40/2020-Customs dated 04.09.2020.

6. The changes informed in this circular would be effective from 15.06.2023 and DG Systems would issue suitable advisory in this regard. Any issue in implementation may be brought to the notice of the Board.

7. Hindi version follows.

[For further details please refer the circular]

DGFT

NOTIFICATION

EXPORT OF RICE (BASMATI AND NON-BASMATI) - REQUIREMENT OF CERTIFICATE OF INSPECTION

OUR COMMENTS: The Ministry of Commerce & Industry vide notification no 09/2023 dated 29.05.2023 notified In exercise of powers conferred by Section 3 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended read with para 1.02 of the Foreign Trade Policy, 2023, the Central Government hereby makes the following amendment to the Notification No. 27/2015-2020 dt. 17.08.2022, With immediate effect policy condition at Sl. No. 55 and 57, Schedule 2 of ITC (HS) Export Policy, 2018 for export of rice (Basmati and Non-Basmati).

2. The following policy conditions shall be amended/added to the existing entries of Chapter 10 at Sl.No. 55 and 57:-

Sl. No.	Tariff item HS code	Item Description	Present Policy condition	Revised Policy Condition
55.	1006 2000	Non-Basmati Rice	Export to EU Member States and European countries namely United Kingdom, Iceland, Liechtenstein, Norway and Switzerland permitted subject to issuance of Certificate of Inspection by Export Inspection Council/Export Agency'	Export to EU Member State and European countries namely United Kingdom, Iceland, Liechtenstein, Norway and Switzerland permitted subject to issuance of Certificate of Inspection by Export Inspection Council / Export Agency'.
	1006 30			
	1006 3010			
	1006 3090			
	1006 40 00			

			countries with effect from 1st January, 2023	European countries with effect from the date of this notification for a period of six months.
57	1006 3020	Basmati Rice (Dehusked (Brown), semi milled, milled both in either par-boiled or raw condition).	Export to EU Member States and European countries namely United Kingdom, Iceland, Liechtenstein, Norway and Switzerland permitted subject to issuance of Certificate of Inspection by Export Inspection Council / Export Agency. Certificate of Inspection by Export Inspection Council/ Export Agency shall be mandatory for remaining European countries with effect from 1st January, 2023	Export to EU Member State and European countries namely United Kingdom, Iceland, Liechtenstein, Norway and Switzerland permitted subject to issuance of Certificate of Inspection by Export Inspection Council / Export Agency. Certificate of Inspection by Export Inspection Council /Export Agency shall not be mandatory for remaining European countries with effect from the date of this notification for a period of six months.

3. Effect of notification:

Existing notification No. 27/2015-2020 dated 17th August 2022 is amended to the extent that export of Rice (Basmati and Non-Basmati) to EU member states and other European Countries namely Iceland, Liechtenstein, Norway, Switzerland and United Kingdom only will require Certificate of Inspection from EIA/EIC. Export to remaining European

DGFT

countries will not require Certificate of Inspection by Export Inspection Council / Export Inspection Agency for export from the date of this notification for a period of six months.

[For further details please refer the Notification]

NOTIFICATION

SYNCING OF ITC (HS), 2022- SCHEDULE-1 (IMPORT POLICY) WITH FINANCE ACT 2023 (NO.8 OF 2023) DATED 31.03.2023 AND FOREIGN TRADE POLICY, 2023

OUR COMMENTS: The Ministry of Commerce & Industry vide Notification no 08/2023 dated 29.05.2023 In exercise of powers conferred by Section 3 read with Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (as amended from time to time) read with paragraph 1.02 and 2.01 of the Foreign Trade Policy 2023, the Central Government hereby amends 'ITC (HS) 2022, Schedule-I (Import Policy)' in sync with the Finance Act 2023 (No. 8 of 2023) dated 31.03.2023 as follows -

2. The List of ITC(HS) codes and related Policy Conditions inserted/deleted/amended/split/merged under ITC(HS) 2022, Schedule-I (Import Policy) in sync with the Finance Act, 2023 is annexed herewith (Annexure-I).

3. The amendments in the Section Notes, Chapter-wise Main Notes, Supplementary Notes, Chapter heading, sub-headings and description of ITC (HS) codes in sync with the Finance Act, 2023 are annexed herewith (Annexure-II).

4. The List of ITC(HS) specific Policy conditions and Chapter specific Policy Conditions under ITC(HS) 2022, Schedule-I (Import Policy) amended in sync with Foreign Trade Policy 2023 is annexed herewith (Annexure-III).

5. Any references to 'FTP (2015-20)' in the ITC(HS) 2022, Schedule-I (Import Policy) are revised to be read as 'FTP 2023'.

6. The updated ITC (HS) 2022 shall be available on the website of DGFT (<https://dgft.gov.in>).

Effect of this Notification: ITC (HS) 2022, (Schedule-I) Import Policy is amended in sync with the Finance Act, 2023 and Foreign Trade Policy, 2023. This shall come into force with immediate effect.

This issues with the approval of Minister of Commerce & Industry.

[For further details please refer the Notification]

TRADE NOTICE

AMENDMENT IN EXPORT POLICY OF COUGH SYRUP

OUR COMMENTS: The Ministry of Commerce & Industry vide Trade Notice no 06/2023-24 dated 31.05.2023 notified that nWith the objective of Trade Facilitation and to extend proactive hand-holding and support to the exporting community, it is informed that an online facility of requesting appointment for virtual meeting/personal hearing to the exporters is being introduced w.e.f. 01.06.2023.

2. The exporters through this facility will be able to request for online personal hearing and the concerned officers at Regional Authorities (RAs) of DGFT shall provide suitable time as well as link for the virtual hearing through the online facility.

3. The exporters may apply for VC facility for their online hearing on the DGFT website, on which support is required, using the following steps -

Navigate to the DGFT Website (<https://dgft.gov.in>) --> Services -- > Request for video conference

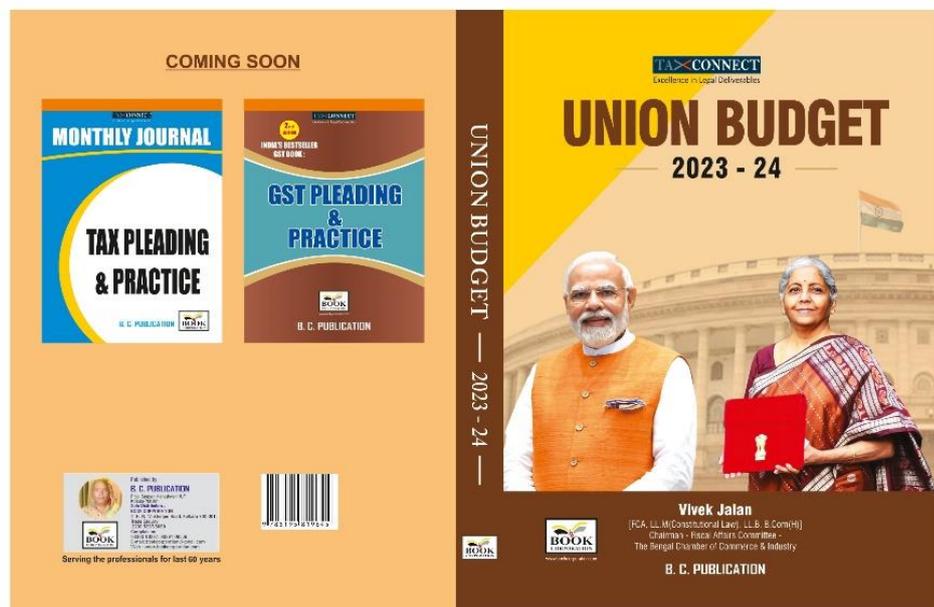
4. Exporting Community may also refer to the Help manuals for suitable guidance on the DGFT Website --> Learn --> 'Application Help & FAQs'.

5. This issues with the approval of the competent authority.

[For further details please refer the Trade Notice]

:IN STANDS

UNION BUDGET 2023: ANALYSIS BY TAX CONNECT



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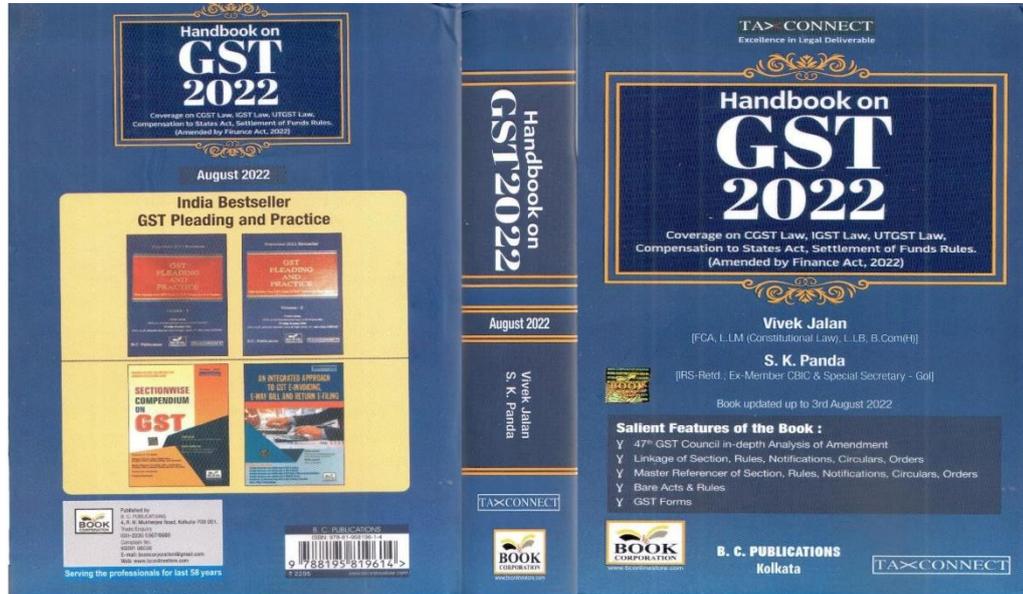
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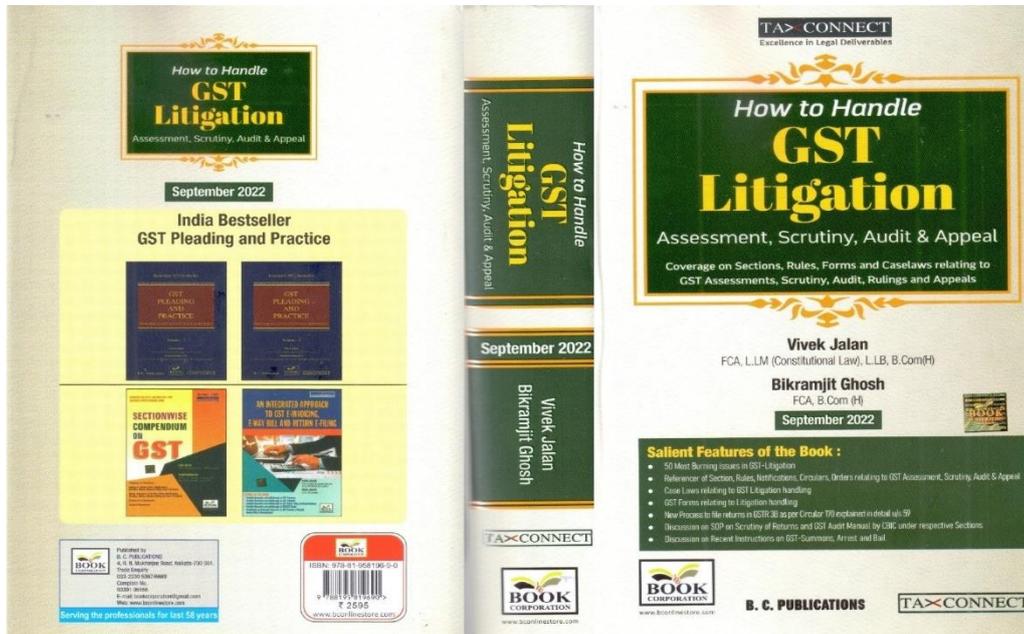
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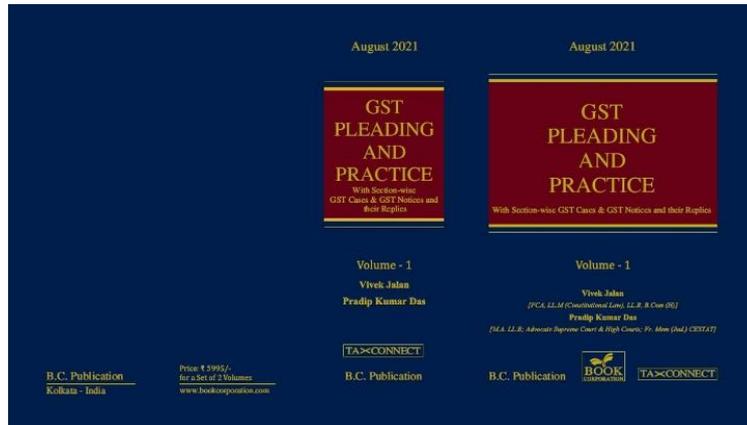
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GST PLEADING AND PRACTICE: With Section-wise GST Cases & GST Notices and their Replies



ABOUT THE BOOK: This publication includes:

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