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EDITORIAL



Friends,

Earlier, the last date to link PAN with Aadhaar was March 31, 2023. However, this deadline was extended by the income tax department by three months till June 30, 2023. The income tax department, on its official Twitter handle, has issued a clarification on PAN-Aadhaar linking for individuals facing difficulties in linking the same. The clarification has come just a few hours before the expiry of the deadline for linking PAN with Aadhaar. The last date to link PAN with Aadhaar is June 30, 2023.

The income tax department has clarified through its official twitter handle that, individuals who have paid their penalty for linking PAN with Aadhaar and consent has been received but linking is not done till June 30, 2023, then such cases will be considered by the income tax department before making the PAN inoperative. It is important to note that if PAN is not linked by Aadhaar by June 30, 2023, then PAN will become inoperative. This would mean that an individual will not have a valid PAN wherever quoting of same is mandatory.

“Kind Attention PAN holders! Instances have come to notice where PAN holders have faced difficulty in downloading the challan after payment of fee for Aadhaar-PAN linking. In this regard, it is to be informed that status of challan payment may be checked in ‘e-pay tax’ tab of portal after login. If a payment is successful, then PAN holder can proceed to link PAN with Aadhaar. There is no need of downloading of the challan receipt for linking PAN with Aadhaar. Further, as soon as the

PAN holder completes the payment successfully, an email with an attached copy of the challan is already being sent to the PAN holder. In cases where fee payment & consent for linking have been received, but linking has not been done till 30.06.2023, such cases will be duly considered by the Department” said the tweet of the income tax department.

The income tax law to link PAN with Aadhaar came into effect from July 1, 2017. Since then the deadline to link PAN with Aadhaar has been extended many times. Further, in Budget 2021, the government added Section 234H to introduce penalty for linking PAN with Aadhaar after the deadline. Till March 31, 2022, there was no penalty amount to link the same. However, two-tier structure of penalty was imposed from April 1, 2022. As per Section 234H of the Income Tax Act, a penalty of Rs 500 was to be levied if the PAN is linked to the Aadhaar between April 1, 2022 and June, 2022. However, if the PAN is linked to the Aadhaar on or after July 1, 2022, then a penalty of Rs 1,000 will be levied for linking PAN with Aadhaar.

Do note that if the PAN is not linked with Aadhaar by June 30, 2023, then PAN will become inoperative. Once the PAN becomes inoperative, some of the consequences will be non-processing of income tax refunds, higher TDS and TCS on incomes and expenditures, not being able to invest in bank FDs, mutual fund schemes etc.

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 July	TDS Deposit	June 2023	Due date for deposit of Tax deducted/collected for the month of June, 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
7 th July	TDS Deposit (Quarterly)	April-June 2023	Due date for deposit of TDS for the period April 2023 to June 2023 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H

INCOME TAX

NOTIFICATION

COMPUTATION OF ARM'S LENGTH PRICE - TOLERANCE LIMIT OF 1% IN CASE OF WHOLESALE TRADING AND 3% IN OTHER CASES

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 46/2023 dated 26.06.2023 notified In exercise of the powers conferred by the third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 (43 of 1961) (hereafter referred to as the said Act) read with proviso to sub-rule (7) of rule 10CA of the Income-tax Rules, 1962, the Central Government hereby notifies that where the variation between the arm's length price determined under section 92C of the said Act and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one per cent. of the latter in respect of wholesale trading and three per cent. of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for assessment year 2023-2024.

Explanation.- For the purposes of this notification, "wholesale trading" means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:-

- (i) purchase cost of finished goods is eighty per cent. or more of the total cost pertaining to such trading activities; and
- (ii) average monthly closing inventory of such goods is ten per cent. or less of sales pertaining to such trading activities.

[For further details please refer the notification]

CIRCULAR

EXTENSION OF TIME LIMITS FOR SUBMISSION OF CERTAIN TDS/TCS STATEMENTS I.E. FORM NO. 26Q, 27Q AND 27EQ

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Circular No. 09/2023 dated 28.06.2023 circulated The Central Board of Direct Taxes, in exercise of its powers under section 119 of the Income-tax Act, 1961 provides relaxation in respect of the following compliances, namely :-

- (i) The statement of deduction of tax for the first quarter of the financial year 2023-24, required to be furnished in Form No. 26Q or Form No. 27Q, on or before 31st July, 2023 under Rule 31A of the Income-tax Rules, 1962 ("the Rules"), may be furnished on or before 30th September, 2023.
- (ii) The statement of collection of tax for the first quarter of the financial year 2023-24, required to be furnished in Form No. 27EQ, on or before 15th July, 2023 under Rule 31AA of the Rules, may be furnished on or before 30th September, 2023.

[For further details please refer the circular]

CIRCULAR

CIRCULAR TO REMOVE DIFFICULTY IN IMPLEMENTATION OF CHANGES RELATING TO TAX COLLECTION AT SOURCE (TCS) ON LIBERALISED REMITTANCE SCHEME (LRS) AND ON PURCHASE OF OVERSEAS TOUR PROGRAM PACKAGE

OUR COMMENTS: The, Central Board of Direct Taxes Ministry of Finance, Department of Revenue vide Circular No. 10/2023 dated 30.06.2023 clarified as under:

Finance Act, 2023 has amended sub-section (1G) of section 206C of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') to, interalia,

INCOME TAX

(i) increase the rate of Tax Collection at Source (TCS) from 5% to 20% for remittance under LRS as well as for purchase of overseas tour program package; and

(ii) remove the threshold of Rs 7 lakh for triggering TCS on LRS.

These two changes did not apply when the remittance is for education and medical purpose.

2. Subsequently, the Government had notified Foreign Exchange Management (Current Account Transactions) (Amendment) Rules, 2023 vide an e-gazette notification dated 16th May, 2023 to remove the differential treatment for credit cards vis a vis other modes of drawal of foreign exchange under LRS. This change has now been postponed for the time being.

3. Comments were received about the practical difficulties that may arise from the removal of the threshold for LRS payments other than for education and medical treatment. During meetings with the RBI, Banks and Card networks, some financial institutions have desired more time to modify their current IT systems to address issues arising from the implementation of the provision of TCS on credit card transactions.

4. In order to address these issues, a Press Release dated 28.6.2023 (copy enclosed) was issued by Ministry of Finance wherein the following decisions relating to income-tax have been taken:

i) Threshold of Rs. 7 lakh per financial year per individual in clause (i) of sub-section (1G) of section 206C shall be restored for TCS on all categories of LRS payments, through all modes of payment, regardless of the purpose: Thus, for first Rs 7 lakh remittance under LRS there shall be no TCS. Beyond this Rs 7 lakh threshold, TCS shall be at the rate of -

a) 0.5% (if remittance for education is financed by loan taken from a financial institution);

b) 5% (in case of remittance for education/medical treatment);

c) 20% for others.

For purchase of overseas tour program package under clause (ii) of sub-section (1G) of section 206C, the TCS shall continue to apply at the rate of 5% for the first Rs 7 lakh per individual per annum; the 20% rate will only apply for expenditure above this limit.

ii) Increased TCS rates to apply from 1st October, 2023: The increase in TCS rates; which were to come into effect from 1st July, 2023 shall now come into effect from 1st October, 2023 with the modification as in (i) above. Till 30th September, 2023, earlier rates (prior to amendment by the Finance Act, 2023) shall continue to apply.

5. Earlier and new TCS rates are summarised as under:

Nature of payment (1)	Earlier rate before Finance Act, 2023 (2)	New rate w.e.f 1st October, 2023 (3)
LRS for education, financed by loan from financial institution	Nil upto Rs 7 lakh 0.5% above Rs 7 lakh	Nil upto Rs 7 lakh 0.5% above Rs 7 lakh
LRS for Medical treatment/ education (other than financed by loan)	Nil upto Rs 7 lakh 5% above Rs 7 lakh	Nil upto Rs 7 lakh 5% above Rs 7 lakh
LRS for other purposes	Nil upto Rs 7 lakh 5% above Rs 7 lakh	Nil upto Rs 7 lakh 20% above Rs 7 lakh
Purchase of Overseas tour program package	5% (without threshold)	5% till Rs 7 lakh, 20% thereafter

*Note: (i) TCS rate mentioned in column 2 shall continue to apply till 30th September, 2023.

(ii) There shall be no TCS on expenditure under LRS under clause (i) of sub-section (1G) of section 206C upto Rs 7 lakh, irrespective of purpose.

6. Sub-section (1-1) of section 206C of the Act provides that if any difficulty arises in giving effect to the provisions of sub-section (1G) of this section, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty. Accordingly, the following guideline is issued under this provision.

Further, guidelines has also been provided in the said circular.

[For further details please refer the circular]

GST

ADVISORY

ONLINE COMPLIANCE PERTAINING TO LIABILITY/DIFFERENCE APPEARING IN R1 – R3B (DRC-01B)

OUR COMMENTS: The GSTIN has released an advisory dated 29.06.2023 advising that:

1. It is informed that GSTN has developed a functionality to enable the taxpayer to explain the difference in GSTR-1 & 3B return online as directed by the GST Council. This feature is now live on the GST portal.
2. The functionality compares the liability declared in GSTR-1/IFF with the liability paid in GSTR-3B/3BQ for each return period. If the declared liability exceeds the paid liability by a predefined limit or the percentage difference exceeds the configurable threshold, taxpayer will receive an intimation in the form of DRC-01B.
3. Upon receiving an intimation, taxpayer must file a reply in Form DRC-01B Part B, providing clarification through reason in automated dropdown and details regarding the discrepancy, if not included in the dropdown.
4. To further help taxpayer with the functionality, a detailed manual containing the navigation details is available on the GST portal. It offers step-by-step instructions and addresses various scenarios related to the functionality. The link is stated below:

https://tutorial.gst.gov.in/downloads/news/return_compliance_in_form_drc_01b.pdf

[For further details please refer the advisory]

NOTIFICATION

EXTENSION OF DUE DATE FOR FURNISHING THE RETURN IN FORM GSTR-3B FOR THE REGISTERED PERSONS WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THE DISTRICTS OF KUTCH, JAMNAGAR, MORBI, PATAN AND BANASKANTHA IN THE STATE OF GUJARAT

OUR COMMENTS: The Central Board of Indirect Taxes (CBIC) announced Notification No. 17/2023–Central Tax dated 27.06.2023 notified In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby extends the due date for furnishing the return in FORM GSTR-3B for the month of May, 2023 till the thirtieth day of June, 2023, for the registered persons whose principal place of business is in the the districts of Kutch, Jamnagar, Morbi, Patan and Banaskantha in the state of Gujarat and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017.

2. This notification shall be deemed to have come into force with effect from the 20th day of June, 2023.

[For further details please refer the notification]

FEMA

CASE LAW

VIOLATION OF THE PROVISIONS OF THE FERA - PROCEEDINGS TO BE INITIATED WITHIN A PARTICULAR PERIOD PROVIDED UNDER THE STATUTE : SUPREME COURT

OUR COMMENTS: As submitted authorized dealer, before permitting the deposits of foreign currency, was required to satisfy himself that the foreign currency is deposited by the NRI Account Holder himself; that the account holder is on a temporary visit to India; and that the account holder is still normally resident abroad - whether High Court has grossly erred in holding that it was for the first time that the stipulation regarding the deposits of foreign currency by the account holder himself, was expressly provided for by Circular dated 31st July 1995 and therefore the Circular dated 31st July 1995 could not have had a retrospective operation? -

HELD THAT:- We are of the view that the show causes notices issued in the year 2002, i.e., after a period of almost one decade from the date of the alleged transactions of 1992-1993, were not tenable in law.

It is a settled proposition of law that when the proceedings are required to be initiated within a particular period provided under the Statute, the same are required to be initiated within the said period. However, where no such period has been provided in the Statute, the authorities are required to initiate the said proceeding within a reasonable period. No doubt that what would be a reasonable period would depend upon the facts and circumstances of each case.

Admittedly, in the present cases, the alleged transactions had taken place during the financial years 1992 and 1993. Show cause notices for the said transactions were issued in the year 2002 and that too just before the sunset period of FERA was to expire, i.e., on 1st June 2002. We are therefore of the considered view that show cause notices and the proceedings continued thereunder are liable to be set aside on this short ground.

As per provisions of Rules 2, 3 and 4 of the said Rules every Banking Company to preserve records stated in Rule 2 for five years and eight years for records mentioned in Rule 3

respectively. No doubt that under Rule 4 of the said Rules, the RBI, having regard to the factors specified in subsection (1) of Section 35A, by an order in writing, is empowered to direct any banking company to preserve any of the books, accounts or other documents, etc. for a period longer than the period specified under the said Rules.

Undisputedly, no such order has been placed on record which required the respondents-Banks to preserve records concerning the transactions in question for a period longer than eight years. It could thus be seen that even under the said Rules, the Banks are required to preserve the record for five years and eight years respectively. On this ground also, permitting the show cause notices and the proceedings continued thereunder of the transactions which have taken place much prior to eight years would be unfair and unreasonable.

We find no error in the impugned judgments of the learned Single Judge as well as the Division Bench of the High Court of Delhi. The Civil Appeals as also the Criminal Appeals are therefore dismissed.

CUSTOMS

CASE LAW

LEVY OF PENALTY ON CUSTOMS BROKER LICENSE - FAILURE TO ADVISE THEIR CLIENT ONLY TO COMPLY WITH THE PROVISIONS OF THE CUSTOMS ACT AND OTHER ALLIED ACTS AND RULES AND REGULATION : CALCUTTA HIGH COURT

OUR COMMENTS: It was held that The learned Tribunal on facts found that the value as has been given in the Bill of Entry was enhanced by the approved valuer and further enhanced by the assessing officer of the Customs Department. Therefore, the learned Tribunal came to the conclusion that in the background of those facts the respondent Customs Broker cannot be held guilty for not able to find out correct value of the goods, as could be seen from the facts of the case that the valuation which was done by the department was much higher than the valuation as suggested by the Government approved valuer which was higher than the value which was declared in the Bill of Entry filed by the respondent. Therefore, on facts the tribunal has come to such a conclusion, we cannot disturb the said finding while examining the correctness of the order passed by the learned tribunal in an appeal filed under section 130 of the Act as we are required to see whether any substantial question of law arises for consideration. Therefore, the factual finding rendered by the tribunal cannot be interfered.

Failure to verify the correctness of Importer Exporter Code (IEC) number, goods and services tax identification tax (GSTIN) identity of client - HELD THAT:- The Tribunal noted that admittedly the appellant has taken up such verification on the basis of the documents which were available in the Government website and this was held to be sufficient compliance of regulation 10(n) of the Act - the Tribunal on facts found that it is not the case of the revenue that the documents for undertaking the KYC of the importer were not taken by the respondents and the only allegation was that the respondent Customs Broker had not physically met and physically verified the premises.

The matter being entirely factual no substantial question of law arises for consideration in this appeal - Appeal of Revenue dismissed.

TRADE NOTICE

LAUNCH OF "SELF CUSTOMS PASS FOR IMPORTER/EXPORTER " FUNCTIONALITIES IN CBLMS

OUR COMMENTS: The Central Board of Indirect Taxes (CBIC) vide trade notice no. 21/2023 dated 27.06.2023 notified Attention of all the Customs Brokers, Importers, Exporters and other stake holders working in Mumbai Customs is invited to the newly introduced functionality of application for "Self Custom pass for Importer/Exporter" in CBLMS.

2. This functionality, in conformity with regulation 3(b) of CBLR 2018, may be used for application of Customs passes for the following:

- i. An importer or exporter transacting any business at a Customs station solely on his own account.
- ii. Any employee of any person or a firm transacting business generally on behalf of such person or firm.

3. A detailed user manual explaining the process flow of aforementioned new functionality will be available under "Knowledge Centre" Tab in the CBLMS portal.

[For further details please refer the Trade Notice]

DGFT

NOTIFICATION

AMENDMENTS IN CATEGORY 5B OF APPENDIX 3 (SCOMET ITEMS) TO SCHEDULE-2 OF ITC (HS) CLASSIFICATION OF EXPORT AND IMPORT ITEMS

OUR COMMENTS: The Ministry of Commerce & Industry vide notification no 15/2023 dated 29.06.2023 notified In exercise of powers conferred by Section 3 and Section 5 of Foreign Trade (Development & Regulation) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy 2023, as amended from time to time, the Central Government amend the import policy condition for the following HS Codes covered under Chapter 96 of the ITC (HS), 2022, Schedule -I (Import Policy) as under:

HS codes	Item Description	Existing Policy	Revised Policy	New Policy Condition
96131000	Pocket lighters, gas fuelled, non-refillable	Free	Prohibited	However, import is "Free" if CIF value is Rs. 20/- or above per lighter
96132000	Pocket lighters, gas fuelled, refillable	Free	Prohibited	However, import is "Free" if CIF value is Rs. 20/- or above per lighter

2. Effect of the Notification:

The import policy of Cigarette lighters under ITC (HS) Codes 96131000 and 96132000 is revised from "Free" to "Prohibited". However, import shall be free if CIF value is Rs. 20/- or above per lighter.

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

[For further details please refer the Notification]

PUBLIC NOTICE

AMNESTY SCHEME FOR ONE TIME SETTLEMENT OF DEFAULT IN EXPORT OBLIGATION BY ADVANCE AND EPCG AUTHORIZATION HOLDERS

OUR COMMENTS: The Ministry of Commerce & Industry vide public notice no 20/2023 dated 30.06.2023 notified The following Public Notices have been issued by the Directorate General of Foreign Trade :-

- (i) Public Notice No. 02/2023 dated 01.04.2023 — Notification of Amnesty Scheme.
- (ii) Public Notice No. 07/2023 dated 18.04.2023 — Amendment of Amnesty Scheme

2. In exercise of powers conferred under Paragraph 1.03 of the Foreign Trade Policy (FTP) 2023, as amended from time to time, the Director General of Foreign Trade hereby makes the following amendment in the para II(vii) of Public Notice No. 02/2023 dated 01.04.2023 notifying the Amnesty Scheme .-

II) vii. Any authorisation holder choosing to avail this benefit must complete the process of registration as mentioned in para (iii) above on or before **31.12.2023** and payment of Customs duty plus interest with the Jurisdictional Customs Authorities concerned shall be completed by **31.03.2024**.

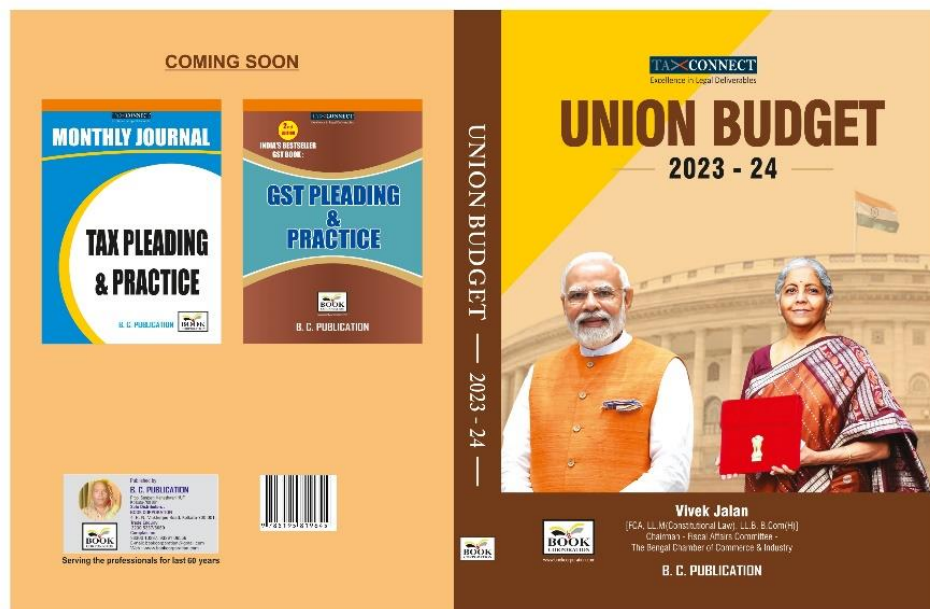
3. The other contents of the above mentioned Public Notices shall remain the same.

Effect of this Public Notice: The last date to apply under the Amnesty Scheme has been extended till 31.12.2023 and last date for payment of Customs Duty plus interest has been extended till 31.03.2024.

[For further details please refer the public notice]

:IN STANDS

UNION BUDGET 2023: ANALYSIS BY TAX CONNECT



We put before you our detailed Analysis of Direct and Indirect Proposals of Union Budget 2023.

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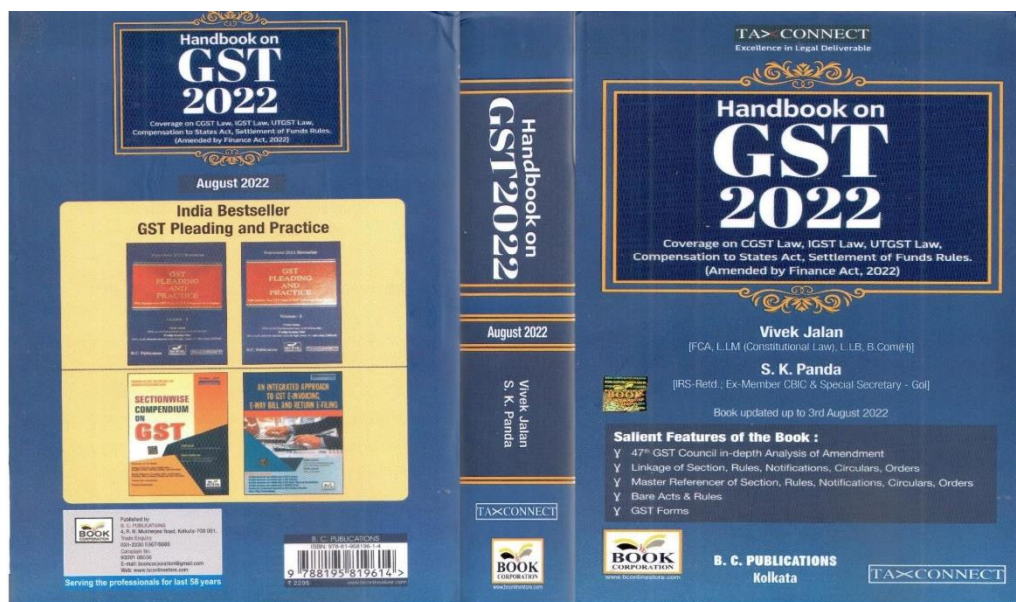
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HANDBOOK ON GST 2022



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:IN STANDS

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



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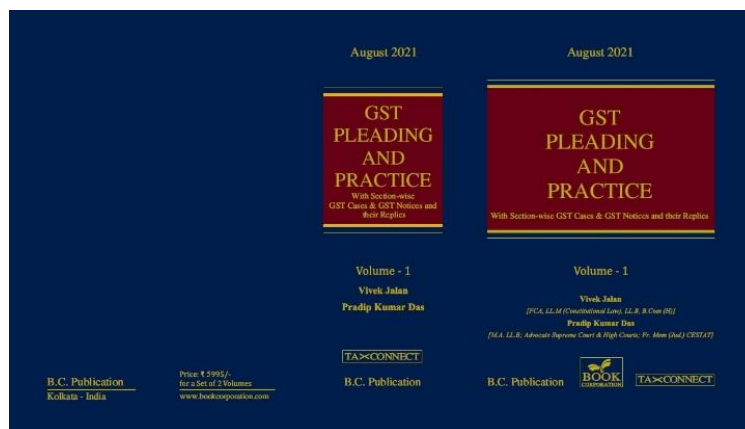
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:IN STANDS

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

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LET'S DISCUSS FURTHER!

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