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EDITORIAL



Friends,

A reference from the Prime Minister's Office or a VIP reference will help an Income Tax Appeal to be taken up on priority or out of turn disposal, CBDT has said in its new guidelines no. F. No. 279/Misc./M-102/2021-ITJ. Hopefully this reference will be due to a matter of National Importance. The new guidelines, will replace the 2021 mechanism. The 2021 guidelines also prescribed five situations, out of those, four have been retained while a refund of ₹1 lakh has been replaced.

The CBDT on 28th May 2023 had notified e-Appeals Scheme 2023 in respect of disposal of appeals by Joint Commissioner (Appeals). The section 246 of the Income Tax Act 1961 was also amended by the Finance Act 2023 for making provision for creation of the post JCIT(Appeals).

On a Writ Petition/PIL being filed before the Hon'ble Delhi High Court with prayers to formulate a policy and to make clear guidelines for the Commissioner Appeals to dispose off the appeals in a chronological manner, the Delhi High Court on the basis of affidavit and Central Action Plan (CAP) of CBDT 2022-23 and 2023-24 was satisfied that the road map drawn up by the CBDT adequately addressed the concerns raised and as such no directions were issued. Now The CBDT, to ensure priority/out of turn disposal of pending appeals at the level of CIT(A/AU) and Addl./Jt.CIT(Appeals), has decided that requests for such disposal of appeals, covering genuine and exceptional circumstances, raised at the instance of the appellant or referred to by the Assessing Officer/Range Head, may be considered by the Pr.CCsIT/CCsIT/DGsIT on the basis of recommendations of jurisdictional Pr.CIT

/Pr.CIT(Central)/CIT(IT). The request for such disposal of appeals, covering genuine and exceptional circumstances raised at the instance of the applicant or referred to by the Assessing Officer/Range Head, may be considered by the Pr.CCsIT/CCsIT/DGsIT based on recommendations of jurisdictional Pr. CIT/Pr.CIT(Central)/CIT(IT), in the following situations:

- o Cases having demand over Rs. 1 crore; or
- o Cases where a VIP/PMO reference is received for expeditious disposal or
- o Cases where directions to this effect have been issued by the Courts or
- o Cases where the request is made by Senior Citizens and/or Super Senior Citizens or
- o Any other case of genuine hardship.

Disposal of appeals have been the key focus of the appeal, as huge amounts of money demanded involved in cases pending before the Commissioner of Income Tax (Appeal). For example, earlier last year, Finance Ministry informed the Lok Sabha that over ₹14 lakh crore amount locked up in appeals at the end of Fiscal Year 2021-22.

Similarly, Central Action Plan for FY24 mentioned while closing number of appeals at the end of FY23 was over 5.16 lakh, approximate pendency in respect of appeals filed prior to April 1, 2020, as on March 31, 2023 was over 2.82 lakhs.

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
30 th May	Form No. 49C	FY 2023-24	Submission of a statement (in Form No. 49C) by non-resident having a liaison office in India for the financial year 2023-24
30 th May	Challan-cum-statement	April'24	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-M, 194-IB, 194S in the month of April, 2024
30 th May	TCS certificates	FY 2023-24	Issue of TCS certificates for the 4th Quarter of the Financial Year 2023-24
31 st May	TDS deposited	Jan-Mar'24	Quarterly statement of TDS deposited for the quarter ending March 31, 2024
31 st May	Form No. 61A	FY 2023-24	Due date for furnishing of statement of financial transaction (in Form No. 61A) as required to be furnished under sub-section (1) of section 285BA of the Act respect for financial year 2023-24
31 st May	Form No. 61B	Jan-Dec'24	Due date for e-filing of annual statement of reportable accounts as required to be furnished under section 285BA(1)(k) (in Form No. 61B) for calendar year 2023 by reporting financial institutions
31 st May	Application in Form 9A	FY 2024-25	Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on or before July 31, 2024)
31 st May	Form no. 10	FY 2024-25	Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or section 11(1) (if the assessee is required to submit return of income on or before July 31, 2024)
31 st May	Form 10BD	FY 2023-24	Statement of donation in Form 10BD to be furnished by reporting person under section 80G(5)(iii) or section 35(1A)(i) in respect of the financial year 2023-24
31 st May	Form no. 10BE	FY 2023-24	Certificate of donation in Form no. 10BE as referred to in section 80G(5)(ix) or section 35(1A)(ii) to the donor specifying the amount of donation received during the financial year 2023-24.

INCOME TAX

NOTIFICATION

AMENDMENT IN NOTIFICATION RELATING TO COST INFLATION INDEX AS APPLICABLE FOR FINANCIAL YEAR 2024-25 I.E. ASSESSMENT YEAR 2025-26

OUR COMMENTS: It The Central Board of Direct Taxes, Ministry of Finance vide Notification No. 44/2024 dated 24.05.2024 notified In exercise of the powers conferred by clause (v) of the Explanation to section 48 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) number S.O. 1790(E), dated the 5th June, 2017, namely:-

In the said notification, in the Table, after serial number 23 and the entries relating thereto, the following serial number and entries shall be inserted, namely:-

Table

Sl. No.	Financial Year	Cost Inflation Index
(1)	(2)	(3)
"24	2024-25	363"

2. This notification shall come into force with effect from the 1st day of April, 2025 and shall accordingly apply in relation to the assessment year 2025-26 and subsequent assessment years.

[For further details please refer the notification]

in respect of the following specified income arising to the said Board, namely:-

- Water charges for supply of water to recover the maintenance cost;
- Centage charges received from local bodies work like water supply scheme and sewerage scheme to compensate for establishment charges;
- Investigation and Detailed Project Report preparation charges for water supply and drainage scheme for establishment charges;
- Interest earned on Bank Deposits.

2. This notification shall be effective subject to the conditions that Tamil Nadu Water Supply and Drainage Board, Chennai-

- shall not engage in any commercial activity;
- its activities and the nature of the specified income shall remain unchanged throughout the financial year(s); and
- shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

3. This notification shall be applicable for assessment years 2024-2025, 2025-2026, 2026-2027, 2027-2028 and 2028-2029 relevant for the financial years 2023-2024, 2024-2025, 2025-2026, 2026-2027 and 2027-2028 respectively.

[For further details please refer the notification]

NOTIFICATION

EXEMPTION FROM SPECIFIED INCOME U/S 10(46) – 'TAMIL NADU WATER SUPPLY AND DRAINAGE BOARD, CHENNAI, NOTIFIED

OUR COMMENTS: It The Central Board of Direct Taxes, Ministry of Finance vide Notification No. 43/2024 dated 22.05.2024 notified In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Tamil Nadu Water Supply and Drainage Board, Chennai' (PAN: AAALT0834F), a Board constituted under the Tamil Nadu Water Supply and Drainage Board Act, 1970 (Tamil Nadu Act of 1971),

GST

CASE LAW

DETENTION OF GOODS - E-WAY BILL HAD EXPIRED 44 MINUTES AGO - EVASION OF TAX OR NOT : RAJASTHAN HIGH COURT

OUR COMMENTS: It was held this Court considers it appropriate to reproduce the relevant portion of the judgment rendered by a Division Bench of the Hon'ble Madhya Pradesh High Court in the case of M/s. Daya Shaker Singh vs. State of Madhya Pradesh [2022 (8) TMI 814 - MADHYA PRADESH HIGH COURT] where it was held that '*In the instant case, the delay of almost 4:30 hours before which E-way Bill stood expired appears to be bona fide and without establishing fraudulent intent and negligence on the part of petitioner, the impugned notice/order could not have been passed.*'

This Court further observes that the only fault lying with the petitioner was that the e-way bill with regard to the goods that were being transported had expired 44 minutes before the inspection took place due to the delay caused resulting from the tyre puncture for no fault of either of the petitioner or the driver of the truck, thus it cannot be said that there existed an intention to evade tax or any fraudulent intention on part of the petitioner; the only issue lied with expiry of the e-way bill and not renewing the same. It is not in dispute that all taxes under the regime of CGST/ SGST were paid for.

This Court further observes that the impugned notice was issued and the impugned order dated 01.03.2021 was passed under Section 129 (3) of the CGST Act, 2017, the same being completely unjustified in the eye of law as the issue was not one of there not being an e-way bill, but one of the existing e-way bill having expired during transit, thus imposition of such a heavy penalty for a minor offence is unacceptable and the penalty imposed should have been as per Section 122 of the CGST Act, 2017 of Rs. 10,000/-, as there is no apparent case of tax evasion.

This Court is of the opinion that the impugned notice and the impugned orders dated 01.03.2021 and 24.05.2021 deserve to be quashed and set aside and the same are hereby quashed and set aside - Petition allowed in part.

CASE LAW

DIRECTION TO RELEASE/ PROVIDE THE ORIGINAL COPY OF DOCUMENTS SEIZED BY THE RESPONDENT FROM THE PREMISES OF THE PETITIONER DURING VARIOUS SEARCHES CONDUCTED - CROSS-EXAMINATION OF WITNESSES WHOSE EVIDENCE HAS BEEN RELIED UPON IN THE SCN - OPPORTUNITY TO PROVIDE PERSONAL HEARING TO THE PETITIONER : MADHYA PRADESH HIGH COURT

OUR COMMENTS: It was held that, it is apparent from bare perusal of Section 67 (3) of the CGST Act and Rule 27 of the Central Excise Rules 2017 that it is the duty of Respondent to release the non-relied upon documents within a period of 30 (thirty) days from the issuance of the show cause notice - Provided that the Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be, may order for the retention of such books of accounts or documents, for reasons to be recorded in writing and the Central Excise Officer shall intimate to the assessee or such person about such retention."

This court is of the considered opinion that, besides the certified copies of relied documents which goes without saying are necessary for filing reply and preparing defence, the petitioner is entitled to receive original copies of non-relied documents so as to enable him to prepare his defence/reply as fair hearing requires that petitioner is given due opportunity to raise all defences which are available to him under the law on the basis of the documents, facts, circumstances and the legal provisions as the petitioner deems appropriate.

Right of petitioner to conduct cross-examination of witnesses whose evidence has been relied upon in the SCNs during adjudication proceedings - HELD THAT:- This court is of the considered opinion that right of fair hearing and personal hearing requires that the petitioner be given right to cross examine witnesses whose evidence has been relied upon in the show cause notices dated 08.06.2022 and 03.08.2022 and it is expected from the adjudicating authority that the said right to cross-examine would be afforded to the petitioner at appropriate stage of proceedings, as principles of natural justice are required to be adhered to while conducting adjudication proceedings.

It is deemed appropriate to direct the Respondents to handover all the original documents to petitioner which have been seized by them and not relied on by Respondents while issuing Show Cause notices dated 08.06.2022 and 03.08.2022,

GST

so that the petitioner is enabled in submitting his reply -
petition allowed.

FEMA

CIRCULAR

ISSUANCE OF PARTLY PAID UNITS TO PERSONS RESIDENT OUTSIDE INDIA BY INVESTMENT VEHICLES UNDER FOREIGN EXCHANGE MANAGEMENT (NON-DEBT INSTRUMENTS) RULES, 2019

OUR COMMENTS: The Ministry of Finance, Department of Economic Affairs vide circular no. RBI/2024-25/36, A. P. (DIR Series) Circular No. 07 dated 21.05.2024 circulated that Attention of Authorised Dealer (AD) Category - I banks is invited to the Foreign Exchange Management (Non-debt Instruments) Rules, 2019, notified by the Central Government on October 17, 2019, which have been amended through the Foreign Exchange Management (Non-debt Instruments) (Second Amendment) Rules, 2024 vide S.O. 1361(E), dated March 14, 2024, enabling issuance of partly paid units to persons resident outside India by investment vehicles.

2. In this regard, it has been decided to regularise the issuances of partly paid units by Alternative Investment Funds to persons resident outside India prior to the said amendment through compounding under Foreign Exchange Management Act, 1999. However, before approaching the Reserve Bank for compounding, AD Category-I banks may ensure that the necessary administrative action, including the reporting of such issuances by Alternative Investment Funds to the Reserve Bank, through Foreign Investment Reporting and Management System (FIRMS) Portal and issuing of conditional acknowledgements for such reporting, is completed.

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

4. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

[For further details please refer the circular]

CASE LAW

NON-REALIZATION EXPORT PROCEEDINGS OF GOODS - CONVERTIBLE FOREIGN EXCHANGE - REASONABLE STEPS U/S 18(3) OF FERA - SUIT FOR RECOVERY OF THE BALANCE OF THE PRICE OF THE GOODS SOLD AND DELIVERED IN RESPECT OF AN EXPORT IN ANY COURT IN INDIA - ALL REASONABLE STEPS TO RECEIVE OR RECOVER THE PAYMENT FOR THE GOODS AS ENVISAGED U/S 18(3) OF THE ACT OF 1973 : CALCUTTA HIGH COURT

OUR COMMENTS: It was held that In the facts of the present case, the exporter company exported goods of the invoice value of US\$ 8,37,200 and received payment of a portion thereof leaving a sum of US\$ 6,37,200 outstanding. The exports took place in 1996. Suit was filed for recovery and a decree with regard thereto was obtained. The decree could not be executed in India due to lack of assets of the importer in India. The appellants claimed that, execution of the decree in the foreign country where the importer was situated was not cost effective and feasible. In the facts of the present case, the explanation offered by the appellants with regard to inability to execute the decree obtained is plausible.

The appellants adequately explained the steps taken by them to receive or recover the payment of the goods exported. The steps taken by the appellants in filing a suit and obtaining a decree thereon within the extended period is a reasonable step taken to receive and recover the payment of the goods exported within the meaning of Section 18(3) of the Act of 1973. Such facts rebut the statutory presumptions of Section 18(3) of the Act of 1973.

The impugned show cause notice, the adjudication order passed thereon and the impugned order of the appellate authority are set aside.

CUSTOMS

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 37/2024-Customs(N.T) dated 21.05.2024 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:-

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	892 (i.e., no change)
2	1511 90 10	RBD Palm Oil	907 (i.e., no change)
3	1511 90 90	Others – Palm Oil	900 (i.e., no change)
4	1511 10 00	Crude Palmolein	919 (i.e., no change)
5	1511 90 20	RBD Palmolein	922 (i.e., no change)

6	1511 90 90	Others – Palmolein	921 (i.e., no change)
7	1507 10 00	Crude Soya bean Oil	935 (i.e., no change)
8	7404 00 22	Brass Scrap (all grades)	5587 (i.e., no change)

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	758 per 10 grams (i.e., no change)
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	1028 per kilogram
3.	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling	1028 per kilogram

CUSTOMS

under subheading 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.

758 per 10 grams (i.e., no change)

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.

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	6033 (i.e., no change)"

2. This notification shall come into force with effect from the 22nd day of May, 2024.

[For further details please refer the notification]

DGFT

NOTIFICATION

AMENDMENT IN PARA 2.31 OF THE FOREIGN TRADE POLICY, 2023 AND ITC HS 2022 SCHEDULE 1 IMPORT POLICY

OUR COMMENTS: The Ministry of Commerce and Industry vide notification no. 13/2024-25 dated 20.05.2024 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 (FTP), 2023, as amended from time to time, the Central Government hereby notifies following amendments in FTP, 2023 and in Schedule-I of ITC (HS), 2022 as under with immediate effect:

(1) Para 2.31 (I (b) of the Foreign Trade Policy, 2023 is amended to read as follows:

S. No.	Categories of Second-Hand Goods	Import policy	Conditions, if any
1 (b)	All electronics and IT Goods notified under the Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2021 as amended from time to time.	Restricted	<p>(i) Importable against a restricted import authorization, subject to conditions laid down under Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2021 (as amended from time to time).</p> <p>(ii) Import of unregistered/non-compliant notified products as in Electronics and IT Goods</p>

(Requirements of Compulsory Registration) Order, **2021** (as amended from time to time) is "Prohibited".

(2) Para 2 (C) of the General Notes Regarding Import Policy of ITC (HS), 2022 Schedule-I Import Policy is amended to read as follows:

(C) Import policy for electronics and IT Goods: "The import of Goods (new as well as second hand, whether or not refurbished, repaired or reconditioned) notified under the "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, **2021** , as amended from time to time, is prohibited unless they are registered with the Bureau of Indian Standards (BIS) and comply to the 'Labelling Requirements' published by BIS, as amended from time to time', or on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. **1929 dated 26.04.2023**. The importer shall reexport such prohibited Goods reaching Customs Ports else the Customs Authorities shall deform the goods beyond use and dispose of the goods as scrap under intimation to Ministry of Electronics and Information Technology (MeitY)."

(3) Policy condition no. 2 of chapter 84, Policy condition no. 5 of chapter 85 of Import Policy (schedule 1) ITC HS 2022 is amended to read as follows:

"Import policy for electronics and IT Goods: The import of Goods (new as well as second hand, whether or not refurbished, repaired or reconditioned) notified under the

DGFT

Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021, as amended from time to time, is prohibited unless they are registered with the Bureau of Indian Standards (BIS) and comply to the Labelling Requirements published by BIS, as amended from time to time, or on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. **1929 dated 26.04.2023**, The importer shall reexport such prohibited Goods reaching Customs Ports else the Customs Authorities shall deform the goods beyond use and dispose of the goods as scrap under intimation to Ministry of Electronics and Information Technology (MeitY)."

(4) Policy condition no. 7 of Chapter 85 and Policy Condition no. 1 of chapter 94 of Import Policy (schedule 1) ITC HS 2022 is amended to read as follows:

"For the LED products and DC or AC supplied control gears for LED modules as notified under the "Electronics and Information Technology goods (Requirement of Compulsory Registration) Order, **2021**", sample(s) will be picked up on random basis from the randomly selected consignments and will be sent to BIS recognized Labs for testing of limited defined non-destructive safety parameters from the IS standard applicable on the product, as identified by Ministry of Electronics and Information Technology (MeitY) from time to time. Further, for such consignments, clearance would be given by Customs to only those consignments where the randomly selected sample has complied with the requirements of standard for the defined parameters. However, if the sample drawn fails to meet the requirements of standard, such consignment will be sent back or will be destroyed at the cost of importer."

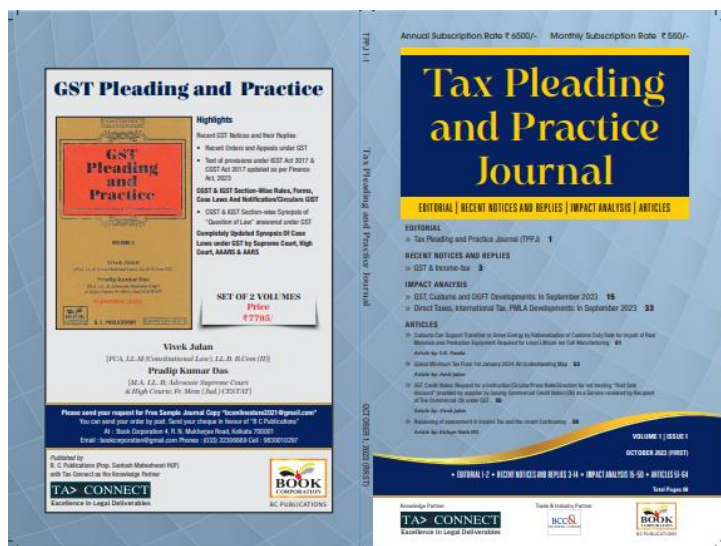
Effect of the Notification: Para 2.31 (l(b)) of the Foreign Trade Policy, 2023, Para 2 (C) of the General Notes regarding Import Policy and Policy conditions 2 of chapter 84, Policy Condition no. 5 & 7 of chapter 85 and Policy Condition no. 1 of chapter 94 of Import Policy (schedule 1) ITC HS 2022 have been amended in light of re-notification of "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012 as Electronics and Information Technology goods (Requirement of Compulsory Registration) order, **2021** under BIS Act 2016.

This is issued with the approval of Minister of Commerce & Industry.

[For further details please refer the notification]

:IN STANDS

TAX PLEADING AND PRACTICE JOURNAL



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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. Recent GST Notices and their Replies
 - Recent Orders and Appeals under GST
 - Text of provisions under IGST Act 2017 & CGST Act 2017 updated as per Finance Act, 2023
2. CGST & IGST Section-Wise Rules, Forms, Case Laws And Notification/Circulars GIST
 - CGST & IGST Section-wise Synopsis of "Question of Law" answered under GST
3. Completely Updated Synopsis Of Case Laws under GST by Supreme Court, High Court, AAARS & AARS

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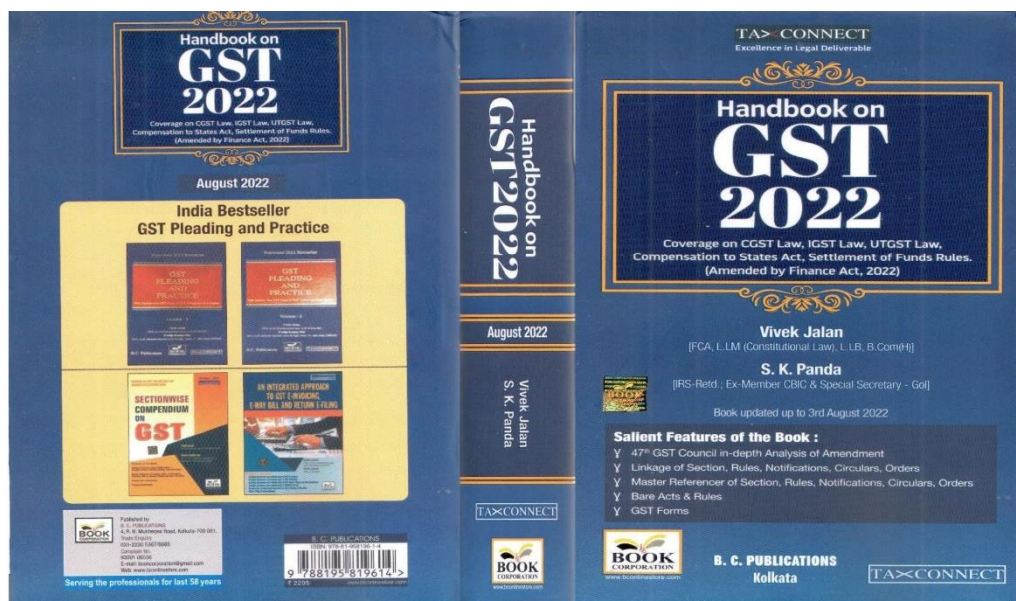
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