

TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry



INCOME TAX

A graphic for GST (Goods & Services Tax). The letters 'GST' are in large, bold, green font. Below them, 'Goods & Services Tax' is written in a smaller, black font. The background is a blurred image of Indian currency notes.

GST
Goods & Services Tax

CUSTOMS

TAX CONNECT

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EDITORIAL



Friends,

A major amount of goods and services tax (GST) refunds of exporters for July to November are stuck, impacting working capital and outbound shipments. Out of it certain amount of refunds on account of integrated GST (IGST) have been released by the government, while some are still pending. Besides, the input tax credits, which form a chunk of GST refunds, are yet to be released.

The Government had promised that the refunds of IGST Paid would be automatically processed by filing GSTR 1 or Table No 6A separately. However even the refunds of July have not been processed even under this process.

A major issue relates to refunds for unutilized ITC incase of Zero rated supplies to SEZ. While the notifications have Tables for the same, yet the same has not been provided on GST Portal.

While a lot of press releases are going on, yet implementation on ground is far from satisfactory.

There was yet another **Press release issued by CBEC on 29th November 2017 on "GST Refund"** regarding IGST paid on goods exported out of India, majority of refund claims for exports made in July, 2017 where dues have been sanctioned. It is essential that exporters should ensure that there is no discrepancy in the information furnished in Table 6A of GSTR 1 and the Shipping Bill. It has been observed that certain common errors such as incorrect Shipping Bill number in GSTR1, mis-match of invoice number and IGST amount paid, wrong bank account etc. are being committed by exporters while filing their returns. These errors are the sole reason for delay in grant of refunds, or rejection thereof. While information has been made available to Exporters on the ICEGATE

portal if they are registered, they may also contact jurisdictional Customs authorities to check the errors they have committed in furnishing information in GST returns and Shipping Bill, and rectify them at the earliest.

As the Customs system is designed to automatically grant refunds without involvement of any officer by matching information that is furnished on GSTN portal and Customs system, the onus is on the exporters to fill in all the details accurately. Exporters may therefore take due precaution to ensure that no errors creep in while filing Table 6A of GSTR 1 of August 2017 and onwards. The facility for filing GSTR 1 for August 2017 would also be ready by 4th December 2017. In case of wrong entries made in July, Table 9 of GSTR 1 of August month would allow amendments to GSTR 1 of July 2017.

As far as refund of the unutilized input tax credit on inputs or input services used in making exports is concerned, exporters shall file an application in FORM GST RFD- 01A on the common portal where the amount claimed as refund shall get debited from the electronic credit ledger of the exporter to the extent of the claim. Thereafter, a proof of debit (ARN- Acknowledgement Receipt Number) shall be generated on the GSTN portal, which is to be mentioned on the print out of the FORM GST RFD-01A and to be submitted manually to the jurisdictional officer. The exporters may ensure that all the necessary documentary evidences are submitted along with the Form GST RFD 01A for timely sanction of refund.

Exporters are therefore advised to immediately file Table 6A and GSTR 3B, if not already done, for processing of IGST refund, RFD 01A on GSTN portal for refund of the unutilized input tax credit on inputs or input services used in making exports and (c) GSTR 1 for August 2017 for amending details provided in July GSTR1 wherever required. Government has taken various measures to alleviate the difficulty and is committed to providing speedy disbursement.

Micro, Small and Medium Enterprises

While big players usually receive utmost attention, it is Micro, Small and Medium Enterprises ("MSME") that make up almost 40% of the gross industrial value added in the Indian economy. Though MSMEs are small investment enterprises, but their contribution to the Indian economy

EDITORIAL

is significant. MSMEs are responsible for providing the product and the services that larger companies rely on.

A significant group of MSME businesses in India are involved in the job work sector, providing outsourced manufacturing services. Thus, under a job work, the principal manufacturer sends inputs or semi-finished goods to a job worker for auxiliary or further processing. Many industries find it difficult to complete the whole process of production or manufacturing activity on their own. So, the industry depends on outside support for many things like testing, various intermediate processes on raw material etc., for completing/intermediating the manufacturing process.

Anti Profiteering

Modern day businesses cannot disregard the power of social media and need to be transparent in their dealings. A glaring example is the Pre Rate reduction and Post Rate Reduction Bill of a Major restaurant which got widely published in Social media including Facebook and Whatsapp. It prompted the Restaurant to immediately come up with a public statement.

Now it is understood that The Central Board of Excise and Customs (CBEC) has written to 100 major companies including FMCG Majors and restaurants, to pass on the benefit of reduction in goods and services tax (GST) rates to consumers. It was asked from them to go for a commensurate reduction in the prices of products and give it wide publicity.

Further reduction of Rates under GST

The government may consider combining the 12% and 18% slabs for goods and services tax (GST) into one in the coming months. Moreover the 28% rate may be reserved only for demerit goods in the near future. It has to be noted that the demerit goods are goods whose consumption is considered unhealthy. They include tobacco, alcoholic beverages, recreational drugs, gambling, and junk food among others.

Taxpayer compliance under the goods and services tax (GST) system is steadily improving with 4.4 million assessee filing summary of the transactions made in October, an improvement of 11% from the filings reported for the previous month. The number of taxpayers filing their GSTR 3B returns showed a “marked improvement” with the highest number of assessee filing returns for October till 20th November 2017. Around 56% of the registered taxpayers have filed their GSTR-3B returns for October by 20 November.

After reducing the rates of more than 200 items in the previous goods and services tax (GST) Council meet, the panel might now significantly tweak rules to simplify procedures and ease rules for businesses.

The six-member advisory panel formed by the government for simplification and rationalisation of GST will likely propose a faster refund procedure, deferment of electronic way bill, further simplification of the composition scheme, among others. It is expected to submit its report by the first week of December to the government.

We do hope that this bulletin adds value to your professional sphere.

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

Truly Yours

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SYNOPSIS

S.NO.	TOPICS	PAGE NO.
1]	TAX CALENDAR	5
2]	GOODS & SERVICE TAX (GST)	
a)	GST: CGST	6
Notification/Circular	EXTEND THE TIME LIMIT FOR FILING OF FORM GSTR-4 FOR JULY 2017 TO SEPTEMBER 2017	
Notification/Circular	EXTENSION OF THE TIME LIMIT FOR FURNISHING THE RETURN IN FORM GSTR-5, FOR JUL-17 TO OCT-17	
Notification/Circular	EXTENSION OF THE TIME LIMIT FOR FURNISHING THE RETURN IN FORM GSTR-5A	
Notification/Circular	EXTENSION OF THE TIME LIMIT FOR FURNISHING THE RETURN IN FORM GSTR-6 FOR THE MONTH OF JULY	
Notification/Circular	EXTEND THE DUE DATE FOR SUBMISSION OF DETAILS IN FORM GST-ITC-04	
b)	GST: IGST	7
Analysis	JOB WORK AND COMPOSITE SUPPLY	
c)	GST: SGST/UTGST	8
Notification/Circular	EXEMPTION OF INTRA STATE SUPPLY OF HEAVY WATER AND NUCLEAR FUELS	
Notification/Circular	CHANGE IN THE RATE OF THE STATE TAX	
Notification/Circular	EXEMPTION OF INTRA-STATE SUPPLIES OF GOODS.	
Notification/Circular	NO REFUND OF UNUTILISED INPUT TAX CREDIT.	
Notification/Circular	PERSONS EXEMPTED FROM OBTAINING REGISTRATION	
3]	INCOME TAXES	9
Notification/Circular	CASH SALE OF AGRICULTURAL PRODUCE BY AGRICULTURIST	
Notification/Circular	INCOME-TAX RETURNS FILED IN FORMS ITR-2, 3, 4, 5 & 6	
4]	CUSTOMS	10
Notification/Circular	ELECTRONIC SEALING FOR CONTAINERS BY EXPORTERS	
Notification/Circular	CUSTODIAN OF IMPORTED GOODS	
5]	IN STANDS: A COMPENDIUM ON GOODS & SERVICES TAX	11
6]	IN STANDS: A COMPENDIUM ON WEST BENGAL GOODS & SERVICES TAX	12

TAX CALENDAR

Due date	COMPLIANCES FROM 03 rd December, 2017 to 09 th December, 2017	Description
7 th Dec 2017	Income Tax Form Challan Form ITNS 281	Monthly payment of TDS on all types of payments (Except in the case where amount is credited in the Month of March 31)
7 th Dec 2017	Income Tax Form Challan Form ITNS 281	Monthly payment of TCS u/s 206C (other than government assessee)
7 th Dec 2017	Income Tax Form No. 27C	Last date of submission of declaration i.e., for no TCS u/s 206C (1A) obtained from manufacturer to the Commissioner/Chief Commissioner of Income Tax as the case may be.
7 th Dec 2017	Income Tax Form 15G and Form 15H	Submission of copy of declaration forms received from deductee by the deductor for non deduction of TDS under section 197A before the Chief Commissioner or Commissioner

GST: CGST

NOTIFICATIONS/CIRCULARS

EXTEND THE TIME LIMIT FOR FILING OF FORM GSTR-4 FOR JULY 2017 TO SEPTEMBER 2017

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 59/2017 - Central Tax dated the 15th November, 2017** hereby makes amendments in the **Notification No. 41/2017-Central Tax, dated the 13th October, 2017**, regarding the time limit for furnishing the return by a composition supplier, in FORM GSTR-4.

Further it has been notified that the time limit for furnishing FORM GSTR-4 for the period of July 2017 to September 2017 has been extended to 24th December, 2017.

EXTENSION OF THE TIME LIMIT FOR FURNISHING THE RETURN IN FORM GSTR-5, FOR JUL-17 TO OCT-17

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 60/2017 - Central Tax dated the 15th November, 2017** hereby extends the time limit for furnishing the return by a non-resident taxable person, in FORM GSTR-5, for the months of July, 2017, August, 2017, September, 2017 and October, 2017 till the 11th December, 2017.

EXTENSION OF THE TIME LIMIT FOR FURNISHING THE RETURN IN FORM GSTR-5A

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 61/2017 - Central Tax dated the 15th November, 2017** hereby makes amendments in the **Notification No. 42/2017-Central Tax, dated the 13th October, 2017**, regarding the time limit for furnishing the return in FORM GSTR-5A.

Further it has been notified that the time limit for furnishing the return in FORM GSTR-5A for the month of July, 2017, August, 2017, September, 2017 and October, 2017 has been extended till the 15th December, 2017 for the person supplying online information and

database access or retrieval services from a place outside India to a non-taxable online recipient.

EXTENSION OF THE TIME LIMIT FOR FURNISHING THE RETURN IN FORM GSTR-6 FOR THE MONTH OF JULY

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 62/2017 - Central Tax dated the 15th November, 2017** hereby makes amendments in the **Notification No. 43/2017-Central Tax, dated the 13th October, 2017**, regarding the time limit for furnishing the return by an Input Service Distributor in FORM GSTR-6.

Further it has been notified that the time limit for furnishing the return by an Input Service Distributor in FORM GSTR-6 has been extended till the 31st December, 2017.

EXTEND THE DUE DATE FOR SUBMISSION OF DETAILS IN FORM GST-ITC-04

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 63/2017 - Central Tax dated the 15th November, 2017** hereby makes amendments in the **Notification No. 53/2017-Central Tax, dated the 28th October, 2017**, regarding the time limit for making the declaration in FORM GST ITC-04.

Further it has been notified that in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the quarter July to September, 2017, the time limit for making the declaration in FORM GST ITC-04 has been extended till 31st December, 2017.

GST: IGST

ANALYSIS

JOB WORK AND COMPOSITE SUPPLY

The refund of unutilized credit is not admissible to the supplier of textiles. It is worthwhile to mention here that the raw material or consumables used in textile manufacture such as colour, chemicals, etc. are chargeable to tax @ 18% while output will suffer the tax @ 5% only. Therefore, since there is restriction of non-admissibility of credit to the trader only, the job worker will get the refund of credit so accumulated. Therefore, it is interpreted that dealers of textiles will send the material for job work only. By doing this, the tax implication will be the same but the refund of overflow of credit will be available as there is no specific denial like that in the case of supply of textiles.

Now, in case of job work, the principal supply is of material, therefore, while assessing the transaction, it should also be considered as an independent supply. Accordingly, it is alleged that the valuation should be as per composite supply. In this regard, it is submitted that the term composite supply or mixed supply comes into existence only if there is more than one supply. In the instant case, there is only one type of supply namely "job work". According to schedule II of CGST Act, it is considered as supply of service. Accordingly, it shall be treated as a supply of service only for the purpose of determining the value, classification and rate of tax. It cannot be said that the job work has to be seen after splitting up the component of goods and service.

The process carried out by a person on the goods belonging to another registered person will be construed as job work. Thus, the goods will always belong to other person. If the view point as above is accepted, the concept of job work will lose its relevance. Interestingly, this analogy is applied only in case of textiles as there is bar on claiming the refund of accumulated credit on it. In other cases, this analogy is not been drawn.

It is pertinent to note that in respect of Printing of Books a Circular No. 11/11/2017-GST dated 20th October 2017 has been issued to clarify as follows:-

- In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher / person owning rights on intangible inputs and physical inputs like paper, ink, etc. belong to printing press, it would constitute as supply of service.
- In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, it will be considered as supply of goods.

Entry no. 119 of Notification No.2/2017-Central Tax (Rate) dated 28th June, 2017 exempts the Printed books, including Braille books. However, the above referred circular has clarified that where the content is supplied by the author, it will be deemed as supply of service.

In this regard, it is worthwhile to mention here that in case of books, content is always supplied by the author or person owning rights on intangible inputs. Therefore, if the analogy drawn in case of job work of textiles is accepted here; the value of content will also be considered and the transaction will be deemed as composite/mixed supply. However, since it is not the case of inverted tax structure, these interpretations are not coming from this field. Here, it should be noted that these sort of interpretations that defeat the purpose of framing a legal provisions do not hold good and have been quashed several times even by the Hon'ble Supreme Court.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

EXEMPTION OF INTRA STATE SUPPLY OF HEAVY WATER AND NUCLEAR FUELS

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 26/2017-State Tax (Rate) dated 6th November, 2017** hereby exempts intra state supply of heavy water and nuclear fuels by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd. from the whole of the State tax leviable thereon under section 9 of the Delhi Goods and Services Tax Act, 2017.

This notification shall come into force with effect from the 21st September, 2017.

CHANGE IN THE RATE OF THE STATE TAX

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 27/2017-State Tax (Rate) dated 6th November, 2017** hereby makes amendments in the **Notification No.1/2017- State Tax (Rate), dated the 30th June, 2017** regarding change in rate of State Tax under SGST Act on certain goods and services.

For detailed description readers may refer the above mentioned notification.

EXEMPTION OF INTRA-STATE SUPPLIES OF GOODS.

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 28/2017-State Tax (Rate) dated 6th November, 2017** hereby makes the following amendments in the **Notification No. 2/2017-State Tax (Rate), dated the 30th June, 2017** regarding exemption of intra state supply of goods.

For detailed description readers may refer the above mentioned notification.

NO REFUND OF UNUTILISED INPUT TAX CREDIT.

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 29/2017-State Tax (Rate) dated 6th November, 2017** hereby makes the amendments in the **Notification No. 5/2017-State Tax (Rate), dated the 30th June, 2017** regarding no refund of the unutilised input tax credit.

Further it has been notified that no refund will be available for unutilised input tax credit for Corduroy fabrics.

This notification shall come into force with effect from the 22nd September, 2017.

PERSONS EXEMPTED FROM OBTAINING REGISTRATION

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 32/2017-State Tax dated 8th November, 2017** hereby specifies the casual taxable persons making taxable supplies of handicraft goods are exempted from obtaining registration.

Further it is notified that the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of twenty lakh rupees in a financial year and an amount of ten lakh rupees in case of Special Category States, other than the State of Jammu and Kashmir.

The casual taxable persons shall obtain a Permanent Account Number and generate an e-way bill in accordance with the provisions of rule 138 of the Delhi Goods and Services Tax Rules, 2017.

The exemption shall be available to such persons who are making inter-State taxable supplies of handicraft goods and are availing the benefit of **Notification No. 8/2017 – Integrated Tax dated the 14th September.**

INCOME TAX

NOTIFICATIONS/CIRCULARS

CASH SALE OF AGRICULTURAL PRODUCE BY AGRICULTURIST

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 27/2017 dated the 3rd November, 2017** hereby stated that the provisions of section 40A(3) of the Income-tax Act, 1961 provides for the disallowances of expenditure exceeding 10000 made otherwise than by an account payee cheque/draft or use of electronic clearing system through a bank account. However, rule 6DD of the Income-tax Rules, 1962 carves out certain exceptions from application in some specific cases and circumstances, which include payments made for purchase of agricultural produce to the cultivators of such produce. Therefore, no disallowance can be made if the trader makes cash purchases of agricultural produce from the cultivator.

Further it is notified that certain exceptions, prohibits receipt of 2 lakh or more otherwise than by an account payee cheque/draft or by use of electronic clearing system through a bank account from a person in a day or in respect of a single transaction or in respect of transactions relating to an event or occasion from a person. Therefore, any cash sale of an amount of 2 lakh or more by a cultivator of agricultural produce is prohibited under section 269ST of the Act. Moreover the quoting of PAN or furnishing of Form No. 60 do not apply to the sale transaction of 2 Lakh or less.

INCOME-TAX RETURNS FILED IN FORMS ITR-2, 3, 4, 5 & 6

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India, vide **Instruction No. 10/2017 dated the 15th November, 2017** hereby notifies regarding processing of income-tax returns filed in Forms ITR-2, 3, 4, 5 & 6 under the Income-tax Act, 1962.

It is prescribed that the total income or loss shall be computed after making adjustment for addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return.

Further it is notified that for returns in Forms ITR-2 & 3, as receipts/ income under the heads 'salary' is comparable with information available in the three Forms on a gross basis, provisions of section 143(1)(a)(vi) of the Act may be invoked in such cases wherever applicable. In ITRs 3, 5 & 6, in respect of income under the heads 'income from house property' or 'income from other sources', there may be difficulties in ascertaining whether the receipt being shown in the three Forms is getting reflected under the head 'income from house property' or 'income from other sources' in the ITR Form or is being treated as business income under the head 'income from business or profession' by the concerned assessee.

In case of income under the head 'capital gains' being shown under any of the ITR Forms i.e. 2, 3, 5 & 6, the information of payment, which may span multiple years, being reflected in the three Forms and the information being captured in the ITRs may not be comparable. Therefore, section 143(1)(a)(vi) of the Act shall not be applicable in case of income under the head 'capital gains' being shown under any of the ITR Forms i.e. 2, 3, 5 & 6.

However, the credit for tax which is deducted at source and paid to the credit of the Central Government shall be governed by section 199 of the I.T. Rules, 1962. Further, information in the three Forms regarding TDS on immovable property in the case of persons engaged in real estate etc. may be in the nature of business income, such cases being covered under section 143(1)(a)(vi) would not be applicable on them.

For detailed description readers may refer the above mentioned notification.

CUSTOMS

NOTIFICATIONS/CIRCULARS

ELECTRONIC SEALING FOR CONTAINERS BY EXPORTERS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 150/2017 dated 27th November, 2017** hereby notifies regarding Implementing Electronic Sealing for containers by exporters under self sealing procedure.

It is further notified that taking above into consideration, the Board has decided the following:

- All entitled Exporters who have acquired RFID e-seals and are stuffing containers at approved premises for export through Ports/ICDs where facilities for readers are available shall be free to continue / adopt the new e-sealing procedure and need not seek presence of officers of the department for supervising stuffing. Essentially, this implies that the procedure is voluntary for entitled exporters till 15th December, 2017.
- Further, with effect from 15th December, 2017 e-sealing shall become mandatory in respect of the exporters, who have been permitted self sealing facilities under the erstwhile excise procedure or GST regime, AEO exporters and exporters availing supervised stuffing at their premises for the following locations.
- Moreover, e-sealing procedure for Full Container Load stuffed at approved premises would be mandatory with effect from 1st January, 2018 for all Ports/ICDs.

CUSTODIAN OF IMPORTED GOODS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 40/2017 dated 27th November, 2017** hereby notifies regarding the custodian of imported goods.

Further it has been notified that the custodian has also executed continuity bond of 5 crores on 11th October 2017, separately for imported goods and export of goods. Both the above bonds are valid till 10.10.2018 and it is stated that the same shall be renewed from time to time on expiry of the same. Further, the custodian also

has furnished special contingency insurance policy for 335 Crores, an all India floater policy including all Container Freight Stations working under CWC, as per Regulation 5(1) (iii) of HCCAR, 2009, which is valid till 31.03.2018.

Moreover it hereby extend the custodianship of M/s. CWC for five years, as per the provisions of Regulation 10(2) and 10(3) of the HCCAR, 2009 ie, up to 05.11.2022 or until further orders, whichever is earlier, in accordance with the provisions laid down under the Customs Act, 1962 and any other laws, rules and regulations, notifications, instructions, circulars, public notices made there under, subject to the certain conditions.

The renewal of custodianship shall be subject to the following conditions:-

- Compliance of the custodian with legal requirements as stipulated above, as per the provisions of Section 45(2) and 45(3) of the Customs Act, 1962 and Handling of Cargo in Customs Areas Regulations, 2009.
- Renewal of continuity bond for Rs. Five Crores for import/export and insurance policy furnished by CWC from time to time on a periodical basis before the expiry of validity period mentioned and furnished along with the application as in Form-A.
- This permission shall not be construed as unrestricted leave to the custodian to delegate any function of the custodian to a person, firm or company other than those specified herein above.
- All charges from the users of the services shall be collected by the custodian only and the custodian has to pay for the activities outsourced.

For detailed description readers may refer the above mentioned circular.

AVAILABLE IN STANDS

A COMPENDIUM ON GOODS & SERVICES TAX
(Including ALL Notifications till 09th July, 2017)



ABOUT THE BOOK: PART A of the Book provides a Chapter wise and Topic wise Analysis of the Law. Along with this it provides Section and Rules where in the reader may find the Legal Provisions. It will help the reader to first understand the provision and then to exactly locate the provision. It provides an insight into the following:

1. Section-wise Compilation of IT Changes under GST
2. The GST Rates as finalised by The GST Council along with the HSN Code Referencer.
3. FAQs on GST
4. CGST, IGST, UTGST and The GST Compensation to States Acts
5. The Rules related to GST available in public Domain as on 17th June 2017.
6. The Forms and formats related to GST available in public Domain as on 17th June 2017.

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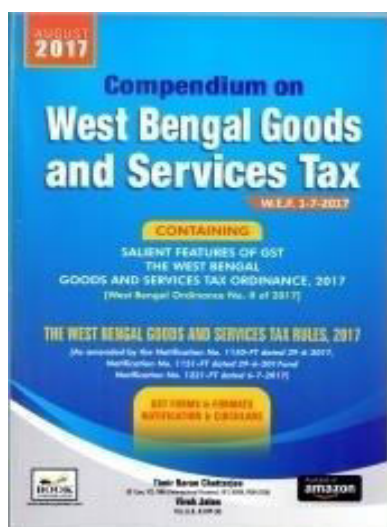
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AVAILABLE IN STANDS**A COMPENDIUM ON WEST BENGAL GOODS & SERVICES TAX**
(Including ALL Notifications till date)

ABOUT THE BOOK: PART A of the Book provides a Chapter wise and Topic wise Analysis of the Law. Along with this it provides Section and Rules where in the reader may find the Legal Provisions. It will help the reader to first understand the provision and then to exactly locate the provision. It provides an insight into the following:

1. The Rules related to WBGST available in public Domain till date.
2. The Notifications, Circulars and Orders issued by The SGST Authority till date.
3. The Forms and formats related to GST available in public Domain till date.

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