3rd Edition

Textbook of

GST & Customs Law

V. Balachandran

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Textbook of
GST and Customs Law

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Textbook of

GST and Customs Law

(for B.Com, BBA, B.L., M.Com., MBA
Allied Business Courses & GST Practitioners)

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FOREWORD

"Taxes are what we pay for civilized society" so said Oliver Wendell Holmes Jr. US Supreme Court Justice. Tax has indeed become a part and parcel of everybody's life including a Nation. Although, the Government has many sources of fund generation, tax is one of the main sources of revenue. Especially, direct taxes serve as a tool for redistribution of income and wealth in the society. Even indirect taxes by varying tax rates on luxury and non luxury goods can tax the rich more, although not completely. The Government of India has implemented many reforms in the recent past to boost India's growth. The Indian economy is all set for economic overhaul with the implementation of GST, which is expected to create a Common National Market and provide a boost to Indian exports. GST is a path breaking indirect tax reform which has an effect to create a common national market.

Under the GST regime, the CBEC (the apex administrative organization dealing with indirect taxes at the Central Government) has been renamed as the Central Board of Indirect Taxes & Customs (CBIC) post legislative approval. The essence of GST is in removing the cascading effects of both Central and State taxes by allowing setting-off of taxes throughout the value chain, right from the original producer and service provider's point up to the retailer's level. Introduction of GST required amendments to the Constitution of India so as to simultaneously empower the Centre and State to levy and collect this single consolidated tax. The Constitution of India has therefore been amended by the constitution (one hundred and first amendment) Act, 2016 for upbringing this epoch making change in the administration of indirect taxes. Article 246A of the Constitution empowers the Centre and States to levy and collect the GST. It is indeed a landmark change welcome in the fiscal history of India, notwithstanding what the British statesman Edmund Burke said "To tax and to please, no more than to love and to be wise, is not given to men".

A Common GST system provides linkage to all State/UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Bank and other stakeholders. This eco-system consists of all Stakeholders starting from taxpayers to tax professionals. The GST portal is accessible over internet (by taxpayers and their CAs/Tax advocates etc.) and Intranet by Tax Officials etc., There is one single common portal for all GST related services. which is a welcome development.

After having gone through the book titled "Textbook of GST and Customs Law", I feel that the author Prof. V. Balachandran has indeed done a commendable professional work so as to cover interalia the syallbi and questions at all India level by including various university syllabus on GST and Customs Law as well as past years questions. Written in a simple and lucid style, he has included many illustrations, examples and explanation, which make the book an interesting and rewarding experience. A cursory look at the book, reveals that the book is mainly coordinated into four parts, Part I GST is covered in 21 chapters, Part II Customs law is covered in 10 chapters, Part III with knowledge Refresher well elucidated and part IV with Annexure. The author has strengthened the book not only with fundamentals but also with advance topics.

The author has taken special care to incorporate the latest developments/recent trends in GST and customs Law at appropriate and relevant places in the book. It has incorporated and highlighted the changes in the Finance Act, 2020, pertaining to GST and Customs Act. I do hope that this book would serve as a useful classroom textbook for the students pursing Business related courses both at the UG and PG level, as both Part III and Part IV stuffed with abundant details such as QUIZ on GST and customs Law, Model question papers, Past year University question papers, Charts/Figures relevant under GST, Problem and solution on GST and Customs Law, Latest case laws on GST and Customs, statistics on GST revenue generated during 2018-19 and 2019-20 etc.

In conclusion, the book covers adequately and exhaustively the various aspects pertaining to GST and customs Law. I take this opportunity to congratulate both the author and publisher for having brought out excellent book with rich knowledge content useful not only for teachers, professionals lawyers & Accountants but also to student community and to all other professionals practising the Law as also to a common man interested in knowing GST.

T.S. KRISHNAMURTHY
Former Chief Election Commissioner of India

Place : Chennai
Date : 15.03.2021

PREFACE

PREFACE TO THE SECOND EDITION

At the outset, I wish to thank the faculty and students for having given encouragement and support for the First edition of this book. The positive comments and suggestions from the users of the book and the changes that have been taken place in GST and Customs Law during the past few months prompted me to attempt this second edition of the book based on Union Budget 2022-23.

The Indian taxation system has witnessed many unprecedented changes over the past years. Our Indian economy has set for economic overall with the implementation of GST which created a common National Market and provided a boost to Indian exports.

There are many distinctive features that can be observed by any user/reader of the book. They can be noted in the back cover of the book. The book comprises four parts, namely, Part I – GST and Part II – Customs Law, Part III – Knowledge Refresher that includes 140 Quizzes, practical problems and solutions, Diagrams/Charts, List of various GST returns, selected case laws on GST and Customs, Model Question Papers and Past years University Question papers. Part IV covers GST revenue collections, important forms frequently used and miscellaneous particulars.

At this juncture, I wish to record our sincere gratitude to Shri T.S. Krishnamurthy, Formerly, Chief Election Commissioner, Government of India for his valuable Foreword to this book on 15.03.2021. In his own words, 'I feel that the Author Prof. V.Balachandran has indeed done a commendable professional work so as to cover interalia, the syllabi and questions at all India level by including various university syllabus on GST and Customs Law as well as Past years questions. Written in a simple and lucid style, he has included many illustrations, examples and explanations which make the book interesting and rewarding experience. Further, he has taken special care to incorporate latest developments at appropriate places in the book. In fine, the book covers adequately and exhaustively the various aspects pertaining to GST and Customs Law'.

The Indian economy is now on a recovery drive. After the pandemic period 2020 and 2021, the figures suggest that it has fared well as against predictions. A GDP contraction of 7.5% is a better picture after witnessing a 23.9% negative growth in June, 2020 quarter. The 46th GST Council meeting was held on 31st December 2021 in New Delhi. Hon'ble Finance Minister Nirmala Sitharaman led the meeting and it decided *(i)* to defer the GST rate hike to 12% for textiles. *(ii)* CGST Rule 36(4) is amended to remove 5% additional ITC over and above ITC appearing in GSTR-2B. Section 38 is an enabling provision to provide for auto drafted Input Tax Credit (ITC) Statement in Form GSTR-2B.

Many amendments have been proposed in the GST Law in the Finance Bill, 2022 which is a part of Union Budget 2022-23. The amendments have been made with respect to filing of GST returns, availing of input tax credit, GST refund, payment of tax, issue of credit notes, levy of interest, and GST registration. Further, Section 38(1) of the CGST Act, 2017 is proposed to be substituted and this section seeks to provide for prescribing such other supplies as well as the manner, time, conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.

With respect to the Customs, certain significant changes were being made in the Customs Act through the Union Budget 2022 particularly with regard to specifying the class of officers and assignment of function and jurisdiction of the proper officers. Certain actions by such officers of Custom, taken in past are being validated through Finance bill, 2022. Accordingly, the definition of the proper officer is modified; officers of DRI, Audit, and Preventive formation are being specifically included in the class of officers of Customs. Section 135AA is inserted to protect the import and export data submitted to Customs by importers or exporters in their declarations by making the publishing of such information unless provided by the law, as an offense under the Customs Act. As a major trade facilitation measure the Import of Goods Concessional Rate of Duty (IGCR) Rules, 2017 have been comprehensively revised through the budget 2022.

Special Economic Zones Act, 2005 is getting replaced with a new legislation that will enable states to become partners in 'Development of Enterprise and Service Hubs', covering all existing and new industrial enclaves. The budget envisages reforms in Customs Administration, particularly in Special Economic Zones. Accordingly, it shall henceforth be fully IT driven and function on the Customs National Portal with a focus on higher facilitation and with only risk-based checks. It is expected to implement this reform by 30th September 2022. Exemptions are envisaged for allowing duty-free imports of handicrafts, apparel, and leather goods for use in the manufacture of value-added goods to be exported within six months, subject to adherence to IGCR rules.

In this second edition, the changes made in the Union Budget 2022-23 have been incorporated appropriately, besides providing more problems and solutions for the benefit of students. Further, In Part I, A new chapter 22 is added namely GST (Compensation to States) Act, 2017, updated revenue generation to Union Government and key decisions taken at GST Council Meetings.

I do hope that students pursuing Professional courses as well as B.Com., BBA, M.Com., MBA, BL, LLB and allied business courses will make it as a class room textbook as in the past. I am happy to get your suggestions for further improvement of the book and they will be gratefully acknowledged.

I wish to record my sincere thanks to M/s. Sultan Chand and Sons, New Delhi for bringing out the book in a professional manner.

Prof. V. Balachandran

PREFACE TO THE FIRST EDITION

India offers a well-structured tax system for its population. Taxes are the largest source of income for the government. This money is deployed for various purposes and projects for the development of the nation. Taxes are determined by the Central and State Governments along with local authorities like municipal corporations. The Government cannot impose any tax unless it is passed as a law. The Government of India has implemented many reforms in the recent past to boost India’s growth. Innovative initiatives taken by the Government of India towards transparency in governance, liberalisation of foreign direct investment (FDI) norms, easing the cost of doing business, stability and predictability in tax decisions, reforms in the taxation deserve special mention.

The Indian regulatory and tax authorities have rolled out certain key changes to reform and upgrade the country’s regulatory and tax for different entities functioning in the economy and are subject to the different rates in the environment. For instance the Goods and Service Tax (GST) is one of the major reforms in the economy and has replaced the complex multiple indirect tax structure from 1st July 2017.

The Indian taxation system in India has witnessed several modifications over the years. Earlier, the Central Board of Excise and Customs (CBEC) is also a part of the Department of Revenue under the Ministry of Finance. It is the nodal national agency responsible for administering customs, central excise duty and service tax in India. Under the GST regime, the CBEC has been renamed as the Central Board of Indirect Taxes & Customs (CBIC) post legislative approval. The CBIC has been monitoring the work of all its field formations and directorates and assist the government in policy making in relation to GST, continuing central excise levy and customs functions.

The Indian economy is all set for economic overall with the implementation of GST which is expected to create a Common National Market and provide a boost to Indian exports. GST is based on the notion, “One Nation: One Market: One Tax” has rolled out from July1, 2017. GST is a path breaking indirect tax reform which has created a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc., under GST, there would be only one tax from the manufacturer to the consumer, leading to transparency of taxes paid to the final consumer. It is a single indirect tax for the entire nation, which has made India as one unified common market. There has been standardization of GST rates with simpler governing laws enabling common people to understand the same. This resulted in ease of paying taxes, improved compliance, and enhanced enforcement of the laws.

The special feature of the book is that it tries to cover the syllabi at all India level and is written in a simple and lucid style to be understood by a common man. There are many illustrations, examples and explanation which make the book interesting reading. The book comprises of two parts, namely, Part I – GST and Part II – Customs Law. The latest developments/recent trends in GST and Customs Law have been incorporated at the appropriate places in the book. While a separate section is earmarked for problems and their keys, another part is assigned for Quiz in GST and Customs Law covering

140 questions which would be highly useful to the students appearing for examinations and interviews. Another significant feature of the book is that it has incorporated and highlighted the changes in the Finance Act, 2020, pertaining to GST and Customs Act, 1962. At the end of every chapter adequate questions for Part A and Part B are given. The GST collections, administrative structure and Officers of GST and Customs are included at the appropriate chapters. Further, the past years question papers of some of the Universities are also included in the book. The First edition has discussed clearly in a simple style the provisions and practical aspects of Central GST, State GST and Integrated GST Act.

Students pursuing B.Com, BBA, BL, M.Com, MBA, Allied business courses and students wish to appear examination to become GST Practitioner will find the book as a classroom textbook as in the past. Suggestions are welcome for further improvement and they will be gratefully acknowledged. We owe our gratitude to all of them particularly to Government websites on GST and Professional Institutions such as ICSI and ICAI for better clarity and understanding on certain provisions of GST.

At this juncture, I wish to record my sincere thanks to the reputed Publisher of the book, M/s Sultan Chand & Sons, New Delhi for all their co-ordination, dedication, involvement and commitment and for nice printing of the book. I do thank Dr. KV Arunima, Ms. Sreekha, Ms. Saumya, C Manoharan of Central University of Kerala for their timely help.

Prof. V. Balachandran

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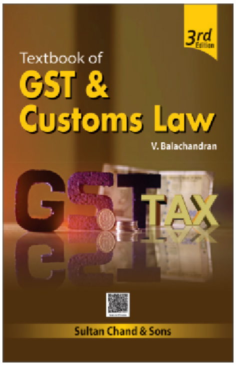

- The third edition of the book is divided into two parts: Part I – GST and Part II – Customs Law.
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- Contains model question papers, along with figures and charts to aid in quick revision.
- Includes statutory forms under GST and a detailed list of GST rates applicable to goods and services

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