CONTENTS

		PAGE
Abou	at the Author	I-5
Mess	sage	<i>I-7</i>
Reco	gnitions	<i>I-9</i>
Prole	ogue	I-13
GST	Council Meeting Updates - Setting the Tone	I-17
Chap	pter-heads	I-55
	1	
	INTRODUCTION & CONSTITUTIONAL PROVISION	
1.1	Introduction	1
1.2	Brief History and Politics over GST in India	12
1.3	Constitutional provisions	14
1.4	Summary of constitutional amendments	29
1.5	Deemed sale of goods [Article 366(29A)]	33
1.6	GST Acts	35
1.7	Constitutional issues	35
	2	
	CONCEPT OF SUPPLY & OTHER STATUTORY MEANINGS	
2.1	Concept of supply	43
2.2	Specific inclusions in Supply	44

	CONTENTS	I-60
		PAGE
2.3	Consideration	54
2.4	Supplies without consideration	61
2.5	Business	64
2.6	Distinction between supply of goods & services	66
2.7	Transactions not qualifying as supplies	68
2.8	Powers delegated to the Government	77
2.9	Composite and mixed supplies	77
2.10	Intra-State & Inter-State supplies	78
2.11	Distinction from erstwhile regime	79
2.12	Statutory meanings	79
2.13	Expected industry issues	104
	3	
	LEVY & COLLECTION OF TAX	
3.1	Scope of supply	119
3.2	Levy and collection	120
3.3	Exemptions	122
3.4	Rate of GST	125
3.5	Reverse charge	127
3.6	Specific provisions for e-commerce operators	129
3.7	Composition levy	130
3.8	Taxable person	135
3.9	Expected industry issues	137
	4	
	TIME OF SUPPLY	
4.1	Time of supply	145
4.2	Time of supply of goods	146
4.3	Time of supply of services	149
4.4	Change in tax rate	151
4.5	Continuous supply	153
4.6	Expected industry issues	154

I-61 CONTENTS

	_	PAGE
	<u>5</u>	
	PLACE OF SUPPLY	
5.1	Place of supply - Introduction	161
5.2	Place of supply of goods	162
5.3	Place of supply of services - Both parties within India	163
5.4	Place of supply of services - One party is outside India	171
5.5	Difference between Section 12 and Section 13	181
5.6	Expected industry issues	183
	6	
	VALUATION	
6.1	Value of taxable supply	200
6.2	Retail Sale Price Rule	205
6.3	Valuation Rules	205
6.4	Consideration is not wholly in money	205
6.5	Stock transfers and related party transactions	207
6.6	Supplies between principal and agent	209
6.7	Cost based valuation	209
6.8	Residual method	210
6.9	Specific valuation rules	210
6.10	Pure agent provisions	215
6.11	Rate of exchange	216
6.12	Value inclusive of GST	217
6.13	Expected industry issues	217
	7	
	INPUT TAX CREDIT	
7.1	Input Tax Credit - An introduction	230
7.2	Availment of credit	231
7.3	Availment of credit on proportionate basis	235
7.4	Utilization of credit	238

	CONTENTS	I-62
		PAGE
7.5	Registration aspects for credits	240
7.6	Inputs sent to Job Worker	242
7.7	Input service distributor	243
7.8	Matching mechanism	246
7.9	Input Tax Credit Rules	249
7.10	Documents for availing input tax credit (Rule 36)	249
7.11	Reversal of credit on account of non-payment to vendor (Rule 37)	250
7.12	Credits by banking companies and financial institutions (Rule 38)	251
7.13	Distribution of credit by ISD (Rule 39)	252
7.14	Credit in special circumstances - Registration, exempt supply becoming taxable, etc. (Rule 40)	255
7.15	Transfer of credit on sale, merger, amalgamation, etc. (Rule 41)	257
7.16	Reversal of credit for exempt supplies - Inputs and input services (Rule 42)	258
7.17	Reversal of credit for exempt supplies - Capital goods (Rule 43)	261
7.18	Reversal of credit in special cases (Rule 44)	264
7.19	Credit in case goods are sent for job work (Rule 45)	265
7.20	General provisions	266
7.21	Expected industry issues	266
	<u>8</u>	
	IGST	
8.1	Introduction	271
8.2	Definitions	271
8.3	Administration	279
8.4	Levy and collection of IGST	279
8.5	Exemption from IGST	280
8.6	Inter-State supplies	281
8.7	Intra-State supplies	284
8.8	Territorial waters supplies	284

		PAGE
8.9	Refund to outbound tourists	285
8.10	Zero-rated supplies	285
8.11	Apportionment of tax	286
8.12	Transfer of input tax credit	288
8.13	Miscellaneous provisions	288
	9	
	REMISSION OF TAX, DEMANDS & REFUNDS	
9.1	Remission of tax	292
9.2	Demands	292
9.3	Recovery of tax	304
9.4	Refunds	317
9.5	Show cause notice issues	327
9.6	Expected industry issues	340
	10	
	REGISTRATION	
10.1	Who is required to get registered	347
10.2	Procedure for Application	350
10.3	Procedure for Amendment	360
10.4	Cancellation of registration	362
10.5	Migration of registration	366
10.6	Expected industry issues	367
	11	
	ACCOUNTS & RECORDS	
11.1	Tax invoice	373
11.2	Credit & debit notes	377
11.3	Other types of invoices	379
11.4	Delivery Challan	380
11.5	Accounts & other records	381

	CONTENTS	I-64
11.6 11.7	Miscellaneous provisions Expected industry issues	PAGE 384 386
11.7	Expected findustry issues	300
	12	
	RETURNS	
12.1	Details of inward & outward supplies	389
12.2	Returns	395
12.3	Return Rules	400
12.4	Summary of compliances	413
	13	
	PAYMENT OF TAX	
	PAIMENT OF TAX	
13.1	Payment of tax	414
13.2	Payment Rules	418
13.3	Electronic Liability Register	418
13.4	Electronic Credit Ledger	419
13.5	Electronic Cash Ledger	420
13.6	Identification number for each transaction	422
13.7	Tax deduction at source	422
13.8	Tax collection at source	423
13.9	Liability to pay in certain cases	425
13.10	Expected industry issues	430
	14	
	ASSESSMENT & AUDIT	
14.1	Assessment	431
14.2	Audit	434
	<u>15</u>	
	OFFENCES & PENALTIES	
15.1	Penalties	443

I-65 co

		PAGE
15.2	Detention and Confiscation of goods	447
15.3	Prosecution	449
15.4	Other provisions	451
15.5	Compounding of offences	452
	16	
	INSPECTION, SEARCH, SEIZURE & ARREST	
16.1	Powers of inspection, search & seizure	454
16.2	Inspection of goods in transit	457
16.3	Powers of arrest	457
16.4	Other powers	462
16.5	Expected industry issues	464
	17	
	APPEALS	
17.1	Appellate authority	469
17.2	Revisional Authority	472
17.3	National Appellate Tribunal	473
17.4	Miscellaneous provisions (First & Second Appeal)	482
17.5	Appeal to High Court	483
17.6	Appeal to Supreme Court	484
17.7	Other Provisions & Issues	485
17.8	Interesting aspects of appellate provisions	486
	18	
	ADVANCE RULING	
18.1	Definitions & constitution	500
18.2	Application & procedure	501
18.3	Other provisions	503
18.4	Issues	505

	CONTENTS	I-66
		PAGE
	<i>1</i> 9	
	TRANSITIONAL PROVISIONS	
19.1	Migration of registration	506
19.2	Transition provisions to carry forward credit	506
19.3	Transition provisions relating to job work	511
19.4	Returns of duty paid goods	511
19.5	Price revision in pursuance of a contract	512
19.6	Refund claims	512
19.7	Pending proceedings	513
19.8	Recovery/refunds proceedings	513
19.9	Cut-off transactions	513
19.10	Cases when both VAT and service tax are paid	514
19.11	Goods on approval basis	514
19.12	TDS	514
19.13	Credit Transfer Document ('CTD')	518
	20	
	ANTI-PROFITEERING PROVISIONS	
20.1	Introduction	519
20.2	Anti-profiteering provisions in the CGST Act	519
20.3	Anti-profiteering Rules	520
	21	
	MISCELLANEOUS	
	WIISCELLANEOUS	
21.1	Administration	527
21.2	GST compliance rating	528
21.3	Obligation to furnish information	529
21.4	Consumer Welfare Fund	530
21.5	Drawal of samples	531
21.6	Burden of proof	531
21.7	Power to make rules	531

I-67 CONTENTS

		PAGE
21.8	General power to make regulations	531
21.9	Laying of rules, regulations and notifications	532
21.10	Delegation of powers	532
21.11	Instructions to GST Officers	532
21.12	Power to collect statistics	532
21.13	Disclosure of information	533
21.14	Officers to be public servants	533
21.15	Indemnity	533
21.16	Disclosure of information by a public servant	533
21.17	Assessment not to be invalid	535
21.18	Rectification of mistake apparent from record	536
21.19	Bar of Jurisdiction of Civil Courts	536
21.20	Levy of fees	536
21.21	Removal of difficulties	536
21.22	Service of notice, order, etc.	537
21.23	Rounding off of tax	538
	22 INDUSTRY IMPACT & ISSUES	
22.1	Agriculture	539
22.2	Automobile	545
22.3	Aviation	549
22.4	Construction and real estate	550
22.5	E-commerce	561
22.6	Education	575
22.7	Entertainment & media	578
22.8	Financial services	588
22.9	Going concern	600
22.10	Government	604
22.11	Health care	616
22.12	Hiring, leasing and licensing	620
22.13	Hospitality	622

	CONTENTS	I-68
		PAGE
22.14	Insurance	628
22.15	Intangibles	634
22.16	Job-Work Transactions	645
22.17	Legal services	649
22.18	Manpower supply services	652
22.19	Non-profit organizations	654
22.20	Petroleum and petroleum products	659
22.21	Power	660
22.22	RBI services	661
22.23	Refraining acts	662
22.24	Retail & FMCG	663
22.25	Telecommunication	666
22.26	Textiles	673
22.27	Tobacco and alcohol	673
22.28	Transportation and logistics	674
	23	
	LEGAL CORNER	
23.1	Aspect Theory	691
23.2	Benefit of doubt must go to assessee	692
23.3	Benefit of doubt to the assessee	693
23.4	Cases of different statute	694
23.5	Cause of Action	694
23.6	Causus omissus	695
23.7	Common/Commercial parlance	696
23.8	Constitutional validity of tax laws	696
23.9	Contract/Agreements	697
23.10	Court cannot amend or make a law	698
23.11	Court's to interpret reasonably	699
23.12	Deeming provisions	700
23.13	Doctrine of estoppel	700
23.14	Draft bill/Select Committee report inadmissible	703
23.15	Ejusdem Generis	703

I-69 CONTENTS

		PAGE
23.16	Interpretation of Exemption Notification	704
23.17	Explanation	706
23.18	Expressio unius est exclusio alterius	707
23.19	Fiscal Laws	708
23.20	Foreign Judgments	710
23.21	Generalia specialibus non derogant	711
23.22	Headings	711
23.23	Heydon's Rule (Mischief Rule)	712
23.24	Intention of the legislature	712
23.25	Interpretation - Harmonious	718
23.26	Interpretation - Injustice, hardship and anomaly to be avoided	718
23.27	Interpretation - Purposive	719
23.28	Interpretation - Strict v. Liberal	720
23.29	Interpretation - Internal and External Aids	721
23.30	Interpretation should favour constitutionality	722
23.31	Interpretation should not restrict the scope	722
23.32	Intervention Application	723
23.33	Judgments	723
23.34	Judicial discpline	724
23.35	Judicial Orders - Reconsideration	725
23.36	Judicial Orders - Review Petitions	726
23.37	Judicial Orders	727
23.38	Jurisdiction	728
23.39	Law Commission's Report - Permissibility	730
23.40	Legal	730
23.41	Limitation as a defence	730
23.42	Mandatory and Directory provisions	733
23.43	Marginal Notes	734
23.44	Means and Includes	734
23.45	Natural Justice	735
23.46	Non-Obstante Clause	737
23.47	Noscitur a Sociis	739
23.48	Omina praesumuntur rite et colenniter esse acta	741

	CONTENTS	I-70
		PAGE
	Or v/s and	741
23.50	6	742
23.51		743
23.52	Penal Statutes	744
23.53	Per incuriam	745
23.54		746
23.55		746
	Proviso	748
23.57	Provisions incorporated in another Act	752
23.58	Punctuations	752
23.59	Ratio Decidendi	753
23.60	1	755
23.61	Res-judicata	758
23.62	Retrospective amendment	760
23.63	Retrospectivity and Declaratory laws	764
23.64	Revenue neutrality	764
23.65	Schedule - A part of the statute	765
23.66	Shall and May - Usage	765
23.67	So far as may v . As far as may be	766
23.68	Stare Decisis	766
23.69	Statute must be read as whole	768
23.70	Stay Petitions	770
23.71	Subsequent Legislation	774
23.72	Sub-silentio	775
23.73	Substantive and Procedural Law	776
23.74	Tax evasion and avoidance	779
23.75	Technical or Scientific meaning	780
23.76	Territorial restriction	780
23.77	Ubi jus ibi remedium	781

781

23.78 Writ Petition

I-71 CONTENTS

	PAGE
APPENDICES	
APPENDIX 1	
CENTRAL GOODS AND SERVICES TAX ACT, 2017	787
APPENDIX 2	
INTEGRATED GOODS AND SERVICES TAX ACT, 2017	969
APPENDIX 3	
UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017	997
APPENDIX 4	
GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017	1019
APPENDIX 5	
CENTRAL GOODS AND SERVICES TAX RULES, 2017	1033
APPENDIX 6	
NOTIFICATIONS	1126
LIST OF NOTIFICATIONS	i