



All India Federation of Tax Practitioners

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(For Members only)

AIFTP TIMES

Volume 3 - No. 12

December, 2012

We wish all our members and readers a Merry Christmas

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
14-12-2012	National Executive Committee Meeting	Udaipur
15 & 16-12-2012	National Tax Conference (CZ)	Udaipur
14 & 15-12-2012	Two Days Seminar on Real Estate Development	Mumbai
6, 15, 29-12-2012 3, 19-1-2013, 2, 16-2-2013 2, 16, 30-3-2013	Workshop on MVAT & Service Tax - Year 2012-13	Mumbai
4-1-2013	National Executive Committee Meeting	Diu
5, 6, 7-1-2013	National Seminar 2013 (WZ)	Diu
16, 17-3-2013	One Day Tax Seminar	Tirupati

FEDERATION NEWS

Narayan P. Jain, *Secretary General*

Report of 9th Nani Palkhivala Memorial National Tax Moot Court Competition

The 9th Nani Palkhivala Memorial National Tax Moot Court Competition was held from 11th-13th October, 2012. The Competition witnessed record participation from twenty six (26) of the best Law Schools in the country and was a successful endeavour this year as well.

The Inaugural Ceremony of the Competition was held on 11th October in the Auditorium of the Government Law College, Mumbai. Hon'ble Mr. H. L. Karwa, President of the Income Tax Appellate Tribunal was the Chief Guest, while Hon'ble Mr. D. Manmohan, Vice-President of the Income Tax Appellate Tribunal was the Guest of Honour. Welcome addresses were given by Mr. R. B. Malik, Principal, Government Law College, Mr. S. K. Poddar, President of the All India Federation of Tax Practitioners, Dr. K. Shivaram, President of the Income Tax Appellate Tribunal Bar Association and Chairman of the Palkhivala Foundation and Research Committee and Mr. Arun Sathe, Vice President of the Income Tax Appellate Tribunal

FOR QUERIES PLEASE CONTACT ANY OF THE FOLLOWING OFFICE BEARERS

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Bar Association. The Function concluded with a Vote of Thanks by Prof. Sanjay V. Kadam, Chairman, Moot Court Association and Ms. Madhavi Doshi, Assistant General Secretary, Moot Court Association. The official competition souvenir was also released at the Inaugural Ceremony by Hon'ble Mr. H. L. Karwa.

The Rounds of the Competition were held on 12th and 13th October in the courtrooms of the Income Tax Appellate Tribunal itself. The Preliminary Rounds of Argument were judged by Hon'ble Members of the Tribunal and eminent tax professionals and chartered accountants. Top eight of the 26 participating teams made it through to the Quarter Final Rounds that were held in the morning of 13th October which were judged by tax professionals and senior counsels like Mrs. Arati Vissanji, Mr. Pradeep Kapasi, Mr. Vispi Patel, Mr. Atul Jasani, Mr. Pradeep Parikh, Mr. Keshav Bhujle, Mr. Hiro Rai, Mr. B. V. Jhaveri, Mr. Subhash Shetty, Mr. Percy Pardiwala, Mr. Sunil Lala, Mr. Dilip Thakkar and Mr. Kishor Karia. Gujarat National Law University, Gandhinagar, West Bengal National University of Juridical Sciences, Rajiv Gandhi National University of Law, Patiala and National Law Institute University, Bhopal were the 4 teams that proceeded to the Semi-Final Rounds of Argument that were judged by the Hon'ble Members of the Tribunal.

The Final Round of Arguments was held in the evening of 13th October at the Y.B. Chavan Centre at Nariman Point, Mumbai. The Final Rounds were presided by Hon'ble Mr. Justice R.Y. Ganoo, Judge, Bombay High Court, Hon'ble Mr. Justice R. D. Dhanuka, Judge, Bombay High Court and Hon'ble Mr. Justice N. M. Jamdar, Judge, Bombay High Court. The Gujarat National Law University, Gandhinagar and West Bengal National University of Juridical Sciences were the finalists with the team from the Gujarat National Law University, Gandhinagar emerging as the winners. The winning team went home with a one-month internship at Nishith Desai Associates and a cash prize of ₹ 12,000. Ms. Bijal Ajinkya, Partner, Nishith Desai Associates was present at the Finals to hand over the letter of internship to the winning Team. The 2nd Best Team was awarded an Internship at Economic Law Practices and a cash prize of ₹ 10,000. The Best Speaker was awarded to Ms. Shafaq from Jamia Millia Islamia, Delhi and the 2nd Best Speaker was a tie between Mr. A Mahesh Choudhary of University Law College, Bengaluru and Mr. Pranjit Bhattacharya of Bengaluru Institute of Legal Studies. Ms. Shafaq was awarded an internship at the chambers of Mr. Soli Dastur, Senior Counsel, Supreme Court of India. The Best Memorial award went to the team from Jindal Global Law School while Mr. Shobhit Koshta from Hidayatullah National Law University, Raipur bagged the award for the Best Researcher.

The results of the 8th Nani Palkhivala Memorial Research Paper Competition were also announced at the Valedictory Ceremony. The topic for this year's Research Paper was 'General Anti Avoidance Rule (An Indian & International Perspective)'. This year, we received an overwhelming 80 entries from Law Schools across the country. The judges for the Competition were Mr. Vipul Joshi, Mr. Parag Vyas, Mr. Sanjay Parikh and Mr. K. Gopal. The winning research paper was awarded to Mr. Arnab Naskar and Ms. Shubhangi Gupta of the Rajiv Gandhi National University of Law, Patiala. The award of the 2nd Best Research Paper went to Mr. Pulkit Jain and Mr. Harpreet Kaur of the University Institute of Legal Studies, Punjab and the award for the 3rd Best Research Paper went to Ms. Ankitha Dange from ILS, Pune.

The Winning Research Paper will be published in the AIFTP Journal, in the IBFD Journal, and on the ITAT website (www.itatonline.org). The research paper was also published in the Official Souvenir of the 9th Nani Palkhivala Memorial National Tax Moot Court Competition.

- Ayushi Anandpara, General Secretary (2011-12)

LIST OF PUBLICATIONS

Sr. No.	Name of Publication	Edition	Members	Price Non-Members	Courier Charges
1.	Digest of Case Laws Direct Taxes	Sept., 2012	2,000.00	2,250.00	200/300*
2.	Media & Entertainment Industry (Normal Bound)	Dec., 2009	280.00	315.00	80.00

* Air Charges

Notes:

1. The above publications are available for sale; those who desire to buy may contact the office of the Federation.
2. Local/Outstation members not collecting from office are requested to add courier charges, as mentioned above.
3. Please draw Cheque/Draft in favour of "All India Federation of Tax Practitioners" payable at Mumbai for above publications.
4. Few copies of above two publications are in stock.

TWO DAYS SEMINAR ON REAL ESTATE DEVELOPMENT

Organised by

ALL INDIA FEDERATION OF TAX PRACTITIONERS (WZ)
Jointly with
**THE CHAMBER OF TAX CONSULTANTS &
THE SALES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA**
on 14th and 15th December, 2012

We are pleased to announce a Two Days Seminar on "Real Estate Transactions - Legal, Taxation and Accounting Aspects" jointly with The Chamber of Tax Consultants and The Sales Tax Practitioners' Association of Maharashtra.

This is one of the most important and burning topics of today, considering the complexities of transactions and also on account of several recent amendments and Court Rulings. The focus of the Seminar will be to enlighten the participants about the conceptual understanding, recent developments and controversies as well as to provide solutions thereto. Each and every aspect of Real Estate development is covered by this two days Conference. The topics have been selected keeping in mind the day-to-day needs of legal and tax professionals, apart from the needs of the consumers as well as the housing industry. The faculty comprises eminent professionals, who will share their rich knowledge and experience with the participants. **At the end of each session there will be answers to the questions from participants.**

Due to the focus on in-depth discussion, the enrolment is restricted. Interested participants are requested to block these two dates and register at the earliest. **Kindly download the Seminar enrollment form from the website-www.aiftponline.org.**

Days and Dates : Friday and Saturday, 14th & 15th December, 2012

Time : 9.30 a.m. to 5.30 p.m.

Venue : West End Hotel (4 Star Hotel), New Marine Lines, Near Churchgate Station, Next to Bombay Hospital, Mumbai - 400 020.

The topics / issues enumerated hereunder will be discussed with respect to, and in the context of, Real Estate Development

1st Technical Session : IMPORTANT CONCEPTS

- Salient features of General Law, including Transfer of Property Act, Indian Contract Act, Specific Relief Act, Indian Easements Act, etc. (With special emphasis on concepts of day-to-day importance)
- The concept of various kinds of ownership and possessory rights. e.g. ownership, lease, tenancy, leave and licence, other easements and possession in rights, title by adverse possession, illegal occupation, etc.

Speakers

Mr. Parimal Shroff, Solicitor

2nd Technical Session : OVERVIEW OF APPLICABLE LAWS

- A. Provisions of Maharashtra Regional Town Planning Act [MOFA], Bombay Municipal Corporation Act, Development Control Regulations MHADA Act, SRA, CRZ, ULC Act, etc.
- B. Concept of FSI/TDR, different kinds of FSI
Different types of premium payable to local authority.
Set Back Area, Reservations, etc.

Mr. Shailesh Mahimtura, Solicitor

Mr. Amit Sapre, Architect

3rd Technical Session : REDEVELOPMENT OF PROPERTIES

Specific provisions relating to redevelopment of existing property :

- o Pre 1940s building and existing societies
- o Relevant provisions of MOFA category, Maharashtra Co-operative, Maharashtra Ownership Act, Societies Act, SRA, Tenancy Act, etc.

Mr. J. S. Soloman, Solicitor

4th Technical Session

- Maharashtra Housing Regulatory Bill (This is important latest development)
- Deemed Conveyance

Mr. P. A. Jani, Solicitor

5th Technical Session : DRAFTING & STAMP DUTY & REGISTRATION

Development Agreements in various situations (including with Society) and documents / deeds supplemental and incidental thereto. Stamp Duty

Speaker: Mr. Pravin Veera, Solicitor
Chairman: Mr. A. R. Jani, Solicitor

Special Session : Key Note address by Hon'ble Mr. Justice V. C. Daga, Bombay High Court (Retd.)

6th Technical Session : ACCOUNTING ASPECTS

Including latest Guidance Note of ICAI

CA. P. R. Ramesh

7th Technical Session

Relevant provisions of Income-tax Act, Wealth-tax Act (Including Development Agreements implications in hands of society and members. Wealth tax obligations, etc.) – Recent Developments

CA. Pradip Kapasi

8th Technical Session

Relevant provisions under VAT (Including recent legislative and judicial developments)

Speaker: CA Prem Chhatpar
Chairman: Mr. P. C. Joshi, Advocate

9th Technical Session

Relevant provisions under Service Tax Act (Including recent legislative and judicial developments)

Speaker: Mr. Vipin Jain, Advocate
Chairman: Mr. Vikram Nankani, Advocate

Fees : **Members** – ₹ 3,000/-; **Non Members** – ₹ 3,500/-
(Including service tax, tea, breakfast, lunch and course material)

*Kindly issue the cheque in favour of
"All India Federation of Tax Practitioners – Western Zone" payable at Mumbai.*

**TWO DAYS NATIONAL TAX CONFERENCE
ON DIRECT & INDIRECT TAXES**

Organised by

**ALL INDIA FEDERATION OF TAX PRACTITIONERS (CZ)
AND**

UDAIPUR TAX BAR ASSOCIATION, UDAIPUR & UDAIPUR TAX BAR CHARITABLE SOCIETY
Jointly with

RAJASTHAN TAX CONSULTANTS ASSOCIATION

on Saturday & Sunday, 15th-16th December, 2012
at MMM Govt. Ayurvedic College Auditorium, Alkapuri, Udaipur (Rajasthan)

THEME : SHARE, CARE & SUCCEED

Udaipur Tax Bar Association & Udaipur Tax Bar Charitable Society, a professional body established in the year 1951 is engaged in promoting professional environment among Advocates, Chartered Accountants and Tax Practitioners in particular and Society at large through educational and professional conferences, seminars, study circles, public meetings, refresher courses and continuing educational programmes for the professionals from time to time. Besides, Udaipur Tax Bar Charitable Society is always volunteer in providing academic and vocational assistance to the students undergoing professional courses in accountancy and law.

In the year 2012, Udaipur Tax Bar Association is completing its 61 years of glorious presence and on this occasion, wish to acclaim and celebrate the same. The Executive Committee of the Udaipur Tax Bar Association has resolved to organise a two days "All India Conference on Direct & Indirect Tax" on Saturday & Sunday, the 15th-16th December, 2012, with the object of **share, care and succeed**. The proposed Conference will be attended by galaxy of persons at the helm of affairs in the Government, Judiciary, Tax Departments, Chamber of Commerce and Industries, Business Organisations, Chartered Accountants and Tax Practitioners from all over the country. In the history of Udaipur this will be a unique Conference, which shall open many avenues of knowledge in field of direct & indirect taxes and finance, thus, helping the business community and tax payers. On this gracious occasion, we are bringing a souvenir for which we earnestly

appeal to all professionals, industrialists, businessmen and other bodies to extend co-operation by way of providing an advertisement to be published in the said souvenir.

We, the Managing Committee of All India Federation of Tax Practitioners (CZ) and members of Executive Committee of Udaipur Tax Bar Association and Udaipur Tax Bar Charitable Society and Rajasthan Tax Consultants Association, earnestly request you to favour us by your gracious participation. We are sure you will carry fond memories of the same.

PROGRAMME OF THE CONFERENCE

FIRST DAY : 15TH DECEMBER, 2012

08.30 a.m. to 09.45 a.m.	Registration and Breakfast
09.45 a.m. to 11.45 a.m.	Inaugural Session Welcome of Guests Address: By the Guests of Honour Inaugural Address: By the Chief Guest Release of publication titled ' International Taxation – Important Aspects & Issues ' dedicated to Late Shri V. Ramachandran, Past President, AIFTP. Vote of Thanks
11.45 a.m. to 12.00 Noon	Tea Break
12.00 Noon to 01.30 p.m.	First Technical Session HUF under Direct Taxes and Civil Laws Chairman: Shri N.M. Ranka, Jaipur, Sr. Advocate, Jaipur Key note Speaker: CA. Ashvin C. Shah, Ahmedabad Speaker: Shri K.H. Kaji, Sr. Advocate, Ahmedabad
01.30 p.m. to 02.15 p.m.	Lunch Break
02.15 p.m. to 03.15 p.m.	Second Technical Session Real Estate Transactions Chairman: Eminent Faculty Key note Speaker: Shri Bharat ji Agrawal, Sr. Advocate, Allahabad High Court Speakers: Real Estate Transactions (i) Issues under the Income-tax: CA. H.N. Motiwalla, Mumbai (ii) Issues under the VAT & Service tax: CA. S. Ventaramani, Bengaluru (iii) Issues in drafting of agreements for development and transfer of immovable properties (including MOUs) Paper Writers: Shri Ajay Singh & Shri Paras S. Savla, Advocates, Mumbai
03.15 p.m. to 04.15 p.m.	
04.15 p.m. to 05.00 p.m.	
05.00 p.m. to 05.15 p.m.	Practical issues relating to CPC adjustments under Income tax Speaker: Shri S.R.Wadhawa, Advocate, New Delhi
05.15 p.m. to 05.30 p.m.	Tea Break
07.00 p.m. to 09.30 p.m.	Cultural Programme & Dinner (with family) By Deewana Group, Sony TV fame

SECOND DAY : 16th DECEMBER, 2012

09.00 a.m. to 10.00 a.m.	Breakfast
10.00 a.m. to 11.30 a.m.	Third Technical Session Controversial issues in input tax credit and entry tax with special reference to Rajasthan legislations Key Note Speaker: Shri M.L. Patodi, Advocate, Kota Speaker: Shri Mukul Gupta, Advocate, Ghaziabad
11.30 a.m. to 12.00 Noon	TEA BREAK
12.00 Noon to 01.15 p.m.	Fourth Technical Session Latest issues under the Service Tax Key note Speaker: Dr. Ashok Saraf, Sr. Advocate, Advocate General of Assam, Guwahati Speaker: Shri Ruchit Bhatia, Advocate, Delhi

01.15 p.m. to 01.30 p.m.	Tax on income u/ss. 68 to 69D with reference to the provision of Section 115BBE under Income-tax Act, 1961 Speaker: CA. S.C. Maheshwari, Raipur
01.30 p.m. to 02.15 p.m.	Lunch Break
02.15 p.m. to 03.45 p.m.	Fifth Technical Session Brains' Trust: Shri S.K. Poddar, Adv., Ranchi; Shri N.M. Ranka, Sr. Adv., Jaipur; Shri P.S. Sarin, Adv., Delhi; Shri Ganesh Purohit, Sr. Adv., Jabalpur; Dr. M.V.K. Murthy, Adv., Hyderabad; Smt. Premrata Bansal, Sr. Adv., Delhi; CA. Pankaj Ghiya, Jaipur; CA. Pankaj Jain, Mumbai
03.45 p.m. to 04.00 p.m.	Tea Break
04.00 p.m. to 05.00 p.m.	Valedictory Session Chief Guest Vote of Thanks Presentation of Mementos
5.00 p.m.	High Tea & Good Bye
(Some papers and confirmations are in process)	

DELEGATE FEE

(Includes kit, course material, breakfast, lunch, dinner and cultural programme)

1. For member of professional bodies: ₹ 1,800/-
2. For accompanying person/spouse: ₹ 1,200/- (without kit & course material)
3. For Corporate Bodies/Other: ₹ 2,000/-

For other information contact:

Chairman, Registration Committee

DEEPAK AREN, 0294-2420301, 2524992 (M) 9414470818 utba.udaipur@gmail.com
109, Samruddhi Complex, Opp. Krishi Mandi, Hiran Magri, Sector No. 11, Udaipur (Raj.) – 313 002

Prakash Javaria
President, UTBA
9414158591

Dr. O.P. Chaplot
Chairman
Conference Committee
9314061211

Kishore Kumar Pahuja
Chairman, UTBCS
9829047955

Pankaj Ghiya
President, RTCA
9829013626

S.K. Poddar
National President

N.P. Jain
Secretary General

P.M. Chopra
Conf. Chairman

S.C. Maheshwari
Chairman (CZ)

Paras Chhajer
Secretary (CZ)

NATIONAL SEMINAR 2013, DIU

Organised by

ALL INDIA FEDERATION OF TAX PRACTITIONERS (WZ)

&

ALL GUJARAT FEDERATION OF TAX CONSULTANTS, AHMEDABAD

Jointly with

RAJKOT TAX CONSULTANTS SOCIETY
JAMNAGAR TAX PRACTITIONERS ASSOCIATION
TAXATION ADVISERS ASSOCIATION, JUNAGADH

ON 5th 6th & 7th JANUARY, 2013 DIU (U/T)

THEME – REACHING TO GRASSROOT

AIFTP & AGFTC's endeavour to penetrate at the grassroot level and render services to the members by interaction and imparting education at small places of India / Gujarat by holding Seminars & Conferences to update members is the background for the National Seminar at Diu.

The Federation updates the members on all aspects of Taxation be it Direct or Indirect Taxation. Five to six two day seminars and number of one day and half day seminars are organised every year. The Zones are active in organising one day seminars, study circles, workshops, RRC etc. in association with local Associations. The aim is to cultivate the strong bond of fraternity amongst members and professionals. The Federation tries to reach even the remote places by organising seminars.

Accordingly, it is decided to organise National Seminar 2013 jointly with three local associations from 5-1-2013 to 7-1-2013 at Radhika Beach Resort, Diu.

The course shall comprise four technical sessions and Brains' Trust. Legal luminaries from all over the country are likely to attend the event. Delegates from various parts of India, Gujarat shall be participating.

Diu District is an island off the south coast of Gujarat's Kathiawar peninsula, separated from the mainland only by a tidal creek. Nagoa is located at the eastern end of the island, which is union territory, is replete with Portuguese culture and contemporary living. Located on the sea coast off the Gujarat coast, Diu is an erstwhile Portuguese colony that boasts of several historical monuments, churches, temples and other picturesque places that might be of interest to you during your sightseeing tours. Diu's biggest attraction, the Nagoa beach, is bang opposite the Radhika Beach Resort.

Place of tourist interest like Fort, Church, Gangeshwar Temple, Jalandhar Beach, etc. can be visited. Horse-shoe shaped, the Nagoa Beach is by far the most famous beach in Diu. Additionally, the high points are the Gir forests and the Somnath Temple that are at a comfortable driving distance from the resort.

Income Tax

1. Assessment of Partnership Firms – CA. Samir N. Divetia, Ahmedabad
2. Practical Issues On TDS & CPC – CA. Mahendra Sanghvi, Mumbai
3. Recent Judicial Trends on Challenge to Reassessment Proceedings – Mr. K.H. Kaji, Sr. Advocate, Ahmedabad.

Value Added Tax & CST

Taxation of Works Contract - CST – 3B Sale in the Course of Transit – Mrs. Nikita Badheka, Advocate, Mumbai.

Service Tax

Negative List Regime – CA. Jigar Shah, Ahmedabad.

LOGISTICS:

Bus : Regular bus services to Diu.

- Ahmedabad to Diu is 375 kms; • Bhavnagar to Diu is 205 km; • Gir to Diu is 97 kms
- Veraval to Diu is 84 kms; • Una to Diu is 24 kms

Air

Jet Airways operates a daily flight between Mumbai and Diu. From the airport Radhika Beach resort is hardly 1 km. We provide airport pick up service on request. Flight from Mumbai is 9W 2500 leaving Mumbai at 13.00 & reaching Diu at 14.05. From Diu to Mumbai the flight is at 14.35 reaching Mumbai by 17.20 hrs.

Rail

The nearest railway station is Veraval. The train service is available to Rajkot and Ahmedabad from Veraval. Ahmedabad is connected with rest of the country by rail. There is a daily train between Bombay – Veraval and Jabalpur - Veraval.

The meeting of the Office Bearers, Past Presidents and other Members of NEC will be held at 4.30 P.M. at Radhika Beach Resort, Diu on Friday i.e. 4th January, 2013. NEC Members and other Members are requested to attend the same.

REGISTRATION:

Registration for National Seminar 2013, Diu can be made with AIFTP Mumbai or AGFTC, Ahmedabad or Taxation Advisors Association, Junagadh on payment of ₹ 6,500/- (Rupees Six Thousand Five Hundred Only) per participant. Account Payee cheque or draft may be drawn in the name of "Taxation Advisors Association, Junagadh" payable at Junagadh or remitted in cash. This amount includes stay on twin or triple sharing basis on first come first serve basis, breakfast, lunch & dinner, study material and local site seeing. It does not include cost of Somnath or Gir Forest visit and extended stay of more than 2 nights & 3 days.

Detailed programme of the event shall be given at the time of registration. Registration form is available on our website.

AIFTP

Mr. S.K. Poddar, National President
Mr. J. D. Nankani, Deputy President
Mr. Ashvin C. Shah, Vice President
Mr. Vinayak Patkar, Chairman, Western Zone
Mrs. Nikita R. Badheka, Chairperson, Conference Committee
Mr. Vipul Joshi, Vice Chairman, AIFTP (WZ)
Mr. Pravin Shah, Secretary, AIFTP (WZ)

All Gujarat Federation of Tax Consultants

Mr. Shailesh C. Desai, President
Mr. Hersh Samir Jani, Secretary
Mr. Bhailal K Patel, Chairman, Convention Committee
Mr. Latesh K Parikh & Mr. Kanubhai N. Patel, Co Chairman
Mr. Rajeev Doshi, Co-Chairman, Saurashtra Region

Rajkot Tax Consultants Society

Mr. G.C. Domadia, *President*
Mr. Mahendra Pujara, *Hon.Secretary*

Taxation Advisors Association, Junagadh

Mr. H.R. Patel, *President*
Mr. Samir Jani, *Secretary*

Jamnagar Tax Practitioners Association

Mr. Mukesh Modi, *President*
Mr. Umesh Ravani, *Hon.Secretary*

WORKSHOP ON MVAT & SERVICE TAX

Organised by
ALL INDIA FEDERATION OF TAX PRACTITIONERS (WESTERN ZONE)
Jointly with
**BOMBAY CHARTERED ACCOUNTANTS' SOCIETY,
THE CHAMBER OF TAX CONSULTANTS,
THE MALAD CHAMBER OF TAX CONSULTANTS AND
THE SALES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA**

Venue : STPAM Library, 104, Vikrikar Bhavan, Mazgaon Mumbai – 400 010
Time : 2.30 p.m. to 5.30 p.m.
Fees : ₹ 1,500/- for Members & ₹ 2,000/- for Non-Members (Including Service Tax)

Sr. No.	Date	Day	Subject	Speakers
1	06.12.2012	Thursday	Issues in Definition of Service, Exempt & Declared Services	CA Sunil Gabhawalla
2	15.12.2012	3rd Saturday	Issues in Valuation of services, Abatement & Reverse Charge Mechanism	CA Naresh Sheth
3	29.12.2012	5th Saturday	Issues in Place of Provision of Service Rules, 2012	CA Girish Raman
4	03.01.2013	Thursday	Issues in Taxation of Intangible Goods & Leasing Trans. under MVAT, CST & Service Tax	CA Deepak Thakkar – MVAT CA Bharat Shemlani – Serv. Tax
5	19.01.2013	3rd Saturday	Issues in Works Contract Transactions under MVAT, CST & Service Tax	CA Vikram Mehta – MVAT CA Ashit Shah – Serv. Tax
6	02.02.2013	1st Saturday	Issues in Point of Taxation Rules, 2011 Issues in Interest, Penalties and Show Cause Notices/Summons	CA Rajiv Luthia
7(a)	09-02-2013	2nd Saturday	Issues in Applicability of MVAT to Builders & Developers – Legal Aspects	Shri Vinayak Patkar, Advocate
7(b)	09-02-2013	2nd Saturday	Issues in Applicability of MVAT to Builders & Developers – Practical Aspects	Shri Dinesh Tambde, Advocate
8	16.02.2013	3rd Saturday	Issues in CENVAT Credit Rules, 2004	Shri Naresh Thacker, Advocate
9(a)	23-02-2013	4th Saturday	Search & Seizure provisions under MVAT Act	Shri Deepak Bapat, Advocate
9(b)	23-02-2013	4th Saturday	Interest, Penalties and Prosecution under MVAT Act	Shri Ashvin Acharya, Advocate
10	02.03.2013	1st Saturday	Issues in Input Tax Credit under MVAT	Shri C. B. Thakar, Advocate
11	16.03.2013	3rd Saturday	Issues in Branch Transfer & Sales in transit under CST Act	Smt. Nikita Badheka, Advocate
12	30.03.2013	5th Saturday	Taxation of Hoteliers, Restaurants, Caterers, Franchisee, etc. under MVAT, Luxury Tax & Service Tax	CA Sujata Rangnekar – MVAT CA Manish Gadia – Serv. Tax

For further details contact

Pravin R. Shah, Hon. Secretary, AIFTP (WZ) • M : 9821476817
Tushar P. Joshi, Hon. Jt. Secretary, AIFTP (WZ) • M : 9821135246

*Kindly issue the cheque in favour of
"All India Federation of Tax Practitioners – Western Zone" payable at Mumbai*

REPORT OF AOTCA SEOUL INTERNATIONAL TAX CONVENTION AT JW MARRIOTT HOTEL, KOREA HELD FROM 17TH TO 20TH OCTOBER, 2012

The following subjects were discussed:-

1. Regulation of Tax Professionals
2. Recent Development in the OECD
3. Recent Development in Transfer Pricing
On behalf of India, Dr. K. Shivaram, Past President of AIFTP presented the paper on Transfer Pricing.
4. Taxation of Foreign Entities in Selected Jurisdiction
5. Tax Audit
6. Recent Development in Tax payer's Charter
7. Discussions on Multi-Disciplinary Practice
8. Tax Systems in Europe – The impact of single market.

On behalf of AIFTP, the following delegates attended the conference.

1. Mr. J. D. NANKANI, Dy. President, AIFTP
2. Mr. M. L. PATODI, Imm. Past President, AIFTP
3. Mr. P. C. JOSHI, Past President, AIFTP
4. Dr. K. SHIVARAM, Past President, AIFTP
5. Dr. P. DANIEL, Member, AIFTP
6. Mr. KAMAL KUMAR PODDAR, Member, AIFTP
7. Mr. HARI OM AGARWAL, Member, AIFTP
8. Miss SHIVANGI PATNI, Member, AIFTP

About 500 delegates from 20 member countries attended the conference.

Mr. J. D. Nankani, Dy. President represented the Federation at the Annual General Meeting of AOTCA. The entire Study Tour Programme was arranged with the Thomas Cook. While returning from Korea, the delegates have also arranged the Study Tour Programme at Shanghai. Next AOTCA Conference will be held on 24th & 25th October, 2013 at Hanoi, Vietnam.

Once we get the full particulars, we will publish the same.

On behalf of the Federation, we had made an appeal to member countries to visit India and interact with the members of the Federation.

J. D. Nankani
Dy. President

INTERNATIONAL TAXATION

CA Dhanesh Bafna, CA Madhav Khandelwal, Sujeeth Karkal, *Advocate*

TRIBUNALS

1. International Shipping Profits – Article 22 – Indo-Swiss DTAA

The Tribunal held that the international shipping profits of the assessee company are covered by Article 22 of the Indo-Swiss DTAA and that although the assessee company had a permanent establishment ('PE') in India in the year under consideration, the ships (i.e., the property in respect of which shipping income was paid to the assessee company) being not effectively connected with that PE, the assessee's case will be out of paragraph No. 2 of Article 22 of the DTAA and will fall in paragraph 1 of that Article. Consequently, these profits will be taxable in the country of residence of the assessee company; i.e., Switzerland and not India.

ADIT v. Mediterranean Shipping Co. [TS-829-ITAT-2012 (Mum.)]

2. Selection of comparables – Sections 92C and 92D – Income-tax Act, 1961

The Tribunal had laid down following principles for selection of comparables:

- i. If the differences between the companies / comparables are so material that adjustment is not possible such comparables are to be rejected.
- ii. Mere low profit or loss would not make a functional comparable company uncomparable, but if the ultimate result is of a nature which demonstrate that such company is not comparable, that company deserves to be excluded.

- iii. An entity can be taken as uncontrolled, if its related party transaction does not exceed 25 per cent of the total revenue.
- iv. A comparable cannot be rejected just because it is operating in that sector in a different line.

The Tribunal further held that the working capital will be a relevant factor for determination of profit margin and an adjustment to eliminate the disparity would always be required.

Actis Advisors P. Ltd. v. Dy. CIT [20 ITR (Trib.) 138 (Del)]

3. Disallowance under S. 40(a)(i) – Assessee in default – 40(a)(i) r.w.s. 201 / 201(1A) – Income-tax Act, 1961

The Tribunal held as follows:

- i. In the present case, since the payee was not identifiable at the time of making provisions for expenses for the year, no deduction of tax at source ('TDS') needs to be made on the provision for expenses. Furthermore, the assessee was following the provisions of TDS as and when the amounts were paid/credited to respective parties.
- ii. Once the amount has been disallowed u/s 40(a)(i), by the assessee under section 40(a)(i) and has been accepted by the assessing officer, the same amount cannot be considered as the amount covered by the provisions of Sections 194C to 194J so as to raise the demand for TDS again under section 201, and levy of interest under section 201(1A).

Pfizer Ltd. v. ITO (itatonline.org)

DIRECT TAXES

Ajay R. Singh, Paras S. Savla, Rahul Hakani, & Renu Choudhuri
Advocates, KSA Legal

SUPREME COURT

1. S. 80-IA: Deduction – Industrial Undertaking – No deduction of entire profit in case where there is failure to maintain separate books of account

The assessee was engaged in manufacture of yarn. The assessee did not maintain a separate account for trading and for goods manufactured. During the relevant year under consideration, assessee sold raw wool, wool waste and textile and knitting clothes. It was held that deduction with respect to entire profit (calculated in terms of quantity of wool) could not be granted as assessee failed to maintain separate books of account. (A.Y. 1998-99)

Arisudana Spinning Mills Ltd. v. CIT (2012) 348 ITR 385 (SC)

HIGH COURTS

2. S. 147: Reassessment – Change of opinion – Application of law or interpretation of a statute leading to a particular conclusion cannot lead to a conclusion that tax has escaped assessment

The assessee sold a property to a builder for consideration and prior to execution of conveyance deed, the assessee invested the amount from consideration received in notified bonds and was granted deduction u/s. 54EC. In spite of all the records and details submitted the AO reopened the assessment denying the claim of deduction. It was held that application of law or interpretation of a statute leading to a particular conclusion cannot lead to a conclusion that tax has escaped assessment for this would then certainly amount to review of order which is permitted unless so specified in a statute. It was further held that initiation of proceedings u/s. 147 also proceeded on the view that there had been non-application of mind during original proceedings for assessment. This was unsustainable in law and fresh application of mind on the same set of facts amounted to change of opinion and did not warrant reopening. (A.Y. 2006-07)

Mrs. Parveen P. Bharucha v. Dy. CIT (2012) 348 ITR 325 (Bom.)(HC)

3. S. 244A: Refund – Interest on refund – Meaning of “excess of such demand”

A look at the scheme of the Act clearly demonstrated that at initial stage of any proceedings

under the Act, any refund will be dependent on whether any tax has been paid by an assessee in excess of tax actually payable by him. The ambit and scope of S. 244A has been explained in Departmental Circular No. 549 dated October 1989, which supports the view that interest on refund amount is due from the date of actual payment u/s. 244A(1)(b) to the date of refund. It was held except making bald statement, it was neither pleaded nor proved with the help of cogent material that the delay was attributable to petitioner. The petitioner was entitled to receive interest on the amount which was refunded to it on various dates for relevant AY from date of actual deposit to the date of actual refund. (A.Ys. 1992-93, 1993-94 & 1994-95)

Prayag Udyog P. Ltd. v. UOI (2012) 348 ITR 217 (All)(HC)

4. S. 271(1)(c): Penalty – Concealment of income – Disallowance of fees paid to Registrar of Companies and claim of depreciation – Error being genuine and bona fide, no penalty be levied

The AO levied penalty in case of disallowance of fees paid to Registrar of Companies and claim of depreciation. It was held that the AO did not contradict the plea of the assessee that the excess claim of depreciation was an inadvertent error. As elements in the case indicate that the error by the assessee was genuine and *bona fide*, deletion of penalty was justified. (A.Y. 2001-02)

CIT v. Brahmaputra Consortium Ltd. (2012) 348 ITR 339 (Delhi)(HC)

TRIBUNALS

5. S. 2(22)(e): Deemed dividend – Loan – No “Deemed Dividend” if loan to shareholder given as quid pro quo

Every payment by a company to its shareholders may not be a loan/advance so as to come within the ambit of s. 2(22)(e). In the instant case, the amount was withdrawn by the assessee from the company only to meet her short-term cash requirements. By virtue of offering personal guarantee and collateral security for the benefit of the company, the liquidity position of the assessee had gone down. In the strict sense, the amount forwarded by the company to the assessee was not in the shape of advances or loans. The arrangement between the assessee and the company was merely for the sake of convenience arising out of business expediency (*Pradip Kumar*

Malhotra 338 ITR 538 (Cal) & Creative Dyeing & Printing 318 ITR 476 (Del) followed).

ACIT v. G. Sreevidya (Chennai)(Trib.) (www.itatonline.org)

6. S. 115JB: MAT – Book profit – SEZ units continue to be exempt from MAT

The assessee had two undertakings, one of which was a SEZ unit and the other which was a STPI unit. Both units were eligible for deduction u/s 10A. By the Special Economic Zone Act, 2005, s. 10AA was inserted w.e.f. 10-2-2006 to provide deduction in respect of units established in SEZs. By the same Act, sub-sec. (6) was inserted in s. 115JB to provide that the profits of an SEZ unit would not be liable to MAT. By the Finance Act, 2007, clause (f) to explanation (1) to s. 115JB (2) was amended w.e.f. 1-4-2008 so as to delete the words "sections 10A or 10B" though sub-sec. (6) of s. 115JB was retained. The AO & CIT(A) held that the effect of the deletion of the reference to ss. 10A & 10B in s. 115JB meant that the units which were eligible for ss. 10A & 10B deduction were no longer exempt from s. 115JB and only units which were eligible for s. 10AA deduction would be exempt from s. 115JB. On appeal by the assessee, HELD allowing the appeal:

S. 115JB (6) does not refer to either s. 10A or s. 10AA but simply provides that the MAT provisions shall not apply to income arising from any business carried on in an unit located in a SEZ. Consequently, despite the fact that an amendment was made in clause (f) of Explanation (1) to s. 115JB(2) to provide that MAT shall apply to units eligible for

s. 10A or 10B, a unit which is situated in a SEZ will continue to be exempt from MAT by virtue of s. 115JB(6).

Genesys International Corpn. Ltd v. ACIT (Mum) (Trib) (www.itatonline.org)

7. S. 143: Assessment – Remand – Despite set aside for “de novo consideration”, AO cannot look at fresh issues

The scope of proceedings after remand depends on the terms of the remand order. If the Appellate Authority has set aside the assessment and directed the making of a fresh assessment without imposing any restrictions or limitations, the AO has the same powers in making fresh assessment as he originally had. However, if any restrictions are placed, the AO cannot travel beyond those restrictions. The scope of the remand order has to be determined depending on the subject matter of the appeal and the appellate order read as a whole in its proper context. On facts a perusal of the findings of the CIT (A) shows that he was concerned with the additions made in the original assessment order and it was in the light of the additions made therein, that the assessment was set aside for *de novo* consideration. This clearly shows that the directions of the CIT (A) for *de novo* assessment were restricted to the additions made by the AO in the original assessment order and, therefore, the AO had no jurisdiction to look at other issues.

Gemini Oils Pvt. Ltd. v. ITO (Mum.)(Trib.)(www.itatonline.org)



INDIRECT TAXES

Nikita R. Badheka Advocate & Notary

1.1 Alternate remedy – Directions u/s 18A of Central Sales Tax Act

Petitioner contented not to be a dealer as it was engaged in providing wire line logging, perforation and related services for both on shore and off shore projects of major National and International Oil Companies, wherein, goods are not transferred. The activities carried out above are taxable under the provisions of Service Tax. The Allahabad HC held, When, the issues are likely to be raised, as to whether the petitioner is a dealer; whether he is required to obtain registration with Central or Sales Tax Department; and whether Form 'F' is the only evidence to rebut presumption under Section 6-A, it would be appropriate to relegate the petitioner to file an appeal under Section 18-A of the Central Sales Tax Act 1956, before the highest Appellate Authority

of the State. Writ petition dismissed on the ground of alternative remedy.

H.L.S.Asia Ltd. v. State of U.P. and Others (All.) 2012 NTN (Vol.49)-283

1.2 Alternate remedy – Writ directions

The matter was pending in the Court since 1993 and stay was operating in favour of the Petitioner. On being pointed out that the Petitioner has an alternate remedy, the P & H High Court granted liberty to the petitioner to file an appeal. If the appeal is filed within 30 days from the date of order then the objections regarding the period of limitation would not be pressed and the appeal would be considered to have been filed within time. The petitioner was given liberty to file an appropriate application for

continuation of the stay order which was granted by this Court. The Court further directed that the stay order will continue for a period of 60 days and further direction were given to the Appellate Authority to dispose of the application for interim order within a period of 60 days, if possible.

M/s Associated Construction Company, Gurgaon v. The State of Haryana and Another (2012) 42 PHT 16 (P&H)

2. Retrospective amendment

The definition of value of goods was amended and made effective from a retrospective date, so as to add freight to the value of goods for the purpose of Entry tax. The Commercial Tax Tribunal, Meerat, held when the tax was levied, assessed, collected under the Act of 2000, the position shall not be altered on account of retrospective amendment. Assessment already made by the Assessing Authority cannot be changed on the ground of coming into existence of the new ordinance. Second Appeal was allowed, order of enhancement of tax made by the First Appellate Authority was quashed.

2012 NTN (Vol.49) Tribunal - 179 - Agarwal coal Suppliers v. CCT - SA 210/2009 dt 26th July, 2012

3. Input Tax Credit

Under UP VAT provisions, ITC can be denied if it is established that purchases are not *bona fide* or the registration of the seller has been cancelled. Tribunal on Second Appeal held that it is not a case of the department that the Tax Invoices are fake or counterfeit; under Rule 21 of UP VAT Rules claim of ITC can only be denied if it is established that there was no *bona fide* purchase or the registration of the seller has been cancelled; most payments have been made through cheque; appellant has paid tax to the seller; If the seller had committed some wrong, the purchaser should not suffer without his fault. It is not a case that the purchases made by the appellant are not *bona fide*. ITC claimed on purchases made from, alleged dealer was allowed; Turnover of purchases presumed to have been made from unregistered dealers deleted; estimated of evaded turnover was reduced.

2012 NTN (Vol.49) Tribunal-181—Tirupati Papers v. CCT SA 265 /2011 dt 26th July, 2012

Hearty Congratulations

Dr. Ashok Saraf, Vice President of AIFTP has been appointed as Senior Standing Counsel of the Income Tax Department in Guwahati High Court.

We wish him all the success.

Non-receipt of the Times must be notified within one month from the date of publication, which is 4th of every month.

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