



AIFTP TIMES

Volume 4 - No. 7 | July, 2013

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
5-7-2013	National Executive Committee Meeting	Hyderabad
6 & 7-7-2013	National Tax Conference	Hyderabad
16 to 18-10-2013	AOTCA Conference at Hanoi	Vietnam
25 to 27-12-2013 (proposed)*	National Convention	Mumbai
* Subject to confirmation		

Renewal Subscription to AIFTP Journal and Voluntary Contribution to Palkhivala National Tax Moot Court Competition and Research on Tax

Dear Members,

We have posted bill for renewal subscription of AIFTP Journal and Palkhivala Foundation in 1st week of March, 2013. Members who have not renewed are requested to send the DD or Cheque in favour of "All India Federation of Tax Practitioners" payable at Mumbai as early as possible.

Members can also download the subscription and an Appeal for voluntary contribution from our website; i.e., www.aiftponline.org and send us the subscription.

Thanking you,

For All India Federation of Tax Practitioners

NARAYAN P. JAIN
Secretary General

Note: Members who have not paid the subscription for AIFTP Journal for the year 2013-14 will not receive the journal from July 2013 onwards.

Non-Receipt of AIFTP Journal and AIFTP Times

AIFTP Journal is posted to all AIFTP Journal subscribers on 23rd of every month.

If the subscriber does not receive the AIFTP Journal on or before 30th of the month please send a e-mail or written intimation to the office of the All India Federation of Tax Practitioners to enable the office to take corrective action.

AIFTP Times is posted on 4th of the month to all members.

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Mitesh Kotecha
Chairman, Journal Committee

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NOTICE TO MEMBERS

Notice is hereby given that the Annual General Meeting of the Members of All India Federation of Tax Practitioners (Western Zone) will be held on Friday, the 19th July, 2013 at 215, Rewa Chambers, 31, New Marine Lines, Mumbai – 400 020 at 6.30 p.m. to transact following business:-

AGENDA

1. To read and approve the minutes of the AGM held on 28th June, 2012.
2. To receive and adopt the Annual Report of the Managing Committee (WZ) for the year 2012-13.
3. To consider and adopt the audited accounts of the Federation (WZ) for the year ended 31st March, 2013.
4. To appoint Auditors for the year 2013 - 2014 and fix their honorarium.
5. To transact any other business with the permission of the Chair.

Yours faithfully,
For A.I.F.T.P. (WZ)
Sd/-
(Pravin R. Shah)
(Tushar P. Joshi)
Hon. Jt. Secretaries

Place: Mumbai
Date: 21-06-2013

- Note. 1. Accounts for the year ended on 31-3-2013 and the report of the Managing Committee for the Western Zone can be collected from the Office of the Federation from 13th July 2013 onwards between 11.30 a.m. to 5.00 p.m. The accounts and report can be made available to the members through e-mail on request to the office.
2. If there is no quorum by 6.30 p.m., the meeting will be adjourned by half an hour and the members present at such adjourned meeting shall form the quorum.

NOTICE TO MEMBERS

Notice is hereby given that the Annual General Meeting of the Members of All India Federation of Tax Practitioners (Southern Zone) will be held on Friday, 26th July, 2013 at Hotel Amrutha Castle, Opp. AP Secretariat, Hyderabad at 6.00 p.m. to transact following business:-

AGENDA

1. To read and approve the minutes of the AGM held on 14th July, 2012.
2. To receive and adopt the Annual Report of the Managing Committee (SZ) for the year 2012-13.
3. To consider and adopt the audited accounts of the Federation (SZ) for the year ended 31st March, 2013.
4. To appoint Auditors for the year 2013-14 and fix their honorarium.
5. To transact any other business with the permission of the Chair.

Yours faithfully,
For All Indian Federation of Tax Practitioners (SZ)
Sd/-
(S.S. Satyanarayana)
Secretary

Place: Hyderabad
Date: 24-06-2013

- Note. 1. Accounts for the year ended on 31-3-2013 and the report of the Managing Committee for the Southern Zone can be collected from the Treasurer from 1st July 2013 onwards between 11.30 a.m. to 5.00 p.m. The accounts and report can be made available to the members through e-mail on request to the office.
2. If there is no quorum by 6.00 p.m., the meeting will be adjourned by half an hour and the members present at such adjourned meeting shall form the quorum.

REPORT ON FULL DAY SEMINAR AT RAIPUR ON 17-2-2013**By CA G.S. Agrawal, Member, NEC, AIFTP**

Income Tax Bar Association, Raipur in association with All India Federation of Tax Practitioners, Chhattisgarh Income Tax Bar Council and Raipur Branch of The Institute of Chartered Accountants of India organised a full day Seminar on 17-2-2013 at Raipur wherein provisions concerning "Transfer Pricing relating to domestic transactions under the Income-tax Act" was discussed by Shri Nihar Jambusaria, Central Council Member of The Institute of Chartered Accountants of India; "Salient features of Company Law Amendment Bill, 2012" was discussed by Shri Manoj Sharma, Chartered Accountant, Bhopal; and "Provisions concerning Sec. 68 of the Income-tax Act with reference to Sec. 115BBE" was discussed by CA Sakshi Gopal Aggarwal, Raipur.

Reception Committee Chairman, CA G.S. Agrawal welcomed the delegates. Shri M.M. Upadhyay, Chairman, Raipur Branch, Shri Sushil Jhabak, President, Income Tax Bar Association, Raipur, Shri Mulchand Jain, President, Chhattisgarh Income Tax Bar Association informed about the activities carried on by their respective organizations.

Shri G.D. Agrawal, Hon'ble Vice President, Income Tax Appellate Tribunal, Delhi inaugurated the Seminar. In his inaugural speech, he suggested to the participants that updating of law is very essential for practice as the fiscal law is changing frequently and very fast. The members of Income Tax Appellate Tribunal had 10 days residential conference on International Taxation and Transfer Pricing provisions. He suggested that Transfer Pricing is not a Dinosaur and once you get acquainted with the provisions, which is a must for any practitioner, it becomes easy. He suggested the practitioners that acquaintance with Transfer Pricing mechanism such as selection of method, relevant comparative data, maintenance of records as required under the provisions of Transfer Pricing under the Income-tax Act needs skill and should be studied carefully before suggesting to the client. In lighter moment, he compared the matching of transaction with other transaction under various methods as envisaged in Sec. 92C is just like selecting a blouse piece matching with a saree by a lady. Many a times, the lady does not find it's perfect match and so is the case with the revenue authorities. He suggested to have workshop for at least two days to have thorough basic knowledge of the subject.

Shri S.K. Poddar, President, All India Federation of Tax Practitioners shared his experience regarding performance made by young Chartered Accountants and Advocates in the Moot Court held at Mumbai observing that young professionals are very promising and should join AIFTP so that benefit of their talent may be shared by the profession at large. Shri Poddar stated that the Government is the biggest litigation either under Income Tax, Service Tax or other Laws and to reduce it, infrastructure requires to be developed.

Shri T. Jena, Chief Commissioner of Income Tax, Chhattisgarh was Special Guest. He was party in drafting Transfer Pricing Legislation under the Income-tax Act. He explained that Transfer Pricing provisions either for international transaction or for domestic transaction is extension of Sec. 40A(2)(b) with difference in modality and a jump from fair market value to arm's length price. Different methods have been incorporated in the provision to work-out arm's length price requiring knowledge of data and information concerning the transaction entered into by third parties or with third parties. Basically, in Transfer Pricing provisions, what is happening in other entities thereby knowing the bench mark which then accepted by the taxing authorities. The Chief Commissioner also showed his concern that collection in personal Income Tax is not growing in proportion in which there is growth in Central and Commercial Tax collections. He also shared his views that number of Income Tax assesseees having income above ₹ 10 lakhs is very few if salaried assesseees are excluded. He observed that tax practitioners are important to the Department and they work together for timely compliance of Income Tax provisions and due payment of taxes for the growth of the nation.

Shri Nihar Jambusaria made Power Point presentation regarding Transfer Pricing provisions relating to domestic transactions under the Income-tax Act. He explained the meaning of Associate Enterprise as per Sec. 92A, meaning of Specified Domestic Transaction as per Sec. 92BA, computation of arm's length price as per various methods prescribed u/s 92C, importance of maintenance and keeping of information and documents by persons entering into Specified Domestic Transactions. Shri Jambusaria also explained that provisions concerning international transaction were introduced by Finance Act, 2001 and by this time the statistics and datas were available in public domains for international transactions but for domestic transactions such datas are not available generally. He suggested that right now when the transaction takes place, required

information should be kept, because later on it would be difficult to find the same. He also informed that it has been suggested to the Hon'ble Finance Minister that for many transactions bench mark may not be available such as remuneration paid to directors and such transactions should be kept outside the purview of the provisions of Transfer Pricing. This session was chaired by Shri G. D. Agrawal, Hon'ble Vice President, ITAT, Delhi.

Shri Manoj Sharma, CA, Bhopal made Power Point presentation regarding salient features of Company Law Amendment Bill, 2012. This session was chaired by Shri K. M. Deshpande, FCA, Raipur. The learned speaker prepared a comparison of various important provisions concerning the practitioners as per the proposed Companies Bill with the present one. He cautioned the members with regard to penal provisions now introduced for the default committed by the practitioners. He discussed the important provisions contained in the Bill such as formation of company; one person company; changes in requirement of Object Clause, change in method of service of documents to the members; conversion of public into private, acceptance of deposits; management of administration, provisions relating to resolution etc.

Shri Sakshi Gopal Aggarwal, FCA, Raipur discussed the provisions of Sec. 68 with reference to newly inserted Sec. 115BBE. This session was chaired by Shri Nihar Jambusaria. Shri Sakshi Gopal discussed the established norms in discharging the onus by the assessee to prove the credit viz., identification of the creditor, capacity and genuineness of the transaction with the help of various case laws such as *CIT v. Baishnab Charan Mohanty - (1995) 212 ITR 199 (Ori.)*; *CIT v. Orissa Corp. (P) Ltd. - (1986) 159 ITR 78 (SC)*; *DCIT vs. Rohini Builders - (2002) 256 ITR 360 (Guj.)*; *Commissioner of Income Tax v. Diamond Products Ltd. - High Court of Delhi - (2009) 21 DTR (Del) 9: (2009) 177 Taxman 331*. He also discussed the recent judicial pronouncements concerning share application money received by the companies and the extent of responsibility of the assessee to discharge the onus. He also discussed the applicability of Sec. 68 in case of gifts received with the help of various judicial pronouncements; Year of Taxability; Peak Credit Theory; Telescoping Benefit; Applicability of Sec. 68 in those cases where presumptive rate of tax is applied etc., were also discussed. He also discussed provisions relating to newly inserted Sec. 115BBE. He explained the judgment of *Hon'ble Gujarat High Court in Radhey Developer - 329 ITR and also Chokshi Hiralal Maganlal v. Dy. CIT - (2011) 9 Taxman* explaining that where the source of unexplained investment is clearly identifiable, then income u/ss. 68, 69, 69A, 69B and 69C cannot be assessed headless. If the assessee explains that such income was earned out of his business or any other definite source of income, it should be assessed under the respective heads. In that case, the assessee was allowed to set-off the losses and claim remuneration to its partners in case of a partnership firm. However, w.e.f. A.Y. 2013-14, if the income is assessed u/ss. 68, 69, 69A, 69B, 69C or 69D, it will be taxed at the maximum marginal rate of 30% and no basic exemption or deduction for expenditure will be allowed, and therefore, set-off of loss u/s Chapter VI or set-off of depreciation u/s 32 will not be permissible. Deduction u/s VI-A will not be also allowed. He cautioned the participants to be very alert while dealing in cases falling under above sections and in particular during operation u/ss. 132 & 133A.

Shri L.C. Lekhwani was the master of ceremony. His unique act of conducting the proceedings in flowery language coupled with appropriate couplets, geets, sher, shayari was highly appreciated by the dignitaries and the delegates.

Shri Rajesh Golchha, Secretary of Income Tax Bar Association, Raipur proposed vote of thanks.



Hearty Congratulations

Congratulations to the newly elected office bearers of Income Tax Bar Association, Ahmedabad for the year 2013-14.

President : Jignesh A. Bhagat
Vice President : Rupesh R. Shah
Hon. Secretaries : Shalin N. Parikh & Parin P. Shah
Hon. Treasurer : Shital M. Shah

We wish them all the success

REPORT FROM EASTERN ZONE

A condolence Meeting to mourn the sad demise of Mr. B. C. Joshi was held on Thursday, the 23rd May, 2013 at 4.00 p.m. at The Library of The Commercial Tax Practitioners' Association (West Bengal), which had been organised in association with The All India Federation of Tax Practitioners (East Zone).

The meeting was addressed by Shri R. D. Sharma, President, Commercial Taxes Practitioners' Association (West Bengal), who narrated his association with the Past President, Late B. C. Joshi. In his speech, he honoured Late B. C. Joshi as an outstanding personality in the profession. Thereafter, the Zone Chairman of All India Federation of Tax Practitioners (East Zone) paid his homage to the departed soul. He further read to the members, the achievements of the Professionalist, who had left this Universe, and vacuum created by his absence would be difficult to fill.

The Condolence Meeting was later addressed by the Secretary General Prof. Narayan Prasad Jain, who when paying his homage said, that Power of Knowledge is very essential in one's life, and it was Late B. C. Joshi who had this in abundance. Few other members of the Commercial Taxes Professionals' Association paid their tribute to the departed soul.

At the end of all homage paid, the Zone Chairman, Shri Indu Chatrath read out the condolence message, which duly signed by the President of The Commercial Taxes Practitioners' Association, West Bengal.

The meeting terminated with a minute silence as a mark of respect and homage to the departed soul of Late Balbhadra C. Joshi.

Indu Chatrath, Chairman, AIFTP (EZ)



INTERNATIONAL TAXATION

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

HIGH COURTS

1. Liaison Office – Section 9 – Income Tax Act, 1961

The assessee, a company from United States of America, had set up a liaison office in India whose main activity was to liaise with Indian manufacturers for purchase of apparels from India by the assessee's head office and its overseas subsidiaries. As the entire operations of the liaison office are confined to the purchase of goods in India for the purpose of export, the income derived therefrom cannot be deemed to accrue or arise in India in terms of Explanation 1(b) to section 9(1)(i). The non-resident buyer may in turn pay some consideration to the assessee outside India but as that contract between the assessee and the buyer is entered outside India, that income arises or accrues to the assessee outside India and is not chargeable to tax in India.

CIT v. Nike Inc (Karnataka High Court)(www.itatonline.org)

TRIBUNALS

2. Investment in share capital of subsidiaries – S. 92B – Income Tax Act, 1961

An amount paid for investment in share capital of subsidiaries outside India is not in the nature

of an "international transaction" as defined in s. 92-B. Transfer pricing provisions are not applicable to transactions where there is no income.

Vijai Electricals Ltd v. ACIT (ITAT Hyderabad)(www.itatonline.org)

3. Royalty on sales made to AEs– ALP – S. 92 – Income Tax Act, 1961

In the present case, the basis of payment of royalty to the foreign parent company was on a percentage of sales (irrespective of sales to its associated enterprises ('AE')). The Transfer Pricing Officer ('TPO') determined the arms length price ('ALP') as NIL for the royalty payment on sales made to AEs. The Tribunal held that the TPO has not doubted the benefits derived by the assessee from the payment of royalty. In fact by accepting the arms length nature of royalty on sales made to third party, he has implicitly accepted the benefit derived by the assessee for making royalty payment. Thus, the royalty payment made on sales made to the AEs is at ALP and hence, the TP adjustment was deleted.

Samsung India Electronics Pvt. Ltd. v. ACIT (2013) (34 taxmann.com 299)(Del)(Tri)

DIRECT TAXES

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

HIGH COURTS

1. S. 148 : Reassessment – Shock & Anguish expressed at mal administration by AO & CIT. CBDT directed to take action against erring officials

The assessee, a charitable trust registered u/s 12A, received donations of ₹ 5.23 crore in A.Y. 2006-07. The assessee filed a ROI offering Nil income and the same was accepted by the AO u/s. 143(3) without making any inquiry. Subsequently, the CIT initiated proceedings u/s 12AA(3) for cancellation of registration of the assessee as a charitable trust. However, this was dropped without assigning any reasons. Thereafter, the AO issued a notice u/s 148 seeking to reopen the assessment on the ground that the said donation was bogus as the donor had no financial capacity to give the donation. The assessee filed a Writ Petition to challenge the reopening. High Court dismissed the Petition.

It is shocking to note that as a matter of fact, that the said assessment order is no assessment order in the eyes of law. There is not even a whisper with regard to the receipt of donation of ₹ 1.57 crore. It is really not understandable under what circumstances the said assessment order came into existence. The assessment order is bereft of any discussion with regard to the genuineness of the donation given or the creditworthiness of the donor to part with such a huge amount. It is also shocking to note that the CIT passed an order dropping the proceedings for cancellation of registration without assigning any reason. One fails to understand what impelled him to do so. The order being bereft of any reason is no order in the eyes of law and is liable to be ignored being illegal and void. The income tax authorities are required to administer the Act. The right to administer cannot obviously include the right to mal administer. Thus, we find no words to express anguish as what kind of governance it had been. Failure to give reasons amounts to denial of justice. It is a case where the AO, the Addl. CIT and the CIT have abdicated their duties. The Court in the exercise of supervisory jurisdiction under Articles 226 and 227 of the Constitution of India cannot be a mute spectator. Such actions on the part of the department not only bring disrepute to the department but also encourages the dishonest assesseees and promotes the nefarious activities which not only causes loss to revenue but also promotes dishonestly. An honest tax payer feels cheated. Let the matter be examined by the Chief Commissioner of Income-tax and appropriate departmental proceedings may be taken out against the erring officials. A copy of this judgment may also be sent to the Chairman of the CBDT for appropriate action.

Fateh Chand Charitable Trust v. CIT (Allahabad High Court)

2. S. 54 : Capital gains – Profit on sale of property used for residence – 54F deduction allowable for purchase of multiple independent house units

The assessee offered long term capital gains on sale of property and claimed s. 54 deduction on the ground that he had purchased two adjacent residential flats. The AO held that the deduction could not be given for both flats on the ground that they were independent units, separated by a strong wall. The CIT(A) and Tribunal allowed the claim on the basis that s. 54 deduction was available for purchase of multiple flats, even if the flats were on different floors. Appeal by the department the High Court dismissed the appeal.

The expression "a residential house" in s. 54(1) has to be understood in the sense that the building should be of residential nature and "a" should not be understood to indicate a singular number. Where an assessee had purchased two residential flats, he is entitled to exemption u/s 54 in respect of capital gains on sale of its property on purchase of both the flats, despite the fact that the flats were purchased by separate sale deeds. Deduction is allowable even if the flats are on different floors. On facts, as the two flats purchased by the assessee are adjacent to one another and have a common meeting point, the deduction cannot be denied.

CIT v. Syed Ali Adil (Andhra Pradesh High Court)

3. S. 271(1)(c) : Penalty – Concealment – No penalty for not offering capital gains on s. 50C stamp duty value

The assessee sold property for a consideration of ₹ 2.50 crore. However, for the purpose of stamp duty, the property was valued at ₹ 5.19 crore and stamp duty was paid on that value. The assessee offered capital gains on the basis that the sale consideration was ₹ 2.50 crore. The AO invoked s. 50C and held that the sale consideration had to be taken at ₹ 5.19 crore and capital gains computed on that basis. The AO imposed penalty u/s 271(1)(c) which was deleted by the CIT(A). The Tribunal relying on Renu Hingorani the department appeal was dismissed by the High Court.

Though the assessee could have disputed the valuation on the basis of the deemed value and chose not to do so, the fact remains that the actual amount received was offered for taxation. It is only on the basis of the deemed consideration that the proceedings u/s 271(1)(c) started. The revenue has failed to produce any evidence that the assessee actually received one paise more than the amount shown to have been received by him. As such, there is no scope to admit the appeal.

CIT v. Madan Theatres (Calcutta High Court)

4. S. 92 : Avoidance of tax – Transfer pricing – Arm's length price – All related transactions cannot be considered for PLI determination

The assessee's parent company, Digital Microwave Corporation USA, supplied equipment to Indian

customers for which the assessee received commission. The said equipment was covered by warranty and the service relating thereto was provided by the assessee. The assessee also undertook installation of the said equipment and provided annual maintenance. The assessee claimed that while the receipt of commission and the provision of warranty service were "international transactions" with the AE and subject to transfer pricing regulations, the installation & maintenance service was an independent transaction and could not be considered while computing the PLI for determining the ALP. The TPO rejected the claim and held that in computing the profit level indicator of the international transactions involving warranty services and commission income, the operating revenue and operating costs of the installation/commissioning and maintenance services had to be taken. The CIT(A) & Tribunal upheld the assessee's claim. Appeal by the department to the High Court dismissed the appeal.

The department's argument that the installation, commissioning & maintenance services were intricately connected with the international transactions of warranty support services and commission income and that their operating cost and operating revenue had to be considered while computing the profit level indicator is not acceptable because the installation/commissioning and maintenance agreements were independent

agreements unconnected with the transactions of warranty support services and commission income. This is shown by the fact that while the equipment was supplied to 40 customers by the AE, only three of them availed of the installation services from the assessee. Also, a corroborative circumstance for construing the transactions of installation/commissioning and maintenance as domestic transactions was that the TPO had made no adjustment in respect of these transactions. The transactions pertaining to the installation/commissioning and maintenance services were also not deemed international transactions u/s 92B(2) because none of the conditions stipulated therein of a prior agreement existing between the customers of the assessee and the AE have been established as a fact. Moreover, there is no finding that the terms of the transaction of installation/commissioning as well as maintenance had been determined in substance between the customers and the assessee by the AE. In the absence of such finding, it cannot be deemed that the transaction of installation/commissioning as well as provision of maintenance services by the assessee to its domestic customers in India were international transactions falling within s. 92B(2).

CIT v. Stratex Net Works (India) Pvt. Ltd. (Delhi High Court)



INDIRECT TAXES

P. C. Joshi Advocate

1. Auction – Sale

Following the judgment of the Supreme Court in the case of Telco 27 STC 127 (SC), the Uttarakhand High Court held that when the Invoice issued by the auctioneer revealed that the goods were being transported from one State to another, it was a case of inter-State sale.

Chandra Kathha Industries Pvt. Ltd. v. State of Uttarakhand & Ors. 2013 NTN (Vol. 52) Pg.43

2. Delegated Legislation

The Guwahati High Court held that unless the enactment authorised the issue of a notification with retrospective effect, the same would be effective from the date of its issue.

Kamakhya Plastics (P) Ltd. v. State of Assam & Ors. 2013) 21 KTR 291 (Gau.)

3. Entries to Schedule – Hand sewing needles

The Allahabad High Court applied the doctrine of *ejusdem generis* and held that when a particular word was part of the same class of goods or of same category, and where the item was specified in such a manner that the same is followed by general words then such general words was required to be construed in the context of the specific words used earlier. Accordingly the hand sewing needles used for stitching or for creating a design, were held to be alike and therefore was covered by entry 45 of Schedule 2 Part A liable to tax @ 4%.

Commissioner Commercial Tax v. Malik Needle & Allied Industries Pvt. Ltd. 2013 NTN (Vol. 52) Pg. 51.

4. Exemption

The Uttarakhand High Court held that the tax exemption u/s. 4-B(2) of the Local Act, can be availed of by electricity generating company for purchases of all the goods that are required to be used directly or indirectly in the production or generation of electricity as well as for establishment of the plant and the construction of a new unit on the footing that such goods were required to be used in the establishment and effective running of the plant so as to make it functional.

Commissioner, Trade Tax/Commercial Tax v. Tehri Hydro Development Corpn. Ltd. 2013 NTN (Vol. 52) P.38

5. Exemption – Pro rata

The Bombay High Court upheld the validity of the amendment to MVAT Act, 2002 by amending Act 22 of 2009 whereby, the defects pointed out by its earlier judgment in the case of Pee Vee Textiles were removed and the incentives under the Package Scheme, 1993 were effectuated retrospectively to be granted proportionately. The provision of retrospective operation of the penalty right from 1st April, 2005 was however held to be arbitrary.

M/s. Jindal Polyfilms Ltd. & Ors. v. State of Maharashtra & Ors. (Writ Petition No. 313 of 2010 decided on 10th June, 2013.

6. Issue of declarations

The Guwahati High Court held that issuance of blank declaration forms cannot be withheld simply

because one of the partners of the firm happens to be a partner of another partnership firm against which certain amount was recoverable as outstanding dues. *Sarada Bricks Industries & Ors v. State of Tripura & Ors. (2013) 21 KTR 326 (Gau.)*

7. Recovery

The tax dues due from a limited company was sought to be recovered from the personal assets of the director, the Allahabad High Court disapproved such an action which was taken without paying any heed to the objections raised by the Director, before the authorities. *Trilok Chand Gupta v. State of U.P. Through Secy. Institute of Finance and Anr. 2013 NTN (Vol. 52) P.76.*

8. Reassessment

The Allahabad High Court held that the order of appellate authority being biding on the assessing authority, the assessment in accordance with the appeal order; it cannot be said to be a case of escaped assessment. *Siva Electronica (India) Pvt. Ltd. v. State of U. P. & Anr. 2013 NTN (Vol. 51) P. 288.*

9. Refund

The West Bengal Taxation Tribunal held that the refund granted in the original assessment order after considering the quantum of ITC, cannot be reduced by reviewing the same *suo motu* on the ground that there was doubts about movement of goods as well as the existence of the seller.

Boscon Leather Products Pvt. Ltd. & Anr v. DCST, Barsat Charge & Ors. (2013) 61 S.T.A. P.293

10. WRIT JURISDICTION

The West Bengal Taxation Tribunal admitted the petition after finding that the relevant rule was violated by the impugned order. No show cause notice was issued to the assessee nor any opportunity of hearing afforded to the assessee. The case was held to be that of ex-facie arbitrariness and denial of natural justice.

N.C. Shaw & Co. Beverages Pvt. Ltd & Anr. v. The Collector of Excise, Kolkata & Ors. (2013) 61 S.T.A. P.297.



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Eastern	3	1104	35	3	1145
Northern	0	897	17	0	914
Southern	1	838	13	5	857
Western	4	1661	33	15	1713
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Associate Editors of AIFTP Times : Mr. Kishor Vanjara & Mr. Deepak R. Shah

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