

All India Federation of Tax Practitioners



# AIFTP TIMES

Volume 6 – No. 8 • August 2015

FORTHCOMING PROGRAMMES	Date & Month	Programme	Place
	7 & 8-8-2015	Two Day Seminar on Real Estate Transactions (WZ)	Mumbai
	23-8-2015	Annual General Meeting (CZ)	Jodhpur
	10-10-2015	National Executive Committee Meeting	Varanasi
	10 & 11-10-2015	National Tax Conference (NZ)	Varanasi
	25 to 27-12-2015	18th National Convention 2015 (SZ)	Hyderabad

## REPORT ON NATIONAL TAX CONFERENCE, 2015 HELD ON 11TH & 12TH JULY, 2015 AT AHMEDABAD

by **Samir Jani**, Joint Secretary, AIFTP (WZ)

National Tax Conference, 2015 was jointly organised by All India Federation of Tax Practitioners – Western Zone and All Gujarat Federation of Tax Consultants supported by Income Tax Bar Association – Ahmedabad, Ahmedabad Branch of WIRC, CA Association, Income Tax Appellate Bar Association, Tax Advocate Association & Gujarat Sales Tax Bar Association. The Conference was for 2 days i.e. 10th & 11th July, 2015. It was well attended with more than 500 delegates throughout India. It was National in true sense with delegates from 15 States and from all districts of Gujarat.

National Tax Conference was inaugurated by Hon'ble Mr. Justice Anil R. Dave, Senior Judge, Supreme Court of India. In his address he very lucidly made the delegates & tax administrator understand the “Chanakya Niti” and “Vidur Niti”. He also shared his judicial memories of Tax Bench. He also shared his college memories. Hon'ble Mr. Justice (Retd.) Dev Darshan Sud, who was on his maiden visit to Ahmedabad also shared his old memories with Hon'ble Mr. Justice (Retd.) C. K. Thakker. He was at Ahmedabad for two days and took stock of Ahmedabad ITAT. His address was enlightening delegates. He along with Shri Shushil Chandra, Prin. Chief CIT were Guests of Honour.

This National Tax Conference will be remembered for long, as something unique, in terms of its focus on championing Tax Reforms. This was possible only because of the august presence of Dr. Parthasarathi Shome, Eminent Economist and Chairman of the Tax Administration Reforms Commission. Organisers felt legitimately proud to be the first organisation in the country to initiate a public debate on the vital theme of reforms that can pioneer a new era in the country's tax administration. It was also the inspiration, guidance and support received from the panellists at this interaction, Dr. K. Shivaram, Shri S. R. Wadhwa and Shri Mukesh Patel, who also played at vital role in making the entire interaction very lively.

Academically, the Conference was rich with 2 sessions on Direct Taxes, 1 session each on Service Tax & VAT. Finally, a Brains' Trust on Direct & Indirect Taxes with 35 Queries. Faculties were also legends. Mr. H. Padamchand Khincha from Bengaluru dealt with Disallowance u/s. 14A and Mr. Saurabh Soparkar, Ahmedabad dealt with Taxation of Capital Gains. Mr. Mukul Gupta from Ghaziabad dissected Recent Judicial Precedents on Service Tax whereas Mr. Monis Bhalla dealt with Reverse Charge Mechanism.

### FOR ANY QUERIES MEMBERS MAY CONTACT ANY OF THE FOLLOWING OFFICE BEARERS

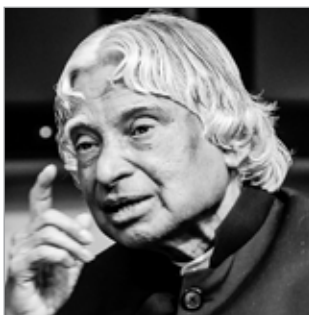
Name	Mobile	Tel. (O)	Fax	E-mail
<b>National President</b> – J. D. Nankani, Adv.	9821034867	022-22841717	22831717	jagdish@nankanis.com
<b>Deputy President</b> – Dr. M. V. K. Moorthy, Adv.	9849004423	040-23228474	23261667	mvkmoorthy59@gmail.com
<b>Secretary General</b> – CA. Harish N. Motiwalla	9819422300	022-22002103	22094331	hnmotiwalla.ca@gmail.com
<b>Treasurer</b> – CA. Janak K. Vaghani	9324680306	022-22821978	—	janak.vaghani@gmail.com

Mr. Ajay Vohra from Delhi spoke on Revision & Reassessment while Mr. Ashwin C. Shah spoke on Assessment Proceedings & Recovery. Mr. Nayan Sheth, Ahmedabad, addressed on Disputed Issues on ITC under GVAT and Mrs. Nikita Badheka, Mumbai on GST. Ms. Sophea Sin presented Investment Opportunities in Cambodia. Brains' Trust was conducted by 5 Trustees viz. Mr. Samir N. Divetia, Mr. Rajul Patel, Mr. Manish J. Shah, Mr. Uchit Nayan Sheth & Mr. Monish Bhalla and was Chaired by Mr. S. K. Poddar and Mr. M. L. Patodi.

Valedictory session was addressed by Mr. K. C. Patel and Mr. J. P. Shah both Seniors in Profession. Both the legal luminaries appreciated the role of AGFTC & AIFTP in development of professional fraternity and updating them through such conferences. Past Presidents of AGFTC were felicitated. The Conference was concluded with High Tea.

Mr. J. D. Nankani, National President, AIFTP was nice enough to extend financial support through sponsorship for this National Conference. Mr. Samir S. Jani, President, AGFTC and Jt. Secretary, AIFTP along with his team took pains for the success of the National Tax Conference.

## PEOPLE'S MOST ADMIRER PRESIDENT APJ ABDUL KALAM IS NO MORE



**1931-2015**

We, at AIFTP, pay our great tribute to 'Bharat Ratna' APJ Abdul Kalam, India's 11th President who passed away at Shillong on 27th July, 2015.

The distinguished former President who would have turned 84 in October 2015, had arrived at the IIM around 5.40 p.m. and after taking few minutes rest started the lecture on "Livable Planet" and suddenly he collapsed on the dais. Almighty God is always pleased to call instantly His lovable ones in Heaven and it is no coincident that Hon'ble Kalam also chose the right subject at the right time, and, thus, he reached God's "Livable Planet".

To the young generation he often advised dream, do dream, because those dreams convert themselves into your thought process and activate you to work as you dreamt.

In his autobiography titled "Wings of Fire" co-authored by Mr. Arun Tiwari, which book you would like to read and reread, as it is a brilliant account of the success story of India's space rocketry and missile programme. As a matter of fact, nothing could be more inspiring in our life than reading his autobiography.

In his introduction to the autobiography at Page XV he wrote - "Each individual creature on this beautiful planet is created by God to fulfil a particular role. Whatever I have achieved in life is through His help, and an expression of His will. He showered his grace on me through some outstanding teachers and colleagues, and when I pay tributes to these fine persons, I am merely praising His glory. All these rockets and missiles are His work through a small person called Kalam, in order to tell the several million mass of India, to never feel small or helpless. We are all born with a divine fire in us. Our efforts should be to give wings to this fire and fill the world with the glow of its goodness."

In memory of Hon'ble Kalam, we at AIFTP pray the Almighty to bestow eternal peace on the departed soul and also bless us to remember him forever and give inspiration to walk on the path he has shown through his autobiography.

**Editorial Board**

## NATIONAL TAX CONFERENCE – VARANASI 2015

**Saturday & Sunday the 10th & 11th October, 2015  
at Hotel Clarks, Varanasi**

The Two Days National Tax Conference, 2015 is being organised by All India Federation of Tax Practitioners (NZ) in the holy city of Varanasi the constituency of our beloved Hon'ble Prime Minister Shri Narendra Modi at Hotel Clarks, Varanasi on 10th & 11th October, 2015 under the Leadership of Past President Shri Bharat Ji Agrawal, Senior Advocate, Allahabad High Court.

Chief Guest of the Ceremony would be Hon'ble Justice R. K. Agrawal, Judge, Supreme Court of India and Guest of Honour would be Hon'ble Shri K.V. Chaudhary, Central Vigilance Commissioner, Government of India. All AIFTP members are requested to spare their valuable time for active participation in the above memorable occasion.

Varanasi, the land of Lord Kashi Vishwanath, provides tremendous opportunities for pilgrimage, sightseeing, Visit to Sarnath and several other places. We have negotiated Hotels to suit every pocket right from ₹ 1,000/- to five Star Hotels @ ₹ 6,000/-. Venue Hotel has offered 20 rooms @ ₹ 4,500/- only which can be booked on first come first served basis.

### ‘MANTHAN’

**Day-1 Saturday – 10th October, 2015 : 8.30 am to 4.00 pm**

#### BROAD PROGRAMME

8.30 am to 9.30 am	Registration & Breakfast
9.30 am to 11.30 am	Inaugural Session In the august presence of Hon'ble Justice Shri R. K. Agarwal, Judge, Supreme Court of India and Hon'ble Shri K. V. Chaudhary, Central Vigilance Commissioner, India
11.30 am to 11.40 am	Tea Break
11.45 am to 1.45 pm	<b>First Technical Session – INCOME TAX</b> Practical Approach to reopening of Assessment and Deeming Aspects under Income-tax Act including Sections 14A, 50C, 56, 68 & 69
1.45 pm to 2.15 pm	Lunch Break
2.30 pm to 4.00 pm	<b>Second Technical Session – DISCUSSION ON SPIRITUALITY</b> For Delegates as well as Spouses

### National Executive Meeting – 2.15 pm to 4.00 pm

**Musical Cruise on Ganges and Ganga Arti – 5.00 p.m. onwards**

(Exclusive and Memorable Event for Outstation Guests)

Assemble at Bhisasur Ghat and board the decorated 'Bajras' (Large floating platform in the midst of River Ganges). The Bajras take cruise up to Assi-Ghat and back to well-lit Dashashwamegh-Ghat for 'Ganga Arti' with 'Live Semi Classical Music' along with renowned Artists of Banaras Gharana. After 'Ganga Arti' enjoy Banarsi Chat, Kachauri, Jalebi and other Banarsi Delicacies on board the 'Bajras' before departing for Hotels.

**Day 2 – Sunday, 11th October, 2015 : 8.30 am to 5.30 pm**

8.30 am to 9.30 am	Breakfast
9.30 am to 11.30 am	<b>Third Technical Session – GOODS &amp; SERVICE TAX</b> The concept of 'Supply' as an event of liability of GST <i>vis-a-vis</i> 'Sale' as an event of liability under VAT or Sales Tax and Residual definition of 'Service' in the presence of well defined and debated concept of 'Goods' under GST
11.30 am to 11.40 am	Comfort Break
11.45 am to 2.00 pm	<b>Fourth Technical Session – VALUE ADDED TAX AND INCOME TAX</b> Restrictions and Impediments in claim of 'Input Tax Credit' and Calculation of 'Reversal of Input Tax Credit' and Taxability of Development Agreements in Real Estate – Direct and Indirect Tax Aspects

2.00 pm to 3.00 pm	Lunch Break
3.00 pm to 4.30 pm	<b>Brains' Trust</b> (Panel discussion) Income Tax, Service Tax, VAT & GST
4.30 pm to 5.00 pm	Valedictory Session

### High Tea (Gratitude & Sayonara) – 5.00 pm

Conference Convenor	Mentor & Chairman Conference	Conference Director Technical	Conference Secretary
Arvind Shukla, Advocate, Varanasi Chairman-North Zone Mob: +91 9415201059 ashukla_advocate@ rediffmail.com	Bharatji Agarwal, Senior Advocate, Allahabad Past President – AIFTP Mob: +91 9415214353 piyush_advag@rediffmail. com	Mukul Gupta, Advocate, Ghaziabad National Vice President NZ Mob: +91 9811023739 mukuladv@hotmail.com	Prakash Gupta Advocate, Varanasi Mob: 94155203013 prakashadv@gmail.com

**Delegate Fee:** ₹ 2,200/- up to 30th September, 2015 and ₹ 2,500/- after 30th September, 2015 and ₹ 1,500/- for accompanying spouse. Cheque/DD may be drawn in favour of “**The Income Tax Bar Association, Varanasi,**” payable at Varanasi.

**Note: Details for the hotel accommodation as well as availability of Air & Rail Travel shall be sent separately by email.**

## Heartly Congratulations

Heartly Congratulations to the newly elected office bearers of Bihar Income Tax Bar Association, Patna for the period 2015-17.

President	: Shri Lakshmi Narayan Rastogi, Sr. Advocate
Vice Presidents	: Shri Madan Lal Gupta, Advocate; Shri Sudhir Kumar Narain, Advocate; Shri Brij Nandan Prasad Gupta, Advocate
Treasurer	: Shri Narendra Prasad, Advocate
General Secretary	: Shri Jagadish Kumar, Advocate
We wish them all the success	

Heartly Congratulations to the newly elected office bearers of The Telangana and Andhra Pradesh Tax Bar Association for the period 2015-16.

President	: CA. Murali Manohar Palod
Vice President	: Shri K. V. Ramana Reddy, Tax Practitioner
Hon. Jt. Secretaries	: CA. B. Ramesh Kumar • CA. Abhay Kumar Jain
Treasurer	: Shri B. V. Rama Rao, Advocate
We wish them all the success	

Heartly Congratulations to the newly elected office bearers of Karnataka State Chartered Accountants Association for the period 2015-16.

President	: CA. Dileep Kumar T.M.
Vice President	: CA. Raghavendra Puranik
Secretary	: CA. Raghavendra T. N.
Joint Secretary	: CA. Nagappa B. Nesur
Treasurer	: CA. Raghavendra Shetty
We wish them all the success	

Heartly Congratulations to the newly elected office bearers of The Malad Chamber of Tax Consultants for the period 2015-16.

President	: Shri Jayprakash M. Tiwari
Vice President	: Shri Adarsh S. Parekh
Hon. Jt. Secretaries	: Shri Swapnil G. Modi & Shri Amit D. Kothari
Treasurer	: Shri Vipul M. Somaiya
We wish them all the success	

## NOTICE OF ANNUAL GENERAL MEETING – AIFTP(CZ)

Notice is hereby given that The Annual General Meeting of the Members of All India Federation of Tax Practitioners (Central Zone) will be held on Sunday, the 23rd August, 2015 at Hotel Nikhi International, Panch Batti Circle, Residency Road, Jodhpur at 1.00 p.m.

### AGENDA

1. To Read and Approve the Minutes of the Last AGM
2. To Receive and adopt the Annual Report of the Managing committee (CZ) for the year 2014-2015.
3. To Consider and adopt the audited accounts for the year ended 31st March, 2015
4. To approve Auditors for the year 2015-16 and fix their honorarium
5. To transact any other business with the permission of the Chair

**Rajesh Mehta**  
Secretary-AIFTP(CZ)

**Ashok Jangid**  
Treasurer-AIFTP(CZ)

Place: Jodhpur  
Date: 27-7-2015

## SYMPOSIUM ON ‘DIGITALINDIA’

*Organised by*

**ALL INDIA FEDERATION OF TAX PRACTITIONERS-NUJS**

*Jointly with*

**ALL INDIA FEDERATION OF TAX PRACTITIONERS (EZ) and  
THE WEST BENGAL NATIONAL UNIVERSITY OF JURIDICAL SCIENCES (WBNUJS)**

in collaboration with Business Standard.

on Friday the 14th August, 2015 at 4 pm

at The WB National University of Juridical Sciences, 2nd Floor,  
Dr. Ambedkar Bhavan, 12, LB Block, Sector – III, Salt Lake City, Kolkata – 700 098.

Professor (Dr.) P. Ishwara Bhat, Vice Chancellor, WBNUJS has consented to preside over.

Mr. Sanjay Kumar Panigrahi, CEO of Sahaj e-Village Limited, will be Moderator.

*Speakers*

Mr. Upendra Jit Singh, MD, WEBEL  
Mr. Suparna Moitra, Secretary, Bengal National Chamber of Commerce

*Contact :*

Mr. Indu Chatrath, Zone Chairman 09830495134 Email ID ichatrath@yahoo.com  
Mr. N.D. Saha, Zone Secretary 098300 44321 Email ID ndsaha-51@hotmail.com

## REPORT OF PROGRAMME ON “PROFESSIONALS DON’T WORK JUST FOR MONEY” AT KOLKATA HELD ON 24-7-2015

All India Federation of Tax Practitioners (Eastern Zone) organised a programme on “How to be a successful professional” on 24th July, 2015 at the Calcutta Chamber of Commerce. Mr. N.M. Ranka, Senior Advocate was the keynote speaker. He said the Advocates, Chartered Accountants, Doctors as well as other professionals have a responsible duty towards their clients and society. There is significant difference between business and profession. Professionals don’t work just for money. Speaking on the occasion Prof. Narayan Jain, Advocate said that professionals need to keep them updated with the latest changes as the world is more competitive now. Mr. Indu Chatrath presided over. Mr. N. D. Saha, Mr. R.D. Sharma, Mr. Anand Pasari and Mr. Aditya Bubna contributed for the success of programme.

## Heartly Congratulations

Heartly Congratulations to the newly elected office bearers of The Chamber of Tax Consultants, Mumbai for the period 2015-16.

President : CA. Avinash Lalwani  
Vice President : CA. Hitesh R. Shah  
Hon. Jt. Secretaries : Shri Ajay Singh, Advocate and CA. Ashok Manghnani  
Treasurer : CA. Hinesh R. Doshi

We wish them all the success

Heartly Congratulations to the newly elected office bearers of Income Tax Bar Association, Varanasi for the period 2015-16.

President : Shri Vipin Shankar Gupta  
Vice President : Shri Yogesh Kumar Srivastava  
Secretary : Shri Ramesh Chandra Pathak  
Joint Secretary : Shri Ajay Kumar Singh  
Library Secretary : Shri Santosh Kumar Singh  
Treasurer : Shri Ravi Mishra

We wish them all the success

Heartly Congratulations to the newly elected office bearers of Income Tax Bar Association, Ahmedabad for the period 2015-16.

President : Shri Ronak R. Sheth  
Vice President : Shri Dhruven V. Shah  
Hon. Jt. Secretaries : Shri Mrudang H. Vakil & Shri Kartikey B. Shah  
Hon. Treasurer : Ms. Shital M. Shah

We wish them all the success

Heartly Congratulations to the newly elected office bearers of Baroda Tax Bar Association, Baroda for the period 2015-16.

President : Shri Kalpesh Shah  
Vice President : Shri Ajit Tiwari  
Hon. Jt. Secretaries : Shri Daxesh Dalwadi & Shri Devesh Purani  
Hon. Treasurer : Shri Hitesh Soni

We wish them all the success

Heartly Congratulations to the newly elected office bearers of Bombay Chartered Accountants' Society, Mumbai for the period 2015-16.

President : CA. Raman H. Jokhakar  
Vice President : CA. Chetan M. Shah  
Hon. Jt. Secretaries : CA. Narayan Pasari & CA. Sunil B. Gabhawalla  
Treasurer : CA. Manish P. Sampat

We wish them all the success

Heartly Congratulations to the newly elected office bearers of The Sales Tax Practitioners' Association of Maharashtra for the period 2015-16.

President : Shri Vijay M. Sachiv  
Vice President : Dr. Shashank S. Dhond  
Hon. Jt. Secretaries : Shri D. V. Phad & Shri Pradip R. Kapadia  
Hon. Treasurer : Shri Pranav P. Kapadia

We wish them all the success

## DIRECT TAXES

Ms. Neelam Jadhav  
Advocate, KSA Legal Chambers

### HIGH COURT

**1. Natural Justice – The right to cross examine is a part of the audi alteram partem principle – Statements of third party without giving opportunity – The assessee’s right of cross-examination results in to breach of principles of natural justice**

The A.O. disallowed the expenses on the ground that parties to the whom payments were made stated that they are in the hawala business. The assessee asked for cross-examination of the parties, which was not provided. The CIT(A) & Tribunal also confirmed the additions without giving an opportunity of cross examination on appeal.

The Hon’ble High Court held that the denial of cross examination has led to breach of principles of natural justice. The statements relied upon were general in nature and also subjecting the statements to cross examine could assist in bringing out the truth. Held by the High Court that there has been a breach of principles of natural justice inasmuch as the AO has in his order placed reliance upon the statements of representatives of M/s Inorbit and M/s. Nupur to come to the conclusion that claim for expenditure made by the appellant is not genuine. Thus the appellant was entitled to cross examine them before any reliance could be placed upon them to the extent it is adverse to the appellant. This right to cross-examine is a part of the *audi alteram partem* principle and the same can be denied only on strong reason to be recorded and communicated. The appellant was not given an

opportunity to cross-examine the witnesses whose statement is relied upon by the revenue and the evidence led by the appellant has not been considered. Therefore, it’s clearly a breach of principles of natural justice.

*R. W. Promotions P. Ltd. v. ACIT (Bom.)(HC)* Source : [www.itatonline.org](http://www.itatonline.org)

### TRIBUNAL

**3. S. 271D: Penalty – limitation period – Has to be computed from the date of issue of the show cause notice – No penalty if circumstances show no intention to contravene the law**

The original assessment order had been passed on 30-11-2010 on which date the A.O. proposed to initiate penalty proceedings u/s. 271D had been initiated. The notice u/s. 271(D) was also issued on the said date. The penalty order u/s. 271D has been passed on 8-6-2011. The relevant financial year, assessment was completed ends on 31-3-2011. The period of six months from the end of the month in which the action for initiation of penalty proceedings expires on 30-5-2011. The six month period for the purpose of clause (c) of section 275(1) of the Act is to be computed from the date of issue of first show cause notice by the A.O. and not from the date of issue of first show cause notice issued by the Joint Commissioner. The Hon’ble ITAT held that the order dated 8-6-2011 is hit by the bar of limitation as prescribed in clause(c) of section 275(1) of the Act.

*Parin K. Rajwani v. JCIT (Mum.)(Trib.)* Source : [www.itatonline.org](http://www.itatonline.org)



## INDIRECT TAXES

### SALES TAX

D. H. Joshi, Advocate

**1. Evasion – Purchase Tax – Penalty u/s. 45A KGST Act, 1963**

Smuggling of rubber out of the State and thereby evading purchase tax. Therefore, imposition of penalty. Both First and Second Appellate Authority confirmed imposition of penalty. On facts, HC held that imposition of penalty is proper. Data collected by Intelligence Officer from Rubber Board indicated that assessee’s purchases exceeded the quantity of rubber produced in Karnataka. During the relevant period *modus*

*operandi* was to pay lesser tax in Karnataka than to pay 12% purchase tax in Kerala. None of the purchase bills produced by assessee had complete address and therefore to be presumed as “fictitious and non-existing”. Record shows that principles of natural justice were followed and no perversity in the proceedings found. Therefore, maximum penalty was justified.

*Yogesh Trading Co. v. State of Kerala (2015) 23 KTR 267 (Ker.)*

**2. Notification**

A. Under Notification No. FD-127 CSL 2014 dt. 30-5-2015, the Karnataka Govt. u/s. 5(1) of the Karnataka VAT Act, 2003, exempted with immediate effect, the tax payable under the said Act on the sale of bio-gas produced and sold by units using municipal solid waste and bottled in cylinder, subject to the condition that such units are notified by the Govt. on the recommendation of the Bengaluru Bruhath Mahanagara Palike.

2015-16 (20) KCTJ 59

B. Under Notification No. FD-3 CET 2015 dt. 9-6-2015, the Karnataka Govt., in public interest, w.e.f. 26-3-2015 fully exempted the tax payable u/s. 11-A of the Karnataka Tax on Entry of Goods Act, 1979 as under:

(i) On the entry of plant and machinery and capital goods for use into a local area caused by a dealer which is a new

Tourism unit for a period of 3 years from the date of commencement of its project implementation.

(ii) On the entry of any goods for use as raw materials, inputs, component parts and consumables (excluding petroleum products) into a local area caused by a dealer which is a new Tourism unit for a period of 5 years from the date of commencement of commercial production; and

(iii) On entry of plant and machinery and capital goods for use into a local area caused by a dealer which is a mega project and a Tourism unit for a period of 5 years from the date of commencement of project implementation.

The notification may be read with its explanations and notes appended thereto.

2015-16 (20) KCTJ-59 60



**Advertisement Tariff  
for AIFTP Journal  
(W.e.f. 15th July, 2013)**

	Particulars	Per Insertion
1.	Quarter page	₹ 1,500/-
2.	Ordinary half page	₹ 2,500/-
3.	Ordinary full page	₹ 5,000/-
4.	Third cover page	₹ 7,500/-
5.	Fourth cover page	₹ 10,000/-
There shall be Discounts on bulk advertisements.		

**Membership of AIFTP  
as on 29-7-2015  
Life Members**

	Associate	Individual	Association	Corporate	Total
Central	0	806	23	3	832
Eastern	3	1182	35	3	1223
Northern	0	968	17	0	985
Southern	1	962	14	7	984
Western	4	1767	33	18	1822
Total	8	5685	122	31	5846

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

**Associate Editor of AIFTP Times : Mr. Deepak R. Shah**

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