

All India Federation of Tax Practitioners



# AIFTP TIMES

Volume 7 – No. 1 • February 2016

## FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
6,20-2-2016; 5,18-3-2016; 2,16,30-4-2016	Workshop on MVAT Act	Mumbai
12, 13-3-2016	Two Day National Tax Conference	Nashik

## REPORT OF 2ND JUSTICE DR. B. P. SARAF NATIONAL TAX MOOT COURT HELD AT KOLKATA

by

Narayan Jain, National Vice President

**Second Justice Dr. B. P. Saraf National Tax Moot Court Competition** was successfully organized in Kolkata on 9th and 10th January, 2016 jointly by All India Federation of Tax Practitioners (AIFTP) and The West Bengal National University of Juridical Sciences (WBNUJS) at WBNUJS campus, Salt Lake, Kolkata.

It was inaugurated on 9th January jointly by Prof. Dr. P. Iswara Bhat, Vice Chancellor, WBNUJS and Dr. M. V. K. Moorthy, National President, AIFTP. Shri S. K. Poddar, Smt. Premlata Bansal, Deputy National President, Dr. Ashok Saraf, Senior Advocate; Narayan Jain, National Vice President; Mr. R. D. Kakra, Zone Chairman (EZ), Mr. Indu Chatrath, Chairman, Moot Court Committee and other office bearers were present on the occasion.

The subject for this year's competition was Search & Seizure under the Income Tax Act. Preliminaries and Quarter finals were held on the first day while the Finals were held on the second day. **The final round of competition was adjudicated by a five member Bench comprising of Hon'ble Justice Altamas Kabir, former Chief Justice of India; Hon'ble Justice Asok Kumar Ganguly, former Judge, Supreme Court of India; and three sitting Judges of Calcutta High Court namely Hon'ble Justice Indira Banerjee, Hon'ble Justice Joymalya Bagchi and Hon'ble Justice Tapash Mookherjee. The semi finals were adjudicated by Shri P. M. Jagtap, Member-ITAT; Shri S. V. Ravi, Member, ITAT; Mr. Gopal Chowdhury former Member, ITAT and Mr. Narayan Jain, Advocate.**

Hon'ble Justice Altamas Kabir said that the Moot Court competitions offer a great opportunity to the students of law to build on what they are learning in law schools and apply it to practical life and after they become lawyers, they can appear before a judge with better confidence.

**Dr. M. V. K. Moorthy, National President, AIFTP lauded the presentations of the participants. He congratulated Dr. Ashok Saraf for sponsoring the Moot Court competition in the memory of his great visionary father late Justice Dr. B. P. Saraf, former Chief Justice of Jammu & Kashmir High Court. Dr. Saraf announced that the Moot Court will be continued for 10 years.**

Mr. Indu Chatrath Chairman of Moot Court Committee thanked Mr. R. D. Kakra, Zone Chairman; Mr. N. D. Saha, Mr. Arvind Agarwal, Mr. Anand Pasari, Mr. S. C Garg, Mr. S. M Surana, Mr. S. C. Agarwal, Mr. S. S. Gupta, Mr. Amit Goyal, Mr. Suman Chetia, Mr. K. L. Mittal, Mr. Himadri Mukhopadhyay, Mr. Bhaskar Sinha Roy, Bishnu Loharuka, Kamal Jain, Aditya Bubna, Mr. B. L. Kheria, Mr. Sandip Choraria and all the Members of the NEC as well as Managing Committee of East Zone and other Members for their active help and unstinted support in organising the Moot Court programme for the second time in Kolkata.

45 participants from 15 Universities and Law Colleges from all over India participated in the competition. The winner was Symbiosis Law School Pune and the runners up were participants from Rajiv Gandhi National

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

Name	Mobile	Tel. (O)	Fax	E-mail
<b>National President</b> – Dr. M. V. K. Moorthy, Adv.	9849004423	040-23228474	23261667	mvkmoorthy59@gmail.com
<b>Deputy President</b> – Smt. Prem Lata Bansal, Sr. Adv.	09811558194	011-23955703	—	plbansal49@gmail.com
<b>Secretary General</b> – Shri M. Srinivasa Rao, TP	09885796999	08812-238898	—	sai9malladi@yahoo.com
<b>Treasurer</b> – CA. S. B. Kabra	09849024732	040-23228854	23228275	ca.sbkbra@gmail.com

University of Law, Punjab. The Best Speaker award was given to Ms. Kruti Parashar of Rajiv Gandhi National University of Law.

Many newspapers and media including Business Standard, Times of India, India Today, PTI, Sanmarg, Vishwamitra, Chhapte Chhapte, Bharat Mitra, Purvanchal Prahari, Eastern Chronicle covered the news of Moot Court.

Well done Team AIFTP East Zone and Moot Court Committee of NUJS. Our gratitude to Dr. Ashok Saraf for commendable gesture.

## ERRATUM

In North Zone the sanctioned strength of seats for NEC is only 8 for which as per the list of nominations prepared by the secretariat of the Federation at Mumbai as on 22-12-2015 25 gentlemen and a lady member (total 26) have filed their nominations. The Election Officer and Past President Adv. P. C. Joshi on scrutiny of the nomination forms found Sl. No. 13 in the list namely Prashanth Raizada from Gurgaon as not valid nomination in terms of Rule 10(6)(i) of the Regulations, as a result of which 25 persons were found to be qualified. Qualified candidates 25 against 8 seats and as such election, in the opinion of the election office was required to be held. Thereafter Adv. Ramavatar Bansal submitted withdrawal on 24-12-2015 reducing the contestants to 24. Lot of hectic efforts through consultations with the elders especially from North Zone were initiated for withdrawal to achieve unanimity and after lunch on 25-12-2015 when the learned election officer was to deal with the election process relating to North Zone, there was a complete furore as well as uproar amongst the applicants raising so many objections as to the alleged claim of withdrawal of the applications in which circumstances, the election was found imminent all of a sudden and ballot papers were prepared to conduct the election for North Zone at which stage the negotiations, talks, dialogues and conversation once again initiated to continue to settle down the pandemonium in favour of unanimity. Some gentlemen who filed applications then and there scribbled withdrawals and some were promised in which situation it was represented all applications in excess of 8 were deemed to have been withdrawn and ultimately the names were required to be announced as being elected.

On scrutiny of the withdrawal forms, as a matter of fact it is found that Adv. Sanjay Sharma from New Delhi had submitted withdrawal and some persons who have also announced withdrawal such as gentlemen Surinder Kaushik, Prakash Gupta, S. R. Wadhwa, Ajay Kumar Singh, Piyush Agarwal and D. K. Gandhi in fact were to give letters of withdrawals in writing. On account of the confounded confusion, there is an inadvertent error crept into, as a result of which instead of Adv. Ajay Sinha, the name of the Sanjay Sharma was mentioned in the list of persons from North Zone. It is unintentional error and as such Sl. No.45 in the list of NEC members published at page 2 of Volume 7-1 of AIFTP Times for January 2016 shall be read as Adv. Ajay Sinha from Ghaziabad in place of Mr. Sanjay Sharma. Therefore the correct position is Mr. Ajay Sinha, Ghaziabad shall be one of the 8 elected persons from North Zone to NEC and Sri. Sanjay Sharma's name is wrongly included and printed. In view of the withdrawal of Shri Sanjay Sharma, it is made known to all the concerned that Adv. Sanjay Sharma is not a member of NEC from North Zone as he had withdrawn his nomination.

To the above said effect, necessary communication from the head office shall issue to both the gentlemen and the inadvertent error is graciously regretted.

**(Dr. M. V. K. MOORTHY)**  
*National President-AIFTP*

In the AIFTP Times January 2016 issue on page No. 2 under the heading Office Bearers for the year **2016 & 2017** is incorrectly printed. This should be read as only **2016**. The error is regretted.

### *Hearty Congratulations*

Hearty Congratulations to CS Mamta Binani who has been unanimously elected as the ICSI President for the year 2016. She is the second lady president in the history of ICSI to be elected to this august position. AIFTP is glad to congratulate her.

## TWO DAY NATIONAL TAX CONFERENCE AT NASHIK

On Saturday and Sunday, 12th and 13th March, 2016

*Organised By*

**ALL INDIA FEDERATION OF TAX PRACTITIONERS – WESTERN ZONE**  
in association with  
**THE SALES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA**  
**NASHIK TAX PRACTITIONERS' ASSOCIATION and**  
**WIRC – NASHIK BRANCH**

We are extremely happy to announce the Two Day National Tax Conference to be held, on Saturday and Sunday, 12th and 13th March, 2016, at the Taj Group Hotel, The Gateway Hotel, Ambad, Nashik. This joint effort aims at showcasing a seminar with unique features and topics, which are of interest to all tax practitioners, whether practising on direct taxes or indirect taxes, and gives a not-to-miss opportunity to all concerned.

The details are as under:

Days & Dates	:	Saturday & Sunday, 12th & 13th March, 2016
Time	:	10.30 a.m. to 5.00 p.m. (Saturday); 09.30 a.m. to 04.30 p.m. (Sunday)
Venue	:	The Gateway Hotel Ambad Nashik (The Taj Group), P-17, MIDC Ambad, Mumbai-Agra Road, Nashik – 422 010 (Maharashtra)
Registration Fees	:	<b>For Members ₹ 3,700/-</b> (inclusive of conference materials, breakfast, lunch tea on both days and Service tax) Accompanying Spouse : ₹ 2,750/- <b>For Non-Members ₹ 4,700/-</b> (inclusive of conference materials, breakfast, lunch tea on both days and Service tax)

### PROGRAMME SCHEDULE FOR CONFERENCE IS AS UNDER

#### Day 1 – SATURDAY. 12TH MARCH, 2016

08.30 am to 10.00 am	:	Registration, Fellowship & Breakfast <b>Inaugural Session :</b>
10.00 am to 11.30 am	:	Chief Guest : Eminent Personality Guest of Honour : Eminent Personality
11.30 am to 11.45 am	:	Tea Break <b>First Technical Session :</b>
11.45 am to 01.15 pm	:	<b>Budget Proposals</b> Direct Taxes – Eminent Speaker Indirect Taxes – Shri Vikram Nankani, Senior Advocate, Mumbai
01.15. pm to 02.15 pm	:	Lunch Break
02.15 pm to 03.15 pm	:	<b>Income Tax</b> <b>Topic</b> – Recent Development in “Deemed Income” Section 56(2) & Section 68 of Income Tax Act. Paper Writer – CA Devendra Jain, Mumbai Chairman – Shri Vipul Joshi, Advocate, Mumbai.
03.15 pm to 03.30 pm	:	Tea Break <b>Second Technical Session :</b>
03.30 pm to 04.30 pm	:	<b>VAT</b> <b>Topic</b> – Practical & Intricate issues of Section 6(2) & Section 6A of CST Act, 1956. Paper Writer – Shri Janak Vaghani, Mumbai Chairman – Dr. Ashok Saraf, Senior Advocate, Gauhati <b>Third Technical Session :</b>
04.30 pm to 05.30 pm	:	<b>SERVICE TAX</b> <b>Topic</b> – CENVAT Credit issues & Controversies Paper Writer – Shri Sagar Shah, Pune Chairman – Shri Shailesh Sheth, Advocate, Mumbai
06.00 pm onwards	:	National Executive Committee Meeting

**Day 2 – SUNDAY. 13TH MARCH, 2016**

- 09.30 am to 11.00 am : **GST Update**  
**Topic** – GST Update  
 Paper Writer – Shri Dilip Dixit (KPMG) – Pune  
 Chairman – Shri P. C. Joshi, Advocate, Mumbai.
- 11.00 am to 11.15 am : Tea Break
- 11.15 am to 12.15 pm : **Income Tax**  
**Topic** – Recent Development w.r.f. Real Estate Transactions Under Income tax  
 Paper Writer – CA. Jagdish Punjabi, Mumbai  
 Chairman – Eminent Faculty
- 12.15 pm to 01.15 pm : **VAT**  
**Topic** – ITC Updates, Amendments & Issues under MVAT Act.  
 Paper Writer – Shri Suhas Padhya, STP, Pune  
 Chairman – Ms. Nikita Badheka, Advocate, Mumbai
- 01.15 pm to 02.15 pm : Lunch Break
- 02.15 pm to 04.00 pm : **Brain's Trust Session**  
 Co-ordinator : Ms. Premlata Bansal, Sr. Advocate, Delhi  
 Trustees : Shri C. B. Thakar, Advocate, Mumbai  
 Shri Vinayak Patkar, Advocate, Mumbai.  
 Shri Naresh Thakar, Advocate, Mumbai.

Please send your enrollment along with a cheque / demand draft of ₹ 3,700/- for member and ₹ 4,700/- for non member in favour of “All India Federation of Tax Practitioners – Western Zone”.

- Note:** 1) Only limited participants will be enrolled on first come first served basis.  
 2) Delegates are requested to send queries for Brains' Trust / Technical sessions by 15th February, 2016 by e-mail at aiftp@vsnl.com  
 3) The above charges do not include dinner cost on 1st day i.e 12th March 2016.  
 4) Speaker and Chairman are subject to their confirmation.

**Interesting places to visit :**

- 1) Shirdi : Sai Baba Temple which is approx. 85 kms from Nashik
- 2) Shani Shingnapur : Popular Temple of God Shani, the Hindu God associated with the planet (graha) Saturn, which is approx 130 kms from Nashik
- 3) Trimbakeshwar : Ancient Hindu Shiva Temple and is one of the twelve Jyotirlingas, which is approx. 30 kms. from Nashik.

The delegates who are interested in visiting the above places, special arrangements can be made for transportation, if intimation is received well in advance.

**Shri Chirag Parekh**  
 Chairman, AIFTP (WZ)  
 (Mob.: 9821634128)

**Shri Ashvin Acharya**  
 Chairman, Education Committee  
 (Mob.: 7208005055)

**Shri Sachin Gandhi**  
 Convenor, Education Committee  
 (Mob.: 9821482020)

**For further information, please contact the following members**

- 1) Shri Satish Boob (Nashik) - 9822025420
- 2) Shri Pravin Shah (Mumbai) - 9821476817
- 3) Shri Tushar Joshi (Mumbai) – 9821135246
- 4) Shri D. V. Phad (Mumbai/Nashik) - 9821343762

**HOTEL TARIFF:**

Sr. No.	Name of the Hotel	Single Occupancy	Double Occupancy
1.	<b>Taj Group</b> <b>THE GATEWAY HOTEL</b> P-17, MIDC Ambad, Mumbai-Agra Road, Nashik – 422 020. gateway.nashik@tajhotels.com gaurav.sawant@tajhotels.com +91 253 66 92 300 +91 253 66 04 499 <b>Type of Rooms</b>		
	Standard/Superior Room Per Night	₹ 5,000/- + taxes	₹ 5,000/- + taxes
	Executive Room Per Night	₹ 6,000/- + taxes	₹ 6,000/- + taxes
	Currently applicable taxes @18.70%		
	The above rates are only for room without complementary breakfast		

2.	<b>Express Inn</b> Pathardi Phata, Mumbai-Agra Road, Ambad, Nashik – 422 010. banquetsales@expressinindia.com +91 253 222 7777 <b>Type of Rooms</b>		
	Express Room Per Night	₹ 4,300/- + taxes	₹ 5,000/- + taxes
	Standard Room Per Night	₹ 5,000/- + taxes	₹ 5,700/- + taxes
	Currently applicable taxes @ 21.08%		
	The above rates are inclusive of Complementary Breakfast.		
3.	<b>Hi 5 Hotel</b> Plot # P 5, Ambad, MIDC, Pathardi Patha Mumbai-Agra Road, Nashik - 422020 hi5hotelsn@gmail.com +91 253 2388931 <b>Type of Rooms</b>		
	Standard Room Per Night	₹ 3,690/- + taxes	₹ 4,320/- + taxes
	Executive Room Per Night	₹ 4,320/- + taxes	₹ 4,950/- + taxes
	Currently applicable taxes @ 21.08%		
	The above rates are inclusive of Complementary Breakfast		

- Note :
- 1) The distance of the other hotels from the conference venue is hardly 3 minutes walk.
  - 2) Check-in time of all the hotels is 1400 hrs. and check-out time is 1200 hrs.
  - 3) All the delegates are requested to take the benefit of Taj Group Hotel by giving first booking preference as the rates given by them are substantially discounted.

### *Hearty Congratulations*

**Gouri Chandnani Popat** has been selected and honoured as one of the “50 Rising Star Women Entrepreneurs of Gujarat” from the nominations received by the Gujarat Chamber of Commerce & Industry, from all over Gujarat. The selection of ‘50 Rising Star Women Entrepreneurs of Gujarat’ was made by a Jury.

A Coffee Table Book has been published which has the details and Achievements of each of the “50 Rising Star Women Entrepreneurs of Gujarat”. The Coffee Table Book was released at the worthy hands of our Hon’ble Chief Minister, Smt. Anandiben Patel on 19th December, 2015, at the Vibrant National Conclave for Women organised by the Business Women Wing of the Gujarat Chamber of Commerce and Industry, at GMDC Convention Hall, Ahmedabad.

#### **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 28-1-2016 Life Members**

	Associate	Individual	Association	Corporate	Total
Central	0	845	23	3	871
Eastern	3	1195	36	3	1237
Northern	0	996	17	0	1013
Southern	1	990	15	7	1013
Western	4	1776	34	18	1834
<b>Total</b>	<b>8</b>	<b>5904</b>	<b>125</b>	<b>31</b>	<b>5968</b>

## DIRECT TAXES

Ms. Neelam Jadhav, *Advocate*  
KSA Legal Chambers

### HIGH COURT

1. **Section 9(1)(vi) : Consideration paid to acquire the right to use software is assessable as “royalty”, payments made for purchase of software as a product is not for use or the right to use the software and is not assessable as “royalty”**

Where an assessee acquires the right to use software, the payment so made would amount to royalty. However in cases where the payments are made for purchase of software as a product, the consideration paid cannot be considered to be for use or the right to use the software. Where software is sold as a product it would amount to sale of goods. The consideration paid for purchase of goods cannot be considered as ‘royalty’. Thus, it is necessary to make a distinction between the cases where consideration is paid to acquire the right to use a patent or a copyright and cases where payment is made to acquire patented or a copyrighted product/material. In cases where payments are made to acquire products which are patented or copyrighted, the consideration paid would have to be treated as a payment for purchase of the product rather than consideration for use of the patent or copyright. (A.Y. 2008-09)

*CIT v. M. Tech India P. Ltd. ITA No. ITA 890/2015 dtd. 19-1-2016 (Del.)(HC) Source : delhihighcourt.nic.in*

2. **Section 79 : Carry forward accumulated business losses – Change in shareholding – Not permitted**

As there was indeed a change of ownership of 100 shares of Yum India from Yum Asia to Yum Singapore, both of which were distinct entities. Although they might be AEs of Yum USA, there is nothing to show that there was any agreement or arrangement that the beneficial owner of such shares would be the holding company, Yum USA. The question of piercing the veil at the instance of Yum India does not arise. It was rightly concluded that in terms of S. 79 Yum India cannot be permitted to set off the carry forward accumulated business losses of the earlier years. (A.Y. 2009-10)

*Yum Restaurants (India) Private Limited v. ITO ITA 349/2015 dtd. 13-1-2016 (Del)(HC) Source : delhihighcourt.nic.in*

3. **Section 92C : Where revenue unable to demonstrate some tangible material – International transaction involving AMP expenses between subsidiary and foreign parent, revenue cannot proceed to determine ALP of AMP expenses**

The assessee, was a subsidiary of WC, USA and was engaged in production, sales and distribution of its appliances. The assessee incurred AMP expense. The TPO determined that the extent of AMP expenditure incurred by the assessee was to expand the reach of the AE’s brand in India. The assessee was, therefore, held to be creating ‘marketing intangibles’ in favour of its AE. The TPO determined the amount paid on the marketing intangibles being the difference between the actual AMP expenses incurred and the ALP calculated at 0.87 per cent of the sales. This sum was, therefore, directed to be added to the income of the assessee. DRP confirmed said order. Tribunal held that AMP expenses had to be processed to find out what portion of it was spent on brand building for the foreign AE and then disallowance should be made for such amount with the proper mark-up by way of TP adjustment and following said judgment he held that the remaining amount had to be considered as incurred by the assessee for its own business purposes liable for deduction subject to relevant provisions of the Act. It was, accordingly held that the AO was not justified in observing alternatively that a sum was not allowable under S. 37(1).

Before the High Court the case of the revenue was that the (ALP) of the AMP expenses incurred by the assessee was required to be determined since it had been using, for marketing and promotion or otherwise the brand of its foreign AE and that the incurring of such AMP expenses, while enduring to the benefit of the assessee was also benefiting the brand of the foreign AE.

The Hon’ble High Court is of the view that as far as the Revenue has been unable to demonstrate by some tangible material that there is an international transaction involving AMP expenses between WOIL and Whirlpool USA. In the absence of that first step, the question of determining the ALP of such a transaction does not arise. In the absence of a machinery provision it would be hazardous for any TPO to proceed to determine the ALP of such a transaction since BLT has been negated as a valid method of determining the existence of an international transaction and thereafter its ALP. And therefore held that an international transaction

between WOIL and its AE involving the AMP expenses within the meaning of S. 92B r.w.s. S. 92F(v) is negative.

*CIT v. Whirlpool of India Ltd. ITA No. 610 of 2014 & 228 of 2015 and CM No. 5751 of 2015 dtd. 22-12-2015 (Del)(HC) Source : delhihighcourt.nic.in*

## TRIBUNAL

### 4. Sestion 27(iib) : Owner of House Property – Assessee tenant of property for more than 12 years – Being in full control of the property as tenant – Income earned from said property treated as Income from house property u/s. 27(iib) of the Act.

During the course of assessment proceedings, the AO found that income received by the assessee from sub-letting the house property was actually owned by her husband and therefore, he considered the income as ‘Income from other sources’ on the ground that the assessee was not owner of the house property. The CIT(A) also confirmed the action of the A.O.

Before the ITAT the issue relating s. 27(iib) which says that wherein the expression ‘owner’ of the

house property has been defined. “(iib) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in clause (f) of section 269UA, shall be deemed to be the owner of that building or part thereof.” It was observed from the fact that the assessee shall be deemed to be owner of the property in case said property was acquired by him on account of any transactions as is referred in clause (f) of section 269UA.

The assessee has been tenant of this property for more than 12 years, these facts were not disputed by the department, the income from this property has been treated, all along during past years, as ‘Income from house property’. The assessee had claimed the same as ‘income from house property’ being deemed owner u/s. 27(iib) of the Act. The Hon’ble ITAT held that assessee being in full control of the property as tenant, income earned from sub-letting the same is assessable as ‘Income from house property’, even though the assessee was not owner thereof. Therefore the said income as ‘Income fall under the head income from house property’. (A.Y.: 2008-09)

*Usha Manohar Shetty ITA No. 3984/Mum/2013 dtd. 6-1-2016 (Mum)(Trib.)*

☐

## INDIRECT TAXES

CA. Janak Vaghani

### 1. Sale – Implementation of software after sale of software is contract for services – Not liable for VAT

The petitioners engaged in the business of development and sale of information technology related services like customization of software implementation of software, annual technical and support services etc., had sold ‘finacle’ software to various banking companies and also undertook contract for providing post sales services of implementation of software to ensure that the client’s Bank requirements are met. The High Court held that the contract for implementation of software sold, is nothing but a service contract and not liable to VAT. The contract for implementation specifically falls within the definition of service and is taxed, as such, under the said law. The same activity cannot be taxed under VAT.

*M/s. Infosys Ltd. v. DCCT & Ors 2015-16 (20) KTCJ 135 (Kar.)*

### 2. Classification of Goods – Electrical insulated press board commonly known as high density board – Not all kinds of paper

The Karnataka High court held that the Electrical Insulated Press Board commonly known as High Density Board is excessively used in an electrical industry and not used as paper. Common persons who are in trade, may be aware that such process is undergone, similar to which is used for manufacturing paper they are clear in their mind that it is not a paper but is an Electrical Insulation Press Board which is used in the electrical transformers as conductor wrapping and insulation barriers between winding coils. In the trade parlance it is understood as electrical goods. The term paper of all kinds in Entry 69 is comprehensive and an inclusive definition. But it is not possible to treat the goods in question as a paper.

*M/s. Raman Board v. State of Karnataka, 2015-201 (20) KTCJ 185 (Kar.)*



**3. Constitution of authority for advance ruling below prescribed number – Not valid**

Section 60(1) of the KVAT Act clearly mandates that the 'Authority for Clarification and Advance Ruling' is to be constituted at least Three Additional Commissioners meaning thereby that the Authority could consist of more than three Additional Commissioners but not less than three members. The order dated 21-4-2012 is said to be passed by the Authority, only by two members. The High Court accordingly held that the said order passed by an Authority which was not properly constituted under the provisions of the Act as such the order was quashed by the High Court and matter was remanded for being decided afresh by the Authority

properly constituted under section 60(1) of the KVAT Act.

*M/s. Yakut Danonte India Pvt. Ltd. v. ACAR 2015-16 (20) KTCJ 221 (Kar.)*

**4. Claim of sale against Form C cannot be rejected for not submitting it online**

There is no provision under the Pondicherry VAT Rules to submit the declaration form in the electronic mode as has been suggested by the department. Therefore, the assessment orders passed by disallowing the claim for want of online submissions were set aside and the assessing authorities were directed to proceed with the assessment afresh after receiving it in physical form.

*M/s. MRF Ltd. v. CTO 2015-16 (21) TNCJ 213 (Mad.).*



**Hearty Congratulations**

Hearty Congratulations to the newly elected office bearers of Sales Tax Bar Association, New Delhi for the period 2015-16

President : Shri Sanjay Sharma  
Vice President : Shri Yashu Goel  
Secretary : Shri Suresh Agrawal  
Jt. Secretary cum Treasurer : Shri Mohit Kumar Gupta  
We wish them all the success.

**DISCLAIMER**

*The opinions and views expressed in this Times are those of the contributors. The Federation does not necessarily concur with the opinions/views expressed in this journal.*

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

*No part of this Times may be reproduced or transmitted in any form or by any means without the permission in writing from All India Federation of Tax Practitioners.*

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

Printed by Kotecha Mitesh Ashwin Published by Kotecha Mitesh Ashwin on behalf of All India Federation of Tax Practitioners (name of owner) and Printed at Finesse Graphics & Prints Pvt. Ltd., 309, Parvati Industrial Premises, Sun Mill Compound, Lower Parel, Mumbai - 400 013. (name of the printing press with address) and published at All India Federation of Tax Practitioners, 215 Rewa Chambers, 31, New Marine Lines, Mumbai - 400 020 (full address of the place of publication). Editor: Vanjara Kishor Dwarkadas.

To

**Posted at Mumbai Patrika Channel Sorting Office  
Mumbai - 400 001.**

**Date of Publishing : 1st of every month.**

**Date of Posting : 3rd & 4th February, 2016**

*If undelivered, please return to :*



**ALL INDIA FEDERATION OF TAX PRACTITIONERS**

215, Rewa Chambers, 31, New Marine Lines, Mumbai 400 020. • Tel.: 22006342  
Telefax: 22006343 • E-mail: aiftp@vsnl.com • Website: www.aiftponline.org