

## All India Federation of Tax Practitioners



# AIFTPT TIMES

Volume 7 – No. 9 • September 2016

## FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
10-9-2016	One Day Seminar	Anand, Gujarat
21-10-2016	National Executive Committee Meeting	Thiruvananthapuram
21, 22-10-2016	Two Day National Tax Conference	Thiruvananthapuram
11-11-2016	National Executive Committee Meeting	Pune
11, 12-11-2016	Two Day National Tax Conference	Pune
2-12-2016	National Executive Committee Meeting	Delhi
2, 3, 4-12-2016	19th National Convention	Delhi

## ACTIVITY OF CENTRAL ZONE

- Felicitation Function:** We welcomed Shri Alok Gupta, IAS, Commissioner, Commercial Taxes, Government of Rajasthan, Jaipur on joining as CCT (Rajasthan). We also welcomed Shri Namit Mehta, IAS, Additional Commissioner, IT, Government of Rajasthan, Jaipur.
- Tax Conference:** We shall be organising Tax Conferences in the months of October and November in Jaipur, Ratlam, Bhopal and Chhattisgarh. 8 Members from Central Zone attended National Tax Conference at Tatanagar.
- Representation:** We submit a representation on the problems of TDS to the Chief Commissioners of Income-tax, Jodhpur, Jaipur, Indore, Bhopal and Raipur. We also submitted a representation to the Principal Secretary (Finance) and CCT, Commercial Taxes Department, Government of Rajasthan, Jaipur for the problems under VAT.

We also met CCT (Exemption), Jaipur regarding practical problems under 80G and 12A for State of Rajasthan and they assured to solve the problem.

- New Members:** We have admitted 12 new members in the month of August.

(D. C. Mali)  
Chairman (CZ)

(Bhanwar Bissa)  
Secretary

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

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

**REPORT OF SEMINAR OF DTPA – OUR ASSOCIATION MEMBER  
TAX CULTURE NECESSARY FOR  
ENCOURAGING TAX COMPLIANCE**

The concrete steps should be taken for developing tax culture with a view to encourage better tax compliance said Justice Pinaki Chandra Ghose of the Supreme Court while inaugurating a Tax Seminar organised by Direct Taxes Professionals Association (DTPA), an active association member of AIFTP. The tax professionals may play role of a catalyst to change the mind set of their clients.

Speaking on the occasion Hon'ble Mr. Justice R. K. Agrawal of the Supreme Court said that Taxation laws play a major role in the development of the country's economy. It helps in maintaining economic stability by reducing economic inequalities by way of imposing tax on basis of income slabs.

Mr. Gopal Mukherjee, Member (Revenue), Central Board of Direct Taxes, urged the people to take benefit of Income Declaration Scheme, 2016 to disclose their income, and come clean. Even benami properties may be declared under the scheme. The information contained in the declaration will be kept confidential, he assured.

Mr. Narayan Jain, National Vice-President, AIFTP said that the Government should set up a group to chart out action plan to develop Tax Culture to ensure "Better Tax Compliance" and for this purpose adequate amount need to be earmarked. On call of Jain, the audience instantly agreed to support the movement for developing tax culture. Vivek Gupta, MP appreciated the call of DTPA for developing tax culture and assured to take up the issue in Parliament. Mr. Sunil Surana, President of DTPA highlighted the objects and activities of DTPA and said the Association is the largest tax professionals body in the City. It helps young tax practitioners in grooming them.

Deliberating on tax aspects of Joint Development Agreement, Mr. R. S. Upadhyay, Principal DIT, Kolkata said that as per some court decisions landowner should pay the tax in the year he receives part consideration and hands over possession to the developer. CA Bhupendra Shah pointed out the difficulty of the landowner if tax is charged in the year of execution of JDA as landowner may not have enough resources to pay tax in that year. Mr. Firoze B. Adhyarujina, Sr. Advocate, explained the new provisions relating to Charitable Trusts. The First Technical Session was chaired by Dr. A. L. Saini, Member, ITAT, Kolkata.

The Second Technical Session was nicely chaired by Mr. N. M. Ranka, former President of AIFTP. Mr. S. R. Wadhwa, past VP of AIFTP spoke on expanding provisions of deemed income particularly treating the stamp duty value as consideration for the purpose of capital gains on transfer of immovable property, while Mr. N. K. Poddar, highlighted the new penalty provisions and said that 50 per cent penalty may be levied in case of under reporting and 200 per cent penalty may be imposed in case of misreporting of income. Mr. Ranka summed up the deliberations and the questions raised were answered by him and the speakers.

Mr. A.A. Shanker, Principal CIT-3; Mr. Ashish Verma, Principal CIT-17, Mr. N. M. Ranka and other speakers participated in panel discussion on Income Declaration Scheme, 2016, which was moderated by Mr. Narayan Jain. The scheme was explained to audience to enable them to help their clients.

Mr. C.M. Bachhawat, IAS and Member, West Bengal Taxation Tribunal; Ms. Mamta Binani, President ICSI and member of AIFTP; Mr. R. D. Kakra, Chairman, East Zone, Mr. Indu Chatrath, NEC Member, Mr. Arvind Agarwal, Secretary, EZ also graced the occasion. Mr. Pawan Agarwal, Mr. R. N. Rustagi, Mr. M. C. Jagwayan and Mr. Deepak Jain and senior members assisted for the success of the Conference.

# NATIONAL TAX CONFERENCE – THIRUVANANTHAPURAM

*Jointly Organised by*  
**ALL INDIA FEDERATION OF TAX PRACTITIONERS (SOUTHERN ZONE)**  
&  
**KERALA TAX PRACTITIONERS ASSOCIATION**

21st and 22nd October, 2016 at Hotel SP Grand Days, Panavila Junction, Thiruvananthapuram

## ANANTHA VIJNAN

### Programme

#### DAY 1 – 21st OCTOBER, 2016 (FRIDAY)

08.30-10.00 am	Registration & Fellowship	
10.00-11.30 am	Inaugural Session	Chief Guest : Shri Thomas Isaac*, Finance Minister, Kerala
11.30-11.45 am	Tea Break	
11.45-01.15 pm	Technical Session – 1	International Taxation – Recent Trends Chairman: CA. R. Krishnan, Nagercoil Speaker : CA. P. V. S. S. Prasad, Hyderabad
01.15-02.00 pm	Lunch Break	
02.00-03.30 pm	Technical Session – 2	Role of Accounts in Income Tax Chairman: Smt. Premlata Bansal. Sr. Advocate, New Delhi Speaker : CA. Gururaj Acharya K., Bengaluru
03.30-03.45 pm	Tea Break	
03.45-05.15 pm	Technical Session – 3	Recent Circulars in Income Tax Chairman : Shri S. K. Poddar. Advocate, Ranchi Speaker : CA. Veeramony P. M., Kochi

#### DAY 2 - 22nd OCTOBER, 2016 (SATURDAY)

09.15-10.15 am	Spiritual Talk	Dr. N. Gopalakrishnan
10.15-11.45 am	Technical Session – 4	Goods and Service Tax Chairman : Shri R. G. Muralidhar, National President, ITPI, Bengaluru Speaker : Shri K. Vaitheeswaran, Advocate, Chennai
11.45-12.00 pm	Tea Break	
12.00-01.30 pm	Technical Session – 5	Reverse Charge of Service Tax – A Straight Analysis Chairman : Shri M. V. J. K. Kumar, Advocate, Hyderabad Speaker : CA. Prasanna Krishnan, Chennai
01.30-02.15 pm	Lunch Break	
02.15-03.45 pm	Technical Session – 6	Works Contract under KVAT and Service Tax Chairman : Dr. N. Ramalingam, Professor, GIFT, Thiruvananthapuram Speaker : CA. Tony, Thrissur

\*Confirmation awaited

## REGISTRATION FEES

Fee for Delegates : ₹ 2,000/- (₹ 300/- Fee + ₹ 1,700/- Food and Conference Kit)  
 Fee for Accompanying Spouse : ₹ 1,500/- (Charges for Food)

**Cheque / DD in favour of All India Federation of Tax Practitioners payable at Hyderabad**

For details contact : CA. Subramonia Sarma N., (9847065706), aiftptvm@gmail.com

## CONFERENCE COMMITTEE

Shri V. Nagendra Prasad, Chairman, AIFTP-SZ, (M) 9246367913 • vnprasadtax@yahoo.com

Shri D. Amarnath, Secretary, AIFTP-SZ, (M) 9440470185 • dasoju\_amar@yahoo.co.in

Shri A. Retnakumar Convenor, Conference Committee,

National Joint Secretary, AIFTP-SZ, (M) 9447153745 • retna56@yahoo.com

Shri S. S. Satyanarayana, National Vice-President, AIFTP-SZ, (M) 9989924646, • sreepadass@gmail.com

Shri S. Vijayan Achari, Tax Practitioner, President, KTPA, (M) 9846255537, • vijayanacharystp@gmail.com

Shri M. Ganeshan, Tax Practitioner, General Secretary, KTPA, (M) 9447178190 • gs.ktpa2015@gmail.com

CA. H. Ramakrishnan (AIFTP) (M) 9995808196

CA. S. Padmanabhan (AIFTP) (M) 9447964275

CA. C. Hari (AIFTP) (M) 9349329711

Shri Subrahmanian, Tax Practitioner (KTPA) (M) 9447190866

Shri S. Rajeev, Tax Practitioner (KTPA) (M) 9447020555

CA. R. Balagopal (AIFTP) (M) 9895051224

CA. R. Bhadrakumar (AIFTP) (M) 9447112420

CA. S. Sundar (AIFTP) (M) 9447777256

## HOTEL TARIFF

(DOUBLE OCCUPANCY – COMPLIMENTARY BREAKFAST - INCLUDING TAXES)

	Hotel	Standard	Deluxe
1.	Hotel Classic Sarovar Portico, Manjalikkulam. Thampanoor. Thiruvananthapuram	3000	3500
2.	S P Grand Days, Panavila Jn., Thiruvananthapuram	3200	3500
3.	Hotel Residency Towers, Govt, Press Road, Statue, Thiruvananthapuram	3500	4200
4.	Keys Inn. Housing Board Jn., Thiruvananthapuram	3000 + Tax	3500 + Tax
5.	Hotel Horizon, Thampanoor, Thiruvananthapuram	3200	3500
6.	Rooms ranging around ₹ 2,000 shall be arranged on request		
(All hotels are within 2 kms. from the Conference venue)			
For details, contact: CA Sundar S. (9447777256) – aiftptvm@gmail.com			

## PLACES OF INTEREST IN AND AROUND THIRUVANANTHAPURAM

- |  |  |
|--|--|
| 1. Kovalam Beach (12 kms.)             | 7. Palayam Juma Masjid (1 km.)                         |
| 2. Napier Museum & Art Gallery (1 km.) | 8. Poovar Backwaters & Boating (30 kms.)               |
| 3. Sree Padmanabhaswamy Temple (2 km.) | 9. Kanyakumari (90 kms)                                |
| 4. Zoo & Snake Park (1 km.)            | 10. Sucheendram Temple (On the way to Kanyakumari)     |
| 5. Planetarium (2 km.)                 | 11. Padmanabhapuram Palace (On the way to Kanyakumari) |
| 6. St Joseph's Cathedral (1 km.)       |  |

*For Tour and Travel requirements, contact:*

Shri Rajeev S., Tax Practitioner, (M) 9447020555 • e-mail: aiftptvm@gmail.com

## Congratulations

Hearty Congratulations to the newly elected office bearers of Western Maharashtra Tax Practitioners Association, Pune for the period 2016-17.

President : Shri Deepak Godse  
 Vice-President : Shri Atul Kulkarni  
 Secretary : Shri Narendra Sonawane  
 Joint-Secretary : Shri Mahendra Bhujang  
 Treasurer : Shri Navneetlal Bora

We wish them all the success

### RENEWAL SUBSCRIPTION TO AIFTP JOURNAL

Dear Members,

We have posted bill for renewal subscription of AIFTP Journal in first week of April, 2016. Members are requested to send the DD or Cheque at par in favour of "All India Federation of Tax Practitioners" payable at Mumbai as early as possible.

Members can also download the subscription form from our website; i.e. [www.aiftponline.org](http://www.aiftponline.org) and send us the subscription.

Thanking you,

**For All India Federation of Tax Practitioners**

**CA. S. B. Kabra**  
Treasurer

**Note:**

1. Members who have not paid the subscription for AIFTP Journal for the year 2016-17 will not receive the AIFTP Journal from July, 2016 onwards.
2. Members who required the AIFTP Journal to be couriered separately at their communication address, should add ₹ 300/- per year as courier charges.

#### 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 29-8-2016 Life Members

	Associate	Individual	Association	Corporate	Total
Central	0	874	23	3	900
Eastern	3	1292	36	3	1334
Northern	0	1027	17	0	1044
Southern	1	1088	18	7	1114
Western	4	1815	36	18	1873
<b>Total</b>	<b>8</b>	<b>6096</b>	<b>130</b>	<b>31</b>	<b>6265</b>

## DIRECT TAXES

Ms. Neelam Jadhav, *Advocate*, KSA Legal Chambers

### 1. S.50(1)iii) : Actual cost of a new office was deductible as the same was acquired and used for the purpose of the business during the year under appeal

Assessee sold its office premises, which was forming part of the block of assets, for a sum of ₹ 5,82,43,292/- whereas the written down value (WDV) of the block of assets was ₹ 1,04,62,779/-, and in the same previous year assessee have included another building in the block of assets claiming to have acquired the same for a sum of ₹ 13,27,07,432/-. In the return of income, no capital gain on transfer of depreciable asset being sale of a building was declared u/s. 50. The A.O. took the view that assessee was not entitled to claim accretion for the cost of acquisition of the new office premises while computing the gain specified in Section 50. According to the A.O. there was no agreement for acquiring the property, and mere payment of full consideration does not *ipso facto* amount to acquisition of property for the purposes of S. 50(1)(iii) in the absence of possession or usage of the same. The A.O. was not satisfied and computed the capital gains on sale of depreciable asset in terms of S. 50 by reducing from the full value of sale consideration in respect of the property sold and the opening WDV of the block of assets. Simultaneously, the depreciation claimed by the assessee on the new office premises and the attendant office equipment was also denied. The CIT(A) confirmed the order of the A.O. stating that possession and usage of the property are *sine qua non* for holding that the assessee acquired the asset, as such, in the absence of possession and usage, the assessee cannot be said to have acquired the same.

The Honourable ITAT held that Section 50 does not contemplate use of property to complete the process of acquisition of property. Acquisition is a process whereby the rights of the parties are crystallised in unequivocal terms and each party has complied with or is ready to comply with the mutual obligations. Possession has both physical and psychological components and when once the assessee started with work of fit-outs, having discharged his obligation under the contract, his *animus possidendi* accompanies the act of *corpus possidendi*. Occupation could be equated to the term “use” as contemplated u/s. 32 whereas it cannot be equated to the concept of possession

to understand the completion of the process of acquisition in terms of Sec. 53A of the Transfer of Property Act. Assessee by his acts of parting with full sale consideration and gaining the ability to have every other person excluded from dealing with the property and by proceeding with the work of fit-outs has demonstrated that it acquired the property for the purposes of S. 50(1)(iii). Therefore actual cost of a new office was deductible u/s. 50(1)(iii) as the same was acquired and used for the purpose of the business during the year. (A.Y. 2012-13)

*M/s. Indogem v. ITO, ITA No. 3442/Mum/2016 dt. 24-8-2016 (Mum.)(Trib.) source: www.itat.nic.in*

### 2. S. 80-IB : Claim of deduction in respect of income from business of repair and maintenance of aircraft derived from infrastructural facility build is allowable

The assessee is engaged in business of repair and maintenance of aircraft. The assessee had no facility in airport premises to provide these services and assessee was operating from outside the airport, only limited kind of repair and maintenance activity was performed by assessee. The assessee undertook the development of hangar and entered into a concession agreement. Airport Authority of India on 19-12-2002. As per the terms of the agreement, assessee was to construct the hangar on BOT basis and was to operate the same for 15 years. The assessee developed the said hangar and claimed deduction u/s. 80IA(4) on the income received from repairs and maintenance of aircrafts. The A.O. declined the assessee's claim on the plea that there are many hangars at the airport and if the assessee's claim that the development of hangar is covered under definition of 'infrastructural facility' is accepted then every structure such as shopping malls, hotels, restaurants which have utility purpose of airport or forming part of airport would be eligible for deduction u/s 80IA of the Act, therefore he denied deduction u/s. 80IA(4). CIT(A) confirmed the action of the A.O.

The Hon'ble ITAT held that assessee undertook the development of hangar and entered into the agreement for the said purpose with Airport Authority of India dated 19-12-2002. As per the terms of the agreement, the assessee was to construct the hangar on BOT basis and was under obligation to operate the same for 15

years. Completion of development of hangar, assessee was to operate and maintain the hangar and use the same exclusively for aircraft maintenance works including servicing and repairs to the aircraft. Hangar is a structure built for aircraft maintenance and hence would be forming part of the airport. The assessee has not developed entire airport but has developed only hangars which constitute a part of airport. Even if the assessee is developing part of infrastructural facility, eligibility of deduction u/s. 80-IB(4) cannot be declined.

*Max Aerospace and Aviation Ltd. v. Jt. CIT, I.T.A. No. 43/Mum/2014 dt. 24-8-2016 (Mum.)(Trib.) Source: www.itat.nic.in*

**3. S. 271(1)(b) : Reasonable cause which prevented the assessee to comply with the notice – No penalty can be levied u/s. 271(1)(b)**

During the course of assessment proceedings, the A.O. issued notice to the assessee u/s. 142(1) fixing the date of compliance. The assessee did not

comply with the said notice. Hence, the AO levied penalty u/s. 271(1)(b). The CIT(A) also confirmed the same.

The Hon'ble ITAT observed that there was reasonable cause which prevented the assessee to comply with the notice and this was only the single instance. It has also been explained that in the case of the assessee along with its group companies, total 55 search assessments were in progress and hence, there was minor delay in submission of details. There was no such non-compliance in subsequent hearings during the assessment proceedings and the assessment was duly completed under the regular provisions and not u/s. 144. Considering the overall facts and circumstances of the case, assessee has given a reasonable explanation for non-compliance of the notice on a single occasion and therefore imposing/confirming the penalty u/s. 271(1)(b) is to be deleted.

*Aditya R. Parikh v. DCIT, ITA No. 4766-4773/Mum/2014 dt. 24-8-2016 (Mum.)(Trib.) source: www.itat.nic.in*

□

**Subscription Rates w.e.f. 1-4-2014**

1. Life Membership of the AIFTP					₹ 2,500/-*
ID Card Fees					₹ 100/-*
Subscription of AIFTP Journal (for 1 year)					₹ 800/-
Subscription of AIFTP Journal (for 3 years)					₹ 2,100/-
2. For Non-Members					
Subscription of AIFTP Journal (for 1 year)					₹ 1,000/-
Subscription of AIFTP Journal (for 3 years)					₹ 3,000/-
Single copy of the AIFTP Journal					₹ 80/-
3. Corporate Membership					
Nature of fees	Type I (5 Yrs.)	Type II (10 Yrs.)	Type III (15 Yrs.)	Type IV (20 Yrs.)	
Admission	500/-*	500/-*	500/-*	500/-*	
Subscription	5,000/-	7,500/-	11,500/-	15,000/-	
Total	5,500/-	8,000/-	12,000/-	15,500/-	

Note: Members may download the membership form from the website of AIFTP, i.e., [www.aiftponline.org](http://www.aiftponline.org)

\* 15% Service Tax as applicable.

### Publications for sale

Sr. No.	Name of Publication	Rates (₹)			
		Edition	Members	Non-Members	Courier Charges
1.	Basic questions and answers on FEMA, Non-Resident Taxation, LLP, Allied Laws & Report of Foreign Bank and Financial Accounts	Dec., 2014	200.00	225.00	60.00
2.	“212 Frequently Asked Questions on Survey – Direct Taxes”	Dec., 2015	240.00	270.00	60.00

- 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.

#### 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 September, 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