

All India Federation of Tax Practitioners



AIFTP TIMES

Volume 6 – No. 9 • September 2015

FORTHCOMING PROGRAMMES	Date & Month	Programme	Place
	12-9-2015	Annual General Meeting (SZ)	Hyderabad
	13-9-2015	Extraordinary General Body Meeting (EZ)	Kolkata
	13-9-2015	Full Day Seminar on GST & Tax Reforms (EZ)	Kolkata
	10-10-2015	National Executive Committee Meeting	Varanasi
	10 & 11-10-2015	National Tax Conference (NZ)	Varanasi
	25-12-2015	Last National Executive Committee Meeting for 2014 & 2015	Hyderabad
	25-12-2015	Extra Ordinary General Body Meeting (SZ)	Hyderabad
	25-12-2015	First National Executive Committee Meeting for 2016 & 2017	Hyderabad
	26, 27-12-2015	18th National Convention 2015 (SZ)	Hyderabad

REPORT OF TAX SEMINAR OF AIFTP CENTRAL ZONE ON 23-8-2015

One-day Tax seminar of All India Federation of Tax Practitioners (CZ) was organized at Jodhpur in Hotel Niki International, Jodhpur.

Tax Conference was inaugurated by Lighting of Lamp and Saraswati Vandana. Chief Guest of inauguration Session was Shri Manohar Puri, Hon'ble Member, Rajasthan Tax Board, Ajmer.

Guest of Honours were Shri Ranjit Joshi, President, Rajasthan High Court Advocate Association, Jodhpur and Shri Rahul Mohnot, CEO, Ultra Tech (Birla White Cement).

Chairman Shri P.M. Chopra welcomed the delegates and Dr. S.L. Jain (Chairman- Central Zone) briefed the delegates about Federation and its activities. Memento were presented by Shri Ashok Jangid (Treasurer), Shri Suresh Ojha (Vice Chairman) and Shri D.R. Bohra and Vote of Thanks was given by Shri T.L. Jain (Joint Secretary). Programme was conducted by Advocate Prerna Chopra jointly with Shri D.C. Mali, Advocate and Shri K.K. Gehlot, Advocate.

Following subjects were discussed:

1. Amendment in Company Law and LLP by Shri Pankaj Jain, F.C.A., Delhi
2. Provision of Re-Assessment u/s 148 of IT Act by Dr. S.L. Jain, Jaipur and Shri Surendra Mehta, Advocate
3. Key Tax Amendment in Budget 2015 by C.A. Piyush Chopra, Delhi
4. Provisions of Capital-Gain Tax under Income Tax Act by Dr. S.L. Jain
5. Important Provision under GST and suggestion under the VAT submitted to Govt. of Rajasthan and latest important decision under the VAT and CST by Shri Pradeep Jain, F.C.A.

First technical session was chaired by CA. Sumer Patwa and Second technical session was chaired by Shri D.R. Bohra on VAT and GST. AGM was also held and special memento was given to the delegates who attended the

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Ahmedabad Conference. Two minutes “Silence” has been kept for the members who expired i.e. Shri Nirmal Oswal and Nand Lal Bissa of Jodhpur and for the sudden death of wife of Mr. M.L. Patodi of Kota who was our past National President.

Lastly in this seminar written submissions and suggestions were invited from different Bar Associations in summarized manner. Association submitted report to the Government of Rajasthan. In this seminar, there was a special session of TDS jointly with Income Tax Department.

Around 100 delegates from Jaisalmer, Barmer, Jaipur, Merta, Nagaur, Pali, Makrana, Ajmer, Beawar, Bikaner, Sri Ganganagar etc. cities were present and representatives of different Tax Bar Associations have also attended the seminar. News of this seminar is well published in all the newspapers and press channels.

Dr. S.L. Jain
Chairman

P.M. Chopra
Conf. Chairman (CZ)

Rajesh Mehta
Secretary

Ashok Jangid
Treasurer

REPORT OF SEMINAR ON GST IN GHAZIABAD

All India Federation of Tax Practitioners - NZ in collaboration with IMS Ghaziabad was organised a Half Day Seminar on GST, themed “Practical Aspects for Implementation of Goods & Service Tax” on August 22, 2015 at 2.30 pm – 7.30 pm.

The Inaugural Session envisaged the Lighting of the Ceremonial Lamp and Felicitations of the Chief Guest Shri P. C. Joshi, Advocate, Mumbai, Guest of Honours Mrs. Neera Gupta, President, Delhi Sales Tax Bar Association, Mr. Vinay Aggarwal, President, Tax Bar Association, Delhi, Shri Arvind Shukla, Chairman, AIFTP-North Zone & other dignitaries by Dr. Urvashi Makkar, Director, IMS Ghaziabad and other senior members of IMS Management.

The Chief Guest Shri P. C. Joshi, Advocate, Mumbai High Court and Guest of Honours Mrs. Neera Gupta, President, Delhi Sales Tax Bar Association, Mr. Vinay Aggarwal, President, Tax Bar Association, Delhi, Mr. Arvind Shukla, Chairman, AIFTP-North Zone in the Inaugural Session spoke on the relevance and importance of GST and its positive impact on the economy of our country. Mr. Mukul Gupta, National Vice President-AIFTP – North Zone deliberated about AIFTP and its relevance/role in the present changing scenario of tax compliance as well as introduction of new Indirect Tax Regime of GST. Mr. Ajay Sinha, General Secretary AIFTP-NZ formally extended its gratitude to all dignitaries and delegates for their kind presence in the GST Seminar.

The 1st Technical Session was chaired by Shri K. L. Goyal, Senior Advocate, Punjab & Haryana High Court, Chandigarh and witnessed speakers like CA H. L. Madan, Eminent Chartered Accountant from Delhi as well as Shri Mukul Gupta, Eminent Advocate, Ghaziabad & Chairman, GST Committee-AIFTP. The highlights of GST including the intricate issues were discussed in-depth by the Speakers and the Chairman.

The 2nd Technical Session was chaired by Mr. K. C. Kaushik, Advocate, Supreme Court and Former Additional Solicitor General, Uttar Pradesh. Mr. Sudhir Sangal, Eminent Advocate, Past President – Delhi Sales Tax Bar Association spoke on the concept of ‘Supply’ of Goods & Services in GST vis-a-vis Concept of ‘Sale’ under VAT. Mr. Sandeep Goyal, Eminent Advocate, Chandigarh, Executive Committee Member – AIFTP NZ deliberated upon the Residual definition of ‘Service’ in GST. In the last Mr. Prashant Raizada, Partner BDO Consultants, Gurgaon & AIFTP-GST Committee Member explained the practical aspects and necessary preparations of GST by the business through Consultants. Mr. Rajeev Gupta, Chairman, Federation of All Tax Bar Associations of Ghaziabad and Shri O. P. Shukla, Joint Secretary (National), AIFTP from Varanasi were also present on dais.

The Seminar witnessed audience strength of more than 400 participants as the auditorium was full to its capacity. The audience keenly listened to the eminent speakers, the queries relating to the discussions on GST were also cleared. Well implemented GST may prove to be a win-win situation for all stakeholders, but it is necessary that every advantageous aspects of GST design is well adopted by the business from the early-stage of GST implementation. The aim of the Seminar was well achieved as the message with regard to required preparation for smooth implementation of GST has gone very well to the business and industry whose more

than 175 representatives from Ghaziabad, Hapur, Gajraula, Bulandshahr, Noida, Greater Noida, Meerut and Delhi were present. Large number of members from AIFTP-North Zone from Varanasi, Allahabad, Ludhiana, Chandigarh, Gurgaon, Faridabad, Delhi, Noida and Meerut were present. The Seminar got fantastic support from the local Tax Practitioners who gathered in large number to hear the eminent speakers, Chairman and most important of all the Chief Guest Shri P. C. Joshi ji on GST.

The Seminar was very well moderated and commanded by Mr. Mukul Gupta, Chairman-GST Committee and National VP-AIFTP together with Ms. Guneet Oberoi, Sr. Manager-Centre for Competency Development and Research, IMS Ghaziabad.

The Management of IMS Ghaziabad ensured nil registration cost of the Seminar and ensured hospitality through high tea for all delegates and participants. A special counter for enrollment as a Life Member of AIFTP had also functioned which has distributed the Brochure 'About the Federation' along with 'Life Member Enrollment Form' for AIFTP. Enthusiasm has been shown by many delegates to become the member of AIFTP, some duly filled forms along with cheques had already been received and forwarded to Mumbai Office.

Immediately after the Seminar, the Managing Committee Meeting of AIFTP-North Zone had also taken place in the Board Room at the same venue. Large number of members of Managing Committee as well as other special invitees from amongst the members of AIFTP who have gathered for the GST Seminar had also attended the Managing Committee Meeting which discussed the forthcoming National Tax Conference viz 'Manthan on Tax Issues' at Varanasi on 10th and 11th October, 2015. The members of the Managing Committee – North Zone, AIFTP had also got the benefit of the gracious presence of Shri P. C. Joshi who all the way came from Mumbai.

NOTICE TO MEMBERS

Notice is hereby given that the Annual General Meeting of the Members of All India Federation of Tax Practitioners (South Zone) will be held on Saturday, the 12th September 2015 at **Telangana Tax Practitioners Association**, Nos.237 to 239, 'B' Block, 2nd Floor, Suryalok Complex, Abids, Gund Foundry, Hyderabad – 500 001 at 4.00 p.m.to transact following business:-

AGENDA

1. To read and approve the minutes of the last AGM held on 26th July, 2014 at Chennai.
2. To receive and adopt the Annual Report of the Managing Committee (SZ) for the year 2014-15.
3. To consider and adopt the audited accounts of the Federation (SZ) for the year ended 31st March, 2015.
4. To appoint Auditors for the year 2015-16 and fix their honorarium.
5. To transact any other business with the permission of the Chair.

Yours faithfully,
For AIFTP (SZ)

G. Bhaskar
Hon. Secretary

Place: Chennai
Date: 20-8-2015

- Note. 1. Accounts for the year ended on 31-3-2015 and the report of the Managing Committee for the South Zone can be collected from the office of the Treasurer from 31st August, 2015 onwards between 11.00 a.m. and 4.00 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 4.00 p.m., the meeting will be adjourned by half an hour and the members present at such adjourned meeting shall form the quorum.

NOTICE FOR EGBM ON 13th SEPTEMBER, 2015

Notice is hereby given that the Extraordinary General Body Meeting of All India Federation of Tax Practitioners (Eastern Zone), will be held on **Sunday, the 13th September, at 6.00 p.m.** at **ROTARY SADAN, 94/2, Jawaharlal Nehru Road, Kolkata – 700 020** to elect 24 members for the Zonal Managing Committee and thereafter to elect office bearers for the term 2016 & 2017, amongst the elected members of the Managing Committee.

Shri S. K. Poddar and Shri Chira Kumar Chatterjee have been appointed as the Chief Election Commissioner and Election Commissioner respectively.

Nomination papers have to be sent to the office of **All India Federation of Tax Practitioners (Eastern Zone), P-36, India Exchange Place, 2nd Floor, Room No. 40, Kolkata – 700 001** to reach latest by **4th September, 2015 by 5.00 p.m. either by post or by hand.**

The date for withdrawal of nomination is **7th September, 2015 till 5.00 p.m.**

Scrutiny of the nomination papers shall be held at 3.00 p.m. on 9th September, 2015 by the Election Commissioners at the registered office of the Association and they shall publish the names of the candidates at the registered office and on website of the AIFTP (EZ).

The final list of the candidates will be published on 9th September, 2015 on website “AIFTP EAST” after scrutiny of the nomination papers.

The Results of the Election shall be declared by the Election Commissioner on **13th September, 2015** at Rotary Sadan, Kolkata.

The 24 newly elected members shall meet immediately after EGM at same venue to elect the following office bearers:

1. (One) Zone Chairman
2. (Five) Vice-Chairmen, one from each State.
3. (One) Zone Secretary
4. (Two) Jt. Secretary
5. (One) Treasurer
6. (Fourteen) Managing Committee Members proportionately on the basis of the membership of each State.

The EGM will be held after the Full day Seminar on “GST” and Tax Reforms which shall be organised from 10.00 a.m. at the same venue on same day. EGM will be followed by dinner.

(Indu Chatrath)
Chairman (EZ)

(N. D. Saha)
Secretary (EZ)

Nomination papers may be collected from the Zone Chairman and/or may be downloaded from website.

ANNOUNCEMENT

Concessional Subscription for www.taxmann.com

We are glad to inform you that we have worked out concessional subscription for www.taxmann.com for AIFTP members vide letter No. A-1777 dated 12-12-2013 and further email dated 21-11-2014.

www.taxmann.com will be available to AIFTP Members at Just ₹ 4,950/- per year (Otherwise priced at ₹ 8,800/-). This arrangement is for further 2 years with 10% increment in the offer price above at the end of each year. The agreement is renewable after expiry of 2 years at same for and conditions etc.

The website <http://www.taxmann.com/> – is a Complete Data Base on Direct Tax Laws since 1886, Corporate Laws since 1913, CST & VAT, Excise & Customs.

It will also provide updates on GOODS & SERVICES TAX, Reporting of nearly New 4500 cases in 2014, Reporting more cases than all other Websites & Journals put together, always updated Acts/Rules/Forms/Circulars & Notifications on ST & VAT/Service Tax/Excise & Customs, as well as Commentaries and Articles (details of features are enclosed).

MEMBERS OF AIFTP ARE REQUESTED TO TAKE BENEFIT OF OUR UNDERSTANDING WITH TAXMANN.

NATIONAL TAX CONFERENCE – VARANASI 2015

manthan on Tax Laws

Presented by

ALL INDIA FEDERATION OF TAX PRACTITIONERS (NZ)
&
INCOME TAX BAR ASSOCIATION, VARANASI
10th & 11th October, 2015 (Saturday & Sunday)
Venue: Hotel Clarks, The Mall, Cantt., Varanasi

PROGRAMME

Day 1 – Saturday, 10th October, 2015

8.30 am to 9.30 am	Spot Registration, Fellowship & Breakfast
9.30 am to 11.30 am	Inaugural Session-'MANTHAN on Tax Laws' Chief Guest : Hon'ble Mr. Justice R. K. Agrawal, Judge, Supreme Court of India Guest of Honour : Shri K. V. Chowdary, Central Vigilance Commissioner, Govt. of India
11.45 am to 1.45 pm	First Technical Session - Income Tax Chief Guest : Shri Sushil Kant Mishra, Principal Chief Commissioner of Income Tax, Lucknow, U.P. Guest of Honour : Shri Sudhir Kumar, Chief Commissioner of Income Tax, Allahabad Paper-I : Practical Approach in Re-opening of Assessment CA. H. N. Motiwalla (Secretary General – AIFTP) Paper-II: Deeming Provisions U/s 14A, 50C & 56 CA. H. Padamchand Khincha, Bengaluru Summing up by Chairman Shri N. M. Ranka, Senior Advocate, Jaipur
1.45 pm to 2.30 pm	Lunch
2.30 pm to 5.00 pm	Second Technical Session – Panel Discussion 'Mann Ki Baat' Problems and Issues relating to Income Tax, Commercial Tax, Service Tax & Company Laws. (Departmental Heads will address the audience and deliberation with subject experts).
2.15 pm to 4 pm	National Executive Meeting (For National Executive Members Only)

Day 2 – Sunday, 11th October, 2015

8.30 am to 9.30 am	Fellowship & Breakfast
9.30 am to 11.30 am	Third Technical Session – Goods & Service Tax Paper-I : The Concept of Supply as an event of Liability of GST vis-a-vis Sale as an event of liability under VAT or Sales Tax Shri Pratik Jain, Partner, North India Head (Indirect Tax), KPMG, Gurgaon Paper-II : Residual definition of Service in the presence of well-defined and debated concept of Goods under GST Shri Sujit Ghosh, Advocate, National Head – Advaita Legal, New Delhi Summing up by Chairman Shri P. C. Joshi, Advocate, Mumbai Comfort Break – 10 minutes

11.45 am to 1.45 pm	Fourth Technical Session – Value Added Tax & Income Tax Paper-I : Restrictions and Impediments in claim of input Tax Credit and Calculation of Reversal of Input Tax Credit Shri Anand Singhal, Advocate, Ayodhya, Faizabad Paper-II: Taxability of Developer Agreements in Real Estate – Direct & Indirect Tax Aspects Shri Mahendra Kumar Chaudhary, Advocate, Patna Summing up by Chairman Shri P. V. Subba Rao, Advocate, Hyderabad
1.45 pm to 2.30 pm	Lunch
2.30 pm to 4.00 pm	Fifth Session – Brains’ Trust (Panel Discussion) Income-tax, VAT, Service Tax & GST Brain Trustees- Shri M. L. Patodi, Shri S. K. Poddar, Shri Balram Sangal Smt. Nikita Badheka, Dr. Anita Sumanth, Shri Prashant Raizada, Shri Sujit Ghosh
4.00 pm to 4.30 pm	VALEDICTORY SESSION HI-TEA (Gratitude & Syonara)

Registration:

For Members – ₹ 2,200/- up to 30th September 2015, thereafter ₹ 2,500/-. **For Spouse** – ₹ 1,500/-.
For Corporates/Others – ₹ 2,500/-. Registration fee/Hotel Charges may be sent through Cheque/Draft/RTGS in favour of ‘**National Tax Conference-2015**’ payable at Varanasi. Conference Bank Account No. 35149754289 in State Bank of India, Maqbool Alam Road Branch, Varanasi, IFSC : SBIN0007233, MICR : 221002020

Note: For Hotel accommodation and other details, pl. log on to our website www.aiftponline.org

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CONGRATULATIONS TO OUR SENIOR BROTHER MR. ARUN SATHE

Our Member and Past President of the Income Tax Appellate Tribunal (ITAT), Sr. Advocate Mr. Arun Sathe has been appointed by the Union Government as a Member on the Board of Capital Market Regulator Securities & Exchange Board of India (SEBI). Mr. Arun Sathe, 75, Sr. Advocate, is among the prominent tax lawyers in the country. Earlier, Mr. Arun Sathe was the BJP candidate for Parliament Election, against actor Mr. Sunil Dutt. In the mid 60s, when naxalism was raging across the country, Mr. Sathe opted to be RSS Pracharak at Assam and Bengal. Thereafter, he returned to Mumbai in 1972.

We are therefore pleased by his above appointment and wish him all the success in his new assignment.

DIRECT TAXES

Ms. Neelam Jadhav, Advocate
KSA Legal Chambers

SUPREME COURT

1. S. 234B : Interest is automatic if conditions are met – I.T.N.S. 150 is a part of the assessment order and it is sufficient if the levy of interest is stated therein

The assessment order did not contain any direction for the payment of interest. The ITAT and the Delhi High Court held that since no direction had actually been given in the assessment order for payment of interest, then there is no need to levy interest on the assessee. The Hon'ble Supreme Court held that provisions of S. 234B is applicable when the moment an assessee who is liable to pay advance tax has failed to pay such tax or where the advance tax paid by such an assessee is less than 90 per cent of the assessed tax, the assessee becomes liable to pay simple interest at the rate of one per cent for every month or part of the month. The levy of such interest is automatic when the conditions of section 234B are fulfilled.

CIT v. Bhagat Construction Co. Pvt. Ltd (SC) Source : www.itatonline.org

HIGH COURTS

2. S. 40(a)(ia) : Amount not deductible – Obligation to deduct TDS is only with respect to “income”, “reimbursement of expenses” do not have the character of income, no obligation to deduct TDS

The AO disallowed the amount as deduction for the reason that the assessee deducted TDS only on the service charges paid. According to the AO, TDS ought to have been deducted under the amount paid by the assessee towards reimbursement expenses.

Before the Hon'ble High Court it was observed that, “reimbursement of expenses can, under no circumstances, be regarded as revenue receipt” and therefore, it is not liable to income tax. It is only the amount that exceeds the expenditure incurred by the agent that would be liable to tax. The High Court in its reasoning by the text of section 194C (TDS for “work”) and section 194J (TDS of income from “professional services” – the latter expression defined expansively by section 194J (3) Explanation (a)). Neither provision obliges the person making the payment to deduct anything from contractual payments such as those made for reimbursement of expenses, other than what is defined as “income”. The law thus obliges only amounts which fulfil the character of

“income” to be subject to TDS in such cases; for other payments towards expenses, the deduction to those entitled (to be made by the payee) the obligation to carry out TDS is upon the recipient or payee of the amounts.

CIT v. DLF Commercial Project Corp. (Del.)(HC) Source: www.itatonline.org

3. S. 36(1)(vii) r.w.s. 36(2) : Inter-corporate Debt (ICD) can be claimed as a bad debt if the interest thereon has been offered to tax

The assessee made an inter corporate deposit with M/s. GSB Capital Markets Ltd. Thereafter, during the subsequent Assessment Years, the interest was received and offered for tax. The amount being the aggregate of the principal amount as well as the interest was treated as doubtful debts from the Assessment Year 1998-99 onwards.

In A.Y. 2004-05, a settlement was arrived at between M/s. GSB Capital Market Ltd. and the assessee whereby an amount was paid to the assessee and the balance amount were written off by the assessee as bad debts. The assessee claimed deduction on account of bad debts being the debts written off out of inter corporate deposit given to GSB Capital Markets Ltd.

The AO disallowed the claim for bad debts on the ground that the condition of sections 36(1)(vi) read with section 36(2)(i) of the Act were not satisfied. The amount claimed as bad debts was not the income offered to tax either in the relevant Assessment Year or in the earlier Assessment Years. The Hon'ble ITAT has allowed the claim stating that the interest income on the deposit had been offered to tax in earlier Assessment Years. The the claim for deduction was allowable. Assessee engaged in money lending

Business, therefore, it held that deduction u/s. 36(1)(vii) r.w.s. 36(2)(i) allowable. The Hon'ble High Court has taken the view that assessee during the earlier Assessment Years offered to tax an amount received as interest on the deposit made. The assessee since A.Y. 1998-99 claimed an amount as doubtful debts from M/s. GSB Capital Market Ltd. therefore even if a part of debt is offered to tax, section 36(2)(i) of the Act, stands satisfied. The test under the first part of section 36(2)(i) of the Act is that where the debt or a part thereof has been taken into account for computing the profits for earlier Assessment Year, it would satisfy claim to deduction u/s. 36(1)(vii) r.w.s. 36(2)(i) of the Act.

CIT v. Pudumjee Pulp & Paper Mills Ltd. (Bom.)(HC) Source : Source : www.itatonline.org

TRIBUNAL

4. Section 45(2) : Capital Gain – Long Term Capital Gain – Conversion of Investment into Stock-in-trade – Taxable in the year of sale

A.O. computed Long Term Capital Gain pertaining to the A.Y. 2008-09. CIT(A) allowed appeal of assessee filed against Order of AO and addition on ground that the land which was part of the construction project was not a business asset but held by the firm as an immovable property in the nature of long-term investment. AO therefore held that the firm who was a partner in the assessee's firm was not in the activity of business. AO further held that there would be

taxability of capital gain in the year in which stock-in-trade is sold/transferred and, therefore, the capital gain that has arisen on conversion of investment into stock in trade is to be taxed when the land is sold. The land was brought into the books of account in the year 1984, he calculated the total capital gain and distributed the capital gain on the basis of the completion of the project. The Honorable ITAT held that there would be taxability of capital gain in the year in which stock in trade is sold/transferred and, therefore, the capital gain that has arisen on conversion of investment into stock-in-trade is to be taxed when the land is sold.

ITO v. Savvy Homes Co. ITA No. 2708/Ahd/2011 dated 9-6-2015 (Ahd.)(Trib.) Source : itat.nic.in



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 27-8-2015 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	969	14	7	991
Western	4	1767	33	18	1822
Total	8	5692	122	31	5853

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.

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