All India Federation of Tax Practitioners

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FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
18-1-2014 to 3-5-2014	Workshop on MVAT Act & Allied Laws	Mumbai
28-6-2014	National Executive Committee Meeting	Chennai
28, 29-6-2014	National Tax Conference (Southern Zone)	Chennai
23, 24-8-2014	National Tax Conference (Western Zone)	Nagpur

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For All India Federation of Tax Practitioners

JANAK VAGHANI
Treasurer

All India Federation of Tax Practitioners (Western Zone) is pleased to announce Two Day National Tax Conference at Nagpur on 23rd & 24th August, 2014. The venue is "Suraburdi Meadows", which is a new and unique resort, spread over 35 acres, and is a lush green leisure destination with scenically located hillocks, winding roads and pristine lake water. (Visit: http://suraburdimeadows.com/)

Further details will be announced in the next issue. Don't miss this unique opportunity and book your dates now. For information, please contact the below Office Bearers:–

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WORKSHOP ON MVAT ACT & ALLIED LAWS

Organised by
ALL INDIA FEDERATION OF TAX PRACTITIONERS (WZ)
Jointly with BCAS, CTC, MCTC, STPAM & WIRC of ICAI

Timing	2.30 P.M. to 5.30 P.M.	
Venue	Mazgaon Library, 1st Floor, 104, Vikrikar Bhavan, Mazgaon, Mumbai – 400 010.	
Delegate Fees	Members ₹ 1,686/- (incl. of Service Tax), Non-Members ₹ 2,247/- (incl. of Service Tax)	
Date (Saturday)	**Subject**	**Speaker**
5-4-2014	Issues in Interest, Penalties and Show Cause Notices/Summons	CA. Jayesh Gogri
	CENVAT Credit Rules	CA. Naresh Sheth
19-4-2014	Filing of Returns (including E-Filing & Payment of taxes, Assessment, Interest, Penalties & Prosecutions, Maintenance of books, Registers) under LBT Act	Shri Deepak Bapat Advocate
3-5-2014	Input Tax Credit & Refunds under LBT Act	Shri Kishore Lulla Advocate

DIRECT TAXES

Ajay R. Singh, Rahul Hakani, Rahul Sarda and Ms. Neelam Jadhav
Advocates, KSA Legal Chambers

SUPREME COURT

1. S.11: A charitable and religious trust which does not benefit any specific religious community is not hit by s. 13(1)(b) and is eligible to claim exemption u/s. 11

On facts, the objects of the assessee are not indicative of a wholly religious purpose but are collectively indicative of both charitable and religious purposes. The fact that the said objects trace their source to the Holy Quran and resolve to abide by the path of godliness shown by Allah would not be sufficient to conclude that the entire purpose and activities of the trust would be purely religious in colour. The objects reflect the intent of the trust as observance of the tenets of Islam, but do not restrict the activities of the trust to religious obligations only and for the benefit of the members of the community. Whether a certain purpose is of public benefit or not, the Courts must in general apply the standards of customary law and common opinion amongst the community to which the parties interested belong to. Customary law does not restrict the charitable disposition of the intended activities in the objects. Neither the religious tenets nor the objects as expressed limit the service of food on religious occasions only to the members of the specific community. The activity of Nyaz performed by the assessee does not delineate a separate class but extends the benefit of free service of food to public at large irrespective of their religion, caste or sect and thereby qualifies as a charitable purpose which would entail general public utility. Even the establishment of madrasa or institutions to impart religious education to the masses would qualify as a charitable purpose qualifying under the head of education u/s 2(15). The institutions established to spread religious awareness by means of education though established to promote and further religious thought could not be restricted to religious purposes. The assessee is consequently a public charitable and religious trust eligible for claiming exemption u/s 11.

CIT v. M/s Dawoodi Bohara Jamat (Supreme Court) www.itatonline.org

2. S.244A: Deductor entitled to interest on refund of excess TDS from date of payment

The assessee made an application u/s 195(2) for permission to remit technical service charges and reimbursement of expenses to a foreign company without deduction of tax at source. The AO passed an order directing the assessee to deduct TDS at the rate of 20% before making remittance. The assessee effected the deduction and filed an appeal before the CIT(A) in which it claimed that the said remittance was not subject to TDS. The CIT(A) upheld the claim with regard to the reimbursement of expenses with the result that the TDS thereon was refunded to the assessee. However, the AO declined to grant interest u/s 244A on the said interest by relying on Circular Nos. 769 dated 6-8-1998 and 790 dated 20-4-2000 issued by the CBDT. The CIT(A) upheld the AO's stand though the Tribunal and High Court upheld the assessee's stand. Before the Supreme Court issue was upheld by the Hon'ble Supreme Court by dismissing the appeal of the revenue.

A "tax refund" is a refund of taxes when the tax liability is less than the tax paid. When the said amount is refunded it should carry interest in the matter of course. As held by the Courts while awarding interest, it is a kind of compensation of use and retention of the money collected unauthorised by the Department. When the collection is illegal, there is corresponding obligation on the revenue to refund such amount with interest inasmuch as they have retained and enjoyed the money deposited. Even the Department has understood the object behind insertion of section 244A, as that, an assessee is entitled to payment of interest for money remaining with the Government which would be refunded. There is no reason to restrict the same to an assessee only without extending the similar benefit to a deductor who has deducted tax at source and deposited the same before remitting the amount payable to a non-resident/foreign company;

The State having received the money without right, and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest. Whenever money has been received by a party which *ex ae quo et bono* ought to be refunded, the right to interest follows, as a matter of course;

The said interest has to be calculated from the date of payment of such tax.

UOI vs. Tata Chemicals Ltd. (SC) www.itatonline.org

HIGH COURTS

3. S.37 : Expenditure on foreign education of employee (son of director) is deductible if there is business nexus

The assessee would have similarly assisted another employee unrelated to its management is not a question which this Court has to consider. But that it has chosen to fund the higher education of one of its Directors' son in a field intimately connected with its business is a crucial factor that the Court cannot ignore. It would be unwise for the Court to require all assessees and business concerns to frame a policy with respect to how educational funding of its employees generally and a class thereof, i.e. children of its management or Directors would be done. Nor would it be wise to universalise or rationalise that in the absence of such a policy, funding of employees of one class – unrelated to the management – would qualify for deduction under section 37(1). Only expenditure strictly for business can be considered for deduction.

Kostub Investment Ltd v. CIT (Delhi) (HC) www.itatonline.org.

4. S.147: Even s. 143(1) Intimation cannot be reopened in the absence of new information

The reassessment is not on the basis of new information or facts that have come to the fore now, but rather, a re-appreciation or review of the facts that were provided along with the original return filed by the assessee. The record does not show any tangible material that created the reason to believe that income had escaped. Rather, the reassessment proceedings amount to a review or change of opinion carried out in the earlier A.Y. 2005-06, which amounts to an abuse of power and is impermissible. In response, since the return was processed under section 143(1) for the A.Y. 2005-06, which involves a mere intimation, rather than an application of mind or true assessment of the return, a less stringent threshold must be taken in terms of 'reasons to believe' that income has escaped assessment or not.

Mohan Gupta (HUF) v. CIT (Delhi) (HC) www.itatonline.org.

5. S.147: Court can examine existence but not adequacy of reasons. AO is only required to provide material on which he relies to reopen the assessment

The law only requires that the information or material on which the AO records his or her satisfaction is communicated to the asseseee, without mandating the disclosure of any specific document. While the 2G Spectrum Report has not been supplied in this case on grounds of confidentiality, the reasons recorded have been communicated and do provide – independent of the 2G Report – details of the new and tangible information that support the AO's opinion. These facts are capable of justifying the satisfaction recorded on their own terms. In this context, there is no legal proposition that mandates the disclosure of any additional document. This is not the say that the AO may in all cases refuse to disclose documents relied upon by him on account of confidentiality, but rather, that fact must be judged on the basis of whether other tangible and specific information is available so as to justify the conclusion irrespective of the contents of the document sought to be kept confidential.

Acorus Unitech Wireless Pvt. Ltd v. ACIT (Delhi) (HC) www.itatonline.org

6. S.220: After rejecting stay application AO must give reasonable time before taking steps for coercive recovery

The Assessing Officer issued the garnishee order under section 226(3) on 17-2-2014, the very day on which he rejected the stay application filed by the petitioner under section 220(3). The A.O. ought to have waited for a reasonable period before he takes coercive steps to recover the amounts since the petitioner, faced with an order rejecting the stay application, may need some time to make arrangements to pay the entire tax demand or come up with proposals for paying the same in instalments. That opportunity was not afforded by the Assessing Officer in the present cases. The Assessing Officer is a prospector of the revenue and he is no doubt expected to protect the interests of the revenue zealously, but such zeal has to be tempered with the rules of fair play and an anxiety to ensure that opportunity is not lost to the assessee to make alternative arrangements for clearing the tax dues, once the stay applications filed under section 220(3)

are rejected. Taking away the amount of ₹ 43.87 crores from the bank account of the petitioner may perhaps not be legally faulted, but taking into account the haste with which the Assessing Officer acted in the present case it seems to us that there was an element of arbitrariness in the action of the Assessing Officer. In our opinion, since the stay applications filed by the petitioners are pending before the Tribunal, the more appropriate course would be to issue the directions.

Sony India Pvt. Ltd v. ACIT (Delhi High Court) www. itatonlie.org

TRIBUNALS

7. S.271(1)(c): Penalty cannot be levied on two views on the same addition u/s. 68 of the Income-tax Act

Assessee, an individual, filed her return of income on 30-7-2001 declaring total income of ₹ 94,580/-. There was a search and seizure action u/s. 132 of the Act. A notice u/s. 153A was issued, Assessment completed u/s 143(3) r.w.s. 153A. The A.O. at total income of ₹ 7,39,580/- after making an addition of ₹ 6.45 lakhs on account of unexplained cash credit in form of gifts.

During the assessment proceedings, AO found that assessee had received gift of ₹ 6.45 lakhs from Mr. A & Mr. B. He directed the assessee to substantiate the genuineness of the gifts. AO held that ₹ 6.45 lakhs was unexplained cash credit of the assessee and invoking the provisions of section 68 on the same A.O. initiated penalty proceedings u/s. 271(1)(c) of the Act. Assessee preferred an appeal before the CIT(A). The CIT(A) confirmed the order of the AO.

Before the Hon'ble Tribunal, the assessee submits that in the cases of other Members of her family, the Tribunal had deleted the addition made by the AO, u/s. 68 of the Act.

In the case of other Members the Tribunal had deleted the addition made by the AO on the similar facts whereas in the case of the assessee addition made by the AO was confirmed. This clearly shows that the Tribunal has taken two views about the similar transactions. Penalty for concealment cannot be imposed only on the basis of confirmation of addition in the appellate proceedings.

If two views are possible about an issue, penalty u/s. 271(1)(c) of the Act should not be imposed. Considering the peculiar facts and circumstances of the case, penalty for concealment of particulars of income was not leviable.

Rashmi M. Dhanani v. ACIT, ITA No. 5429 / M / 2011 dated 21-2-2014

8. Rule 46A : No violation of rule 46A – Additional evidence filed before CIT(A) – Explanation on the typographical error made during the assessment proceedings

The AO during the course of assessment proceedings noted that the assessee has debited an amount of ₹ 9,00,03,090/- to the P&L account on account of purchases. The AO asked to furnish the details of purchases. In reply the assessee filed the details of purchases. The AO issued notice u/s 133(6) to Mr. A in respect of which the assessee has shown purchases made during the year of ₹ 26,96,264/- and received the reply wherein it was stated that the assessee has made the purchases from the said party only to the tune of ₹ 1,20,265/- and not ₹ 26,93,264/- as given in the details of purchases. Accordingly in the absence of any clarification and explanation on the part of the assessee, the AO made the addition of ₹ 25,72,999/- by treating the same as inflated purchase.

Before the CIT(A) the assessee explained that due to typographical error the amount was wrongly written in the details of purchases as ₹ 26,93,264/- instead of ₹ 1,20,260/-. CIT(A) after considering explanation as well as record and deleted the addition made by the AO.

Before the Hon'ble Tribunal, the revenue had raised issue that the CIT(A) has considered fresh evidence without giving the opportunity to the AO to rebut the evidence produced by the assessee, therefore, there is a violation of Rule 46A on part of the CIT(A) in admitting the additional evidences.

The assessee has submitted that the assessee has not produced any additional evidence but pointed out the typographical mistake occurred in the details filed by the assessee. The CIT(A) has examined the evidence already before the AO and found that because of that error the assessee has not claimed any excess purchases or inflated purchases but error was only in respect of one party and by taking the correct figure the total purchase debited to the P&L account remains the same. Thus there is no violation of Rule 46A.

While considering the explanation regarding the typographical error in writing the figure of purchase, which was otherwise taken as correct figure while debiting to the P&L Account, the details filed before the AO in respect of purchases as well as reconciliation filed before CIT(A) and submitted that even by writing a wrong figure in the details, the claim of the assessee was unaffected because the details of the purchases were taken correctly while debiting the P&L Account.

The Hon'ble ITAT held that the details filed before AO has mentioned the purchases from Mr. A. at the ₹ 26,93,264/- which was actually ₹ 1,20,264/-. Thus there was a difference of ₹ 25,73,000/- due to mistakenly taken as a figure of sales from Mr. A. The Hon'ble Tribunal held that, the mistake which was clarified by the assessee before the CIT(A), was not an evidence in the form of invoice, ledger account or any other material of the books of account but it was only a comparative list showing the details of parties and the amount of purchases. Therefore, pointing out the typographical error in the details which are inconsistence to the actual details recorded in the books of account would not amount to furnishing any additional evidence.

Dy. CIT-24(2) v. Jiten B. Vora, ITA No. 6343 & 6344/ Mum/2012 dated 7-3-2014.

INDIRECT TAXES

SALES TAX

D. H. Joshi, Advocate

1. Accounts vis-a-vis Audit Report

As per section 39(2) of MP VAT Act, 2002, every dealer whose turnover in a year exceeded ₹ 60 lakhs was required to submit audit report. The appellant, a Govt. of India undertaking, was separately registered under VAT Act, in which its main activity was to purchase different telecommunication goods. During the period 1-4-2008 to 31-3-2009, the appellant effected purchases of ₹ 50.26 crores, but its sales turnover was only 5.14 lakhs. In view of this position, the appellant did not file audit report. Penalty for non-filing of the audit report was levied. The appellate Board held that as the appellant was separately registered and had turnover below ₹ 60 lakhs, it was not required to file audit report. Clubbing of turnover of its other divisions/units which were separately registered and levy of penalty on that basis was not justified.

BSNL, Bhopal v. CCT, M.P. (2014) 24 STJ 365 (MP-BD)

2. Attempt to Evade tax

Mere mention of TIN of another company is not sufficient to hold the company evading tax when all transactions, previous as well as present, are duly accounted for by the purchaser in his books of account and these were duly reflected in sales tax returns. Hence, there was no mens rea and in the absence of it, no penalty can be levied.

Murgappa Morgan Thermal Ceramics Ltd. v. State of Punjab (2014) 47 PST 357 (PVT)

3. Cancellation of Registration Certificate

In this case, by an ex-parte order, Registration Certificate of the appellant was cancelled on the ground of non-filing of returns. It was contended that return has been filed though belatedly, and, therefore, the registration has been cancelled on irrelevant and non-existent ground. The appellant submitted the details of return belatedly filed by him. In terms of the said returns, no tax was payable, whereas the Board has taken the view that though the appellant had submitted the return belatedly, but no proof of payment of tax has been filed. The M.P. High Court held that ex parte cancellation of registration certificate order as per returns filed needed consideration and proper opportunity is required to be given to the appellant before taking any action. Thus, the case is remanded to the Assessing Officer for taking fresh decision, in accordance with law.

Harishankar Goverdhanlal v. M.P. Commercial Tax Appellate Board, Bhopal & Ors. (2014) 24 STJ 376 (M.P.)

4. CST Act, 1956 – Section 10(B)

(A) Purchase of diesel generator sets and air conditioners against Form 'C' by the assessee was not entitled to the said purchases as the same were not incorporated in the registration certificate. The nature of business of the assessee i.e. manufacture of automobile parts would not justify the purchase of diesel generator sets and air conditioners as forming part of machinery to be used in the manufacture. The authority, in view of the above position imposed a penalty at 150% of the tax due. It was held by the High Court that the authority to reduce the penalty to 50% of the tax due.

Hwashin Automotives India Pvt. Ltd., Chennai v. State of Tamil Nadu 2013-14 (19) TNCTJ 420.

(B) In the present case, purchase of furnace oil and aluminium sheets against Form 'C' are not mentioned in the registration certificate. The question before the High Court was whether the nature of business of the assessee permits to purchase furnace oil and aluminium sheets against Form 'C'? Held that the nature of the business of the assessee permit to purchase furnace oil only against Form 'C'. The levy of penalty was justified with regard to purchase of aluminium sheets and was restricted to 50% of the tax due.

Tvl. West Coast Industries (Exports) Pvt. Ltd., Tirupur v. State of Tamil Nadu 2013-14 (19) TNCTJ 413.

5. Deduction of Tax at Source

Credit of tax deducted at source not given to the appellant and he was not heard to remove any defect in the TDS Certificate submitted before the AO. The Appellate Board remanded the case to reconsider the appellant's claim for credit of TDS by giving an opportunity to the appellant and also to submit evidence in this regard.

Sam System, Bhopal v. CCT, M.P. (2014) 24 STJ 343 (MP-Bd)

6. Delay in filing of appeal by the State Government

In this case, assessee is a dealer registered under the VAT Act. In case of the assessee, the revenue filed tax appeal before the Gujarat High Court which was late by 331 days. The revenue therefore filed a civil application before the Court for condonation

of delay. Relying upon the Apex Court judgment in the case of *Postmaster General and Others v. Living Media India Ltd. (2012) 3 SCC 563,* it was submitted that the provisions of limitation were substantive provision. Therefore, on expiry of the limitation a right has been accrued on the party who succeeded in limitation. Such right cannot be taken away lightly by condoning the delay on administrative ground. In reply, the revenue contended and cited and relied upon earlier decision of the Supreme Court in case of *CIT v. West Bengal Infrastructure Development Finance Corporation Ltd. 334 ITR 269 (SC)* wherein the Hon'ble Supreme Court held that revenue stake also should be considered while condoning delay.

After hearing both the parties, the Gujarat High Court held that the decision in case of Postmaster General was given by two judges whereas the decision in the West Bengal case was given by three judges. Moreover, the said decision is a direct decision on the taxation matter. Hence, the Gujarat High Court followed the decision of West Bengal in preference to Postmaster General case and condone the delay.

State of Gujarat v. Jayant Agro Organics Ltd. 52 STJ 117 (Guj.)

7. Entry Tax

(A) Constitutional validity of the M.P. Entry Tax has already been upheld by the M.P. High Court in the case of *Godfrey Philips India Ltd. (2008) 13 STJ 1 (M.P.),* and there was no stay on the above judgment from the SC. Therefore, challenge to the entry tax levied on plant and machinery purchased for modernisation-cum-expansion, on the ground of validity of the Entry Tax Act was rejected by the Appellate Board

Vippy Spinpro Ltd., Devas v. CCTMP (2014) 24 STJ 354 (MP-Bd)

(B) Entry of coal into a local area only for weighment is not liable for entry tax, as there is no consumption, use or sale in the local area. Entry tax levied on that basis is set aside by the Board.

South Eastern Coal Field Ltd. v. CCT, MP (2014) 24 STJ 395 (MP-Bd)

8. Entries in Schedule

'MS Fabricated Containers' are not 'tanks' but metal containers. Entry No. 201 and Entry No. 238 of Schedule II of Part 'C' of the Act. Assessing authority imposed tax at 13.5% on questioned goods by treating it as 'tank' being an unclassified item falling in Schedule V of the Act. Tribunal on appeal held MS Fabricated Containers taxable at 5% as metal containers as per entry No. 201 of Schedule II Part C of the Act. Accordingly, appeal was allowed.

Kumar Engineering v. CCT 2014 NTN (Vol. 54), Tribunal-68.

9. Interpretation of Schedule Entry

Iron and steel as defined u/s 14(iv) of the CST Act, sixteen items are specifically enumerated under the heading of 'Iron and Steel'. Each item so specified is considered as a separate taxable item, although they belong to a genus iron and steel. The mere fact that the raw material out of which any new item is manufactured has already been taxed as iron and steel, would make no difference for the purpose of levy of tax on the new commodity manufactured therefrom, even if that new commodity is also covered in any other sub-items of iron and steel. The object appears to be to tax sale of goods of each variety and not to tax the sale of the substance out of which they are made.

Utracon Structural Systems Pvt. Ltd. v. State of Karnataka (2014) 24 STJ 333 (Kar.)

10. Interpretation of Schedule Entry

In this case, before the Commissioner, no one appeared on behalf of affected dealer. Phablet is a device that combines features of smart phone and tablet. It is having mobile phone features and it is different from tablet PC and therefore is not covered in Entry II/II/51(1)/(xii) which is pertaining to tablet computer. Thus, there is no specific entry for phablets in Schedule I or II of M.P. VAT Act, and, therefore, it is liable to tax at 13% under residuary entry II/IV/I

Commissioner on his own, CCT, M.P. (2014) 24 STJ 389 (CCT, M.P.)

11. Offences and penalties

The Jharkhand High Court while allowing writ petition held that it was trite law that wherever by legal fiction, the principle of vicarious liability was attracted and a person who was otherwise not personally involved in the commission of an offence is made liable for the same, it has to be specifically provided in the concerned statute. If when a statute contemplates creation of such legal fiction, it specifically provides for the same. In the absence of any such provision in the statute, a director of a company or an employee cannot be held to be vicariously liable for any offence committed by the company.

Omiyo Ranjan Jaiswal & Ors. v. State of Bihar & Ors. (2014) 24 STJ 368 (Jharkhand)

12. Penalty

Admitted tax is payable on sales. Dealer acts like a 'Trustee'. Tax collected by a dealer on sales to customers cannot be used for other purposes by the dealer and this tax is liable to be deposited within the prescribed time to the Government account. Failure to deposit within the time attracts penalty provisions.

Quantum of penalty – Financial hardship is not the valid plea for escaping from the liability of committing an offence. Imposing penalty depends upon individual facts and circumstances of the individual case. Therefore, there is no 'Straitjacket' formula in deciding the quantum of penalty, but it has to be in proportion to offence committed.

Commercial Tax Commissioner, Dehradun v. Tex Plas India Pvt. Ltd., Ranipur, Haridwar (2014) NTN Vol. 54, Tribunal 112

13. Sufficient cause

"Sufficient Cause" cannot be liberally construed. The law can come to the rescue of an innocent and honest person and not a person who is careless.

Mahaluxmi Rice Mills, Karnal v. State of Haryana (2014) 47 PST 347 (HTT)

14. Whether Input Tax Credit (ITC) vis-à-vis goods destroyed in flood could be claimed?

The Gujarat Value Added Tax Tribunal in Second Appeal had allowed the appeal by holding that the dealer was entitled to ITC on the goods destroyed in flood? The State Government felt aggrieved and preferred an appeal before the High Court by framing following two substantial questions of law:

"(a) Whether on the facts and in the circumstances of the case, the Tribunal has rightly interpreted sections 11(3), 11(5) and 11(8) of the GVT Act, 2003?

(b) Whether the respondent is eligible for input tax credit on goods, which destroyed in flood, for which compensation of the same was awarded by Insurance Co. and no output tax liability is created for the same goods?"

In this case, the dealer was engaged in the business of trading of Safety Match Box and Pan Masala. On 7-8-2006, unprecedented flood entered into Surat which affected business premises of the dealer and the flood water remained in the business premises of the dealer for the period from 7-8-2006 to 11-8-2006. During that period, water level remained up to 8 to 9 feet, in the business premises and their entire goods were damaged and ultimately the same was destroyed. Thereafter, the dealer lodged a claim for reimbursement of the loss due to the flood with the insurance company and the same was settled on 24-2-2007 by an amount of ₹ 4,29,000. This claim settlement was accounted for by the dealer in his books of account for the loss of claim amounting to ₹ 2,12,600. The AO, upon audit assessment, disallowed the input tax credit in respect of goods destroyed by flood. Thereupon, First Appeal was preferred which was dismissed and this led to Second Appeal before the Tribunal. Tribunal by following its earlier judgment in the case of *Rolcon Engineering Co. Ltd. (2009) 29 VST 118 (Guj.).* The Tribunal allowed the said appeal holding that the dealer was entitled to input tax credit on the goods destroyed in flood.

Being aggrieved by the Tribunal Order, the State Government filed an appeal before the Gujarat High Court. The Hon'ble Gujarat High Court followed the legal maxim *"lex non cogit ad impossibilia",* which means that law cannot compel a man to do what he cannot possibly do. Earlier, the Hon'ble Supreme Court has approved the said legal maxim in the case of *I.F.C.I. Ltd. v. Cannanore Spinning & Weaving Mills Ltd., AIR 2002 SC 841*

After elaborate discussion of the above legal maxim and case law, the Hon'ble Gujarat High Court held that the dealer shall be entitled to input tax credit destroyed in flood. No question of law much less substantial question of law arose in the matter. Accordingly, the appeal of the State Government was dismissed.

State of Gujarat v. SA Himnani Distributors Pvt. Ltd., Tax Reporter 2014 (Vol. 17) Page 141.

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	Associate	Individual	Association	Corporate	Total
Central	0	790	23	3	816
Eastern	3	1145	35	3	1186
Northern	0	941	17	0	958
Southern	1	873	13	5	892
Western	4	1693	33	16	1746
Total	8	5442	121	27	5598

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

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