

All India Federation of Tax Practitioners



AIFTP TIMES

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FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
16,30-1-2016; 6,20-2-2016; 5,18-3-2016; 2,16,30-4-2016	Workshop on MVAT Act	Mumbai

We wish all our members and readers A Very Happy New Year 2016

ELECTION OF NATIONAL EXECUTIVE COMMITTEE AND OFFICE BEARERS

Total 68 nominations were received for the National Executive Committee for the term 2016 & 2017 at the Ordinary General Meeting held on 25th December, 2015 at Hall No. 2, Jalavihar, Necklace Road, Hyderabad, following 46 members were elected for the term 2016 & 2017:

Sr. No.	Name	Zone	Place
1.	Achintya Bhattacharjee	Eastern	Kolkata
2.	Anand Kumar Pasari	Eastern	Ranchi
3.	B. N. Mahapatra	Eastern	Bhubaneswar
4.	Basu Dev Panda	Eastern	Cuttack
5.	Bibekanand Mohanty	Eastern	Jajpur
6.	C. K. Chatterjee	Eastern	Kolkata
7.	Dilip Kumar Agarwal	Eastern	Siliguri
8.	Jagabandhu Sahoo	Eastern	Cuttack
9.	Narayan Prasad Jain	Eastern	Kolkata
10.	Nitu Hawelia	Eastern	Guwahati
11.	S. C. Garg	Eastern	Kolkata
12.	A. Retna Kumar	Southern	Trivandrum
13.	Anita Sumanth	Southern	Chennai
14.	Hemendra V. Shah	Southern	Hyderabad
15.	M. Srinivasa Rao	Southern	Elluru

Sr. No.	Name	Zone	Place
16.	M. V. J. K. Kumar	Southern	Hyderabad
17.	M. V. K. Moorthy	Southern	Hyderabad
18.	S. B. Kabra	Southern	Hyderabad
19.	S. S. Satyanarayana	Southern	Hyderabad
20.	Ashvin C. Shah	Western	Ahmedabad
21.	Bhaskar B. Patel	Western	Vadodara
22.	Gouri Chandnani	Western	Ahmedabad
23.	Harish N. Motiwalla	Western	Mumbai
24.	Janak Vaghani	Western	Mumbai
25.	Kishor Vanjara	Western	Mumbai
26.	Mitesh Kotecha	Western	Mumbai
27.	Nikita R. Badheka	Western	Mumbai
28.	Samir Jani	Western	Junagarh
29.	Santosh J. Gupta	Western	Nagpur
30.	Vinayak P. Patkar	Western	Mumbai

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

Sr. No.	Name	Zone	Place
31.	Vipul B. Joshi	Western	Mumbai
32.	Vipul K. Shah	Western	Vadodara
33.	Ganesh N. Purohit	Central	Jabalpur
34.	P. M. Chopra	Central	Jodhpur
35.	Pankaj Ghiya	Central	Jaipur
36.	Prem Kumar Panpaliya	Central	Jalore
37.	Rajesh Joshi	Central	Indore
38.	Ritu G. P. Das	Central	Kota

Sr. No.	Name	Zone	Place
39.	Anil Kumar Srivastava	Northern	New Delhi
40.	Arvind Shukla	Northern	Varanasi
41.	Asim Zafar	Northern	Varanasi
42.	Mukul Gupta	Northern	Ghaziabad
43.	Om Prakash Shukla	Northern	Varanasi
44.	Prem Lata Bansal	Northern	Delhi
45.	Sanjay Sharma	Northern	New Delhi
46.	V. P. Gupta	Northern	Delhi

OFFICE BEARERS

At the first meeting of National Executive Committee, the following members were unanimously elected as Office Bearers for the term 2016 & 2017:

Sr. No.	Name	Place	Designation
1.	Dr. M. V. K. Moorthy	Hyderabad	National President
2.	Smt. Prem Lata Bansal	Delhi	Dy. President
3.	Shri Arvind Shukla	Varanasi	Vice President (Northern Zone)
4.	Shri Ganesh Purohit	Jabalpur	Vice President (Central Zone)
5.	Shri Narayan Prasad Jain	Kolkata	Vice President (Eastern Zone)
6.	Shri S. S. Satyanarayana	Hyderabad	Vice President (Southern Zone)
7.	Shri Samir Jani	Junagarh	Vice President (Western Zone)
8.	Shri M. Srinivasa Rao	Elluru	Secretary General
9.	Shri S. B. Kabra	Hyderabad	Treasurer
10.	Shri A. Retna Kumar	Trivandrum	Joint Secretary (Southern Zone)
11.	Shri Anand Pasari	Ranchi	Joint Secretary (Eastern Zone)
12.	Shri Asim Zafar	Varanasi	Joint Secretary (Northern Zone)
13.	Shri Bhaskar B. Patel	Vadodara	Joint Secretary (Western Zone)
14.	Smt. Ritu G. P. Das	Kota	Joint Secretary (Central Zone)

The National President elect also announced co-option of members into National Executive Committee and the following is the list of co-opted members:-

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|--|--|
| 1) Dr. Ashok Saraf, Sr. Advocate, Guwahati. | 9) Shri S.R. Wadhwa, Adv., New Delhi. |
| 2) CA. Indu Chatrath, Kolkata. | 10) Shri Piyush Agrawal, Adv., Allahabad. |
| 3) Shri Purna Chandra Hotta, Adv., Ganjam. | 11) Shri D. K. Gandhi, Adv., Ghaziabad. |
| 4) Shri P. Lakshmi Narayana, T. P., Palakol. | 12) Shri Arun G. Baheti, Adv., Kolhapur. |
| 5) Shri C. Satyanarayana Gupta, T. P. Nellore. | 13) CA. Rajesh Muni, Mumbai. |
| 6) CA. S. Venkataramani, Bengaluru. | 14) Shri Upendra J. Bhatt, Adv., Ahmedabad |
| 7) CA. Ravi Prasad, Bengaluru. | 15) CA. Siddharth Ranka, Jaipur. |
| 8) Shri K. C. Kaushik, Adv., New Delhi. | |

REPORT OF ELECTION OF AIFTP (WESTERN ZONE)

In the Extraordinary General Meeting of All India Federation of Tax Practitioners – Western Zone, held on 30th November, 2015 at 6.00 p.m., the following members were declared elected to the Managing Committee of Western Zone for the term 2016 & 2017:

Sr No.	Name of the condidate	Place
1	Ajay S. Talreja	Mumbai
2	Ajit Rohira	Mumbai
3	Anil B. Vakharia	Pune
4	Ashvin A. Acharya	Mumbai
5	Avinash Lalwani	Mumbai
6	Chirag S. Parekh	Mumbai
7	Deepak R. Shah	Mumbai
8	Dilip Lohiya	Nagpur
9	Dinesh M. Tambde	Mumbai
10	Dr. Shashank Dhond	Mumbai

Sr No.	Name of the condidate	Place
11	Hemant Save	Mumbai
12	Hitesh R. Shah	Mumbai
13	Pranav M. Shah	Vadodara
14	Pravin N. Veera	Mumbai
15	Pravin R. Shah	Mumbai
16	Raj P. Shah	Mumbai
17	Rajkumar Motwani	Nagpur
18	Samir Shah	Vadodara
19	Tushar P. Joshi	Mumbai
20	Vijay N. Kewalramani	Mumbai

In the 1st Managing Committee Meeting held immediately after EGM, the following Office Bearers of AIFTP-WZ were unanimously elected.

Chirag S. Parekh	Zonal Chairman
Deepak R. Shah	Zonal Vice Chairman
Vijay Kewalramani	Zonal Secretary

Dinesh Tambde	Zonal Joint Secretary
Raj Shah	Zonal Joint Secretary
Pravin R. Shah	Zonal Treasurer

REPORT OF AIFTP (NZ) FOR EOGM AND NEW MANAGING COMMITTEE HELD ON 11TH OCTOBER, 2015 AT HOTEL CLARK, VARANASI

I. FORMATION OF MANAGEMENT COMMITTEE OF NORTH ZONE FOR THE YEAR 2016 & 2017:

a) Finalisation of EOGM date in Management Committee Meeting:

The Management Committee members and invitee members who were present in the Management Committee meeting held on 22nd August, 2015 at IMS at Ghaziabad, it was decided with majority that the EOGM along with Election of North Zone for the year 2016 and 2017 should be held on 11th October, 2015 at Hotel Clarks, Varanasi on the sidelines of National Tax Conference as the suggested time limit is 30th November, 2015 for concluding the election by all Zones as advised by National Office.

Mr. P C Joshi – Mumbai (Former National President), Mrs. Prem Lata Bansal – Delhi (Former National Vice President) and Senior members Shri K. L. Goyal – Chandigarh, Mr. K. C. Kaushik - Delhi were present in the meeting. The meeting was presided by Mr. Arvind Shukla (Chairman – NZ) along with Mr. P C Joshi (Former National President), Mr. Mukul Gupta (National Vice President-NZ), Mr. O. P. Shukla (National Joint Secretary – N.Z), Mr. Anil Kumar Shrivastava (Vice Chairman – NZ) & Mr. Ajay Sinha (General Secretary – NZ) on the head table. Large number of other life members from North Zone as per the attendance sheet were also present. Mrs. Prem Lata Bansal had objected regarding the place

of EOGM at Varanasi and why not in Delhi at some other time, but it was resolved that members will obviously feel convenient as large number of members from North Zone will take part in the National Tax Conference at Varanasi as well as it will not only save time but also money and efforts involved in travelling. Large gathering of members of the Federation from North Zone is expected for EOGM on the sidelines of NTC in Varanasi, so a consensus was made and decision was taken for holding EOGM at Varanasi.

The Managing Committee with consensus appointed Mr. K. C. Kaushik, Advocate, Supreme Court as the Election Officer and his office at 51, Lawyers Chamber, Supreme Court, New Delhi as the Election Office. The Chairman Mr. Arvind Shukla with the permission of the Managing Committee requested Mr. Ajay Sinha, General Secretary – NZ to help and support the Election Officer for smooth formation of the New Managing Committee.

b) Election by Ballot Papers

As per agenda item No. 6 of the EOGM which took place on 11th October, 2015 at Varanasi, the Election Officer Mr. K. C. Kaushik, Senior Advocate Supreme Court in the presence of Mr. P. C. Joshi (Former National President), again read-out the 28 names of candidates who have filed their nominations as mentioned above.

Since only 19 members needed to be elected for the New Managing Committee out of 28 members from whom Nominations were received, as per the consensus of the house, sufficient time of 20 minutes in three lots was given by the Election Officer to avoid the election. Out of 28 Members five following members have withdrawn their names from the Election during the opportunity provided by the Election Officer so as to make a consensus and to avoid election:

1. Shri Anupam Jain (Ghaziabad)
2. Shri Harsh Pandey (Ghaziabad)
3. Shri J. R. Jain (Ghaziabad)
4. Shri Sandeep Goyal (Chandigarh)
5. Smt. Anjana Singh (Allahabad)

Mr. Ajay Sinha (General Secretary – NZ) also made the Appeal thrice i.e. after the gap of every 5 minutes in the open house requesting for at least 4 more withdrawal by the candidates. Mr. Ajay Sinha himself offered to withdraw to avoid the Election but the offer and appeal went in vain.

Lastly, as per the circumstances and the desire of General Members who were present in the EOGM the Election Officer took the decision of Election by Ballot Papers after rejecting the five voluntary withdrawals of members who were not physically present in the EOGM at Varanasi. The Election Officer then declared the Elections by ballot.

The following members declared elected :—

Name of the member elected	Place	Name of the member elected	Place
Shri K. L. Goyal	Chandigarh	Shri Piyush Agrawal	Allahabad
Shri V. P. Gupta	Delhi	Shri Alok Jain	Chandigarh
Shri Ajay Sinha	Ghaziabad	Shri Naveen Garg	Delhi
Shri Sujit Ghosh	Delhi	Shri Hemant Arora	Dehradun
Shri Sudhir Sangal	Delhi	Shri Virendra Sharma	Ludhiana

Name of the member elected	Place
Shri Ajay Goel	Ghaziabad
Shri Anupam Jain	Ghaziabad
Shri Harsh Pandey	Ghaziabad
Smt. Jamuna Shukla	Varanasi
Shri Brij Gopal Das	Varanasi

Name of the member elected	Place
Shri Asim Zafar	Varanasi
Shri Anand Pandey	Varanasi
Shri Tayab Ali Khan	Azamgarh
Shri Sandeep Goyal	Chandigarh

c) **First Meeting of the New Managing Committee and Co-option of Members as well as Election of New Office Bearers:**

After election in EOGM the meeting of 19 newly elected members along with Ex-officio Members was held at the same venue and the following members were co-opted with the consent of members:

Jag Mohan Bansal	Chandigarh	Co-opted General Member
Subhash Dutt	Jammu	Co-opted General Member
Satish Bansal	Agra	Co-opted General Member
Sanjay Verma	Varanasi	Co-opted General Member
Gaurav Agarwal	Ghaziabad	Co-opted Young Member

Puneet Singh	Varanasi	Co-opted Young Member
Sanjay Sharma	Delhi	Co-opted Young Member
Anjana Singh	Allahabad	Co-opted Lady Member
Anita Pandey	Noida	Co-opted Lady Member

After completion of such procedure the following members were Elected/Chosen for various posts in the Managing Committee for the year 2016 & 2017:

Sr. No.	Name	Place	Designation
1.	K. L. Goyal	Chandigarh	Chairman
2.	Sujit Ghosh	New Delhi	Vice Chairman-Zone
3.	Sudhir Sangal	New Delhi	General Secretary
4.	Alok Jain	Chandigarh	Vice Chairman – Chandigarh
5.	Ajay Goel	Gzb (Delhi NCR)	Vice Chairman – Delhi NCR
6.	Subhash Dutt	Jammu	Vice Chairman – J&K
7.	Virendra Sharma	Ludhiana	Vice Chairman – Punjab
8.	Hemant Arora	Roorkee	Vice Chairman – UK
9.	Brij Gopal Das	Varanasi	Vice Chairman – UP
10.	Ms. Jamuna Shukla	Varanasi	Joint Secretary – Zone
11.	Jagmohan Bansal	Chandigarh	Treasurer – Zone

REPORT OF ELECTION OF AIFTP (EASTERN ZONE)

An Extraordinary General Meeting of All India Federation of Tax Practitioners (Eastern Zone) was held on Sunday the 13th September, 2015 at Rotary Sadan. The proceedings of the meeting are as under:

Shri Indu Chatrath, Chairman of the Zone took the chair and called the meeting in order.

1. Shri Indu Chatrath, Chairman of AIFTP (Eastern Zone), requested Shri S. K. Poddar, Immediate Past National President, the Chief Election Commissioner, and Shri Chira Kumar Chatterjee, Joint Election Commissioner to conduct the election of the Governing Body of All India Federation of Tax Practitioners (EZ) for the period 2016-2017.

- a) Both the Commissioners declared that 30 nomination papers seeking election in the Governing Body for the years 2016 and 2017 are received but only 24 members are to be elected and/or to be nominated for the Governing Body of the AIFTP (EZ) for the years 2016-2017. The Chief Election Commissioner, Shri S. K. Poddarji requested the members seeking election for the years 2016 and 2017 to consider withdrawing their nomination papers today, to avoid the election. Upon request of the Election Commissioners, S/Shri Indu Chatrath, Narayan Prasad Jain, Satish Kumar, Kamal Bagrodia, Agor Dhudhewala and Ketan Satnalia withdrew their candidature for seeking election for the years 2016 and 2017. The Election Commissioners thus have approved only 24 Nominations.
- b) Thereafter 24 nomination papers filed by the following members were accepted and they were elected and/or nominated for the Managing Committee of the AIFTP (EZ) for the years 2016 and 2017.

1. Shri Aditya Bubna	13. Shri Kamal Kumar Jain
2. Shri Ajay Kumar Sinha	14. Shri Khanjanchi Lal Mittal
3. Shri Amit Goyel	15. Shri Murli Dhar Kedia
4. Shri Anand Kumar Pasari	16. Shri Nanda Dulal Saha
5. Shri Apurba Saha	17. Shri Rabindra Nath Pal
6. Shri Arvind Agarwal	18. Shri Ram Deo Kakra
7. Shri Bajrang Lal Kheria	19. Shri Sandip choraria
8. Shri Basudeb Chatterjee	20. Shri Subhasis Mallick
9. Shri Bhanu Giri	21. Shri Suman Chetia
10. Shri Bhaskar Sinha Roy	22. Shri Sumer Mall Surana
11. Shri Bishnu Kumar Loharuka	23. Shri Suresh Chandra Garg
12. Shri Himadri Mukhopadhyay	24. Shri Vivek Agarwal

c) After electing 24 members as stated above, the Chairman of the Eastern Zone, Shri Indu Chatrath, the Chief Election Commissioner, Shri S. K. Poddar and Election Commissioner Shri Chira Kumar Chatterjee proposed the name of the following members for co-option.

1. Shri Jagdish Kumar	Patna
2. Shri Nareendra Prasad	Patna
3. Shri Satyajit Nanda	Odisha
4. Shri Diptiman Mohanty	Odisha
5. Shri Jiban Das	Odisha
6. Shri Jadumani Sahoo	Odisha
7. Shri Ramesh Kumar Dhal	Odisha
8. Shri Siddhartha Mukhopadhyay	Kolkata
9. Shri Satish Kumar Singh	Jharkhand
10. Shri Kausik Roy	Tripura
11. Shri Narayan Prasad Jain	Kolkata

The Chairman accepted and approved the candidature of the 24 members + 11 co-opted members for selection and distribution of portfolios. The chairman proposed the above names which was duly jointly seconded Mr. B. L. Kheria, Mr. R. N. Pal, Mr. R. D. Kakra, Mr. N. P. Jain and Mr. Bishnu Kumar Loharuka, and was unanimously carried out.

The Chairman of the meeting declared the above-mentioned 35 members duly selected to be the members of the Managing Committee.

The Chairman in consultation with the above said Election Commissioners and Mr. R. D. Kakra, Vice-Chairman of the Zone distributed the portfolios to the office bearers of the Zone as under:

1.	Chairman	Mr. R. D. Kakra
2.	Zonal Vice-Chairmen	
	West Bengal	Mr. Nanda Dulal Saha
	Bihar	Mr. Jagdish Kumar
	Jharkhand	Mr. K. C. Mittal
	Odisha	Mr. Rabindra Nath Pal
	Assam	Mr. Suman Chetia
3.	Secretary	Mr. Arvind Agarwal
4.	Jt. Secretary	Mr. Ramesh Kumar Dhal
5.	Jt. Secretary	Mr. Kamal Kumar Jain
6.	Treasurer	Mr. Bishnu Kumar Loharuka

The meeting was concluded with thanks to the Election Commissioners by the Chairman.

REPORT OF ELECTION OF AIFTP (SOUTHERN ZONE)

In the Extraordinary General Meeting of All India Federation of Tax Practitioners – Southern Zone, held on 28th November, 2015. The following members were declared elected to the Managing Committee of Southern Zone for the term 2016 & 2017

Sl. No.	Name of Candidate
1	A. V. S. Krishna Mohan
2	B. S. Seethapathi Rao
3	B. V. S. Chalapathi Rao
4	Bhima Sankar K.
5	C. Sanjeeva Rao
6	CA Padmanabhan
7	D. Amarnath
8	K. V. Ramana Murthy
9	K. V. Ramana Reddy
10	Kantilal Jain

Sl. No.	Name of Candidate
11	M. Amarender
12	Narsimha P. L.
13	P Prasad Rao
14	S. Appaiah Bhat
15	Sankaranarayanan K.
16	Sreedhara Parthasarathy
17	T. V. Subba Rao
18	V. C. H. Narsi Reddy
19	V. Nagendra Prasad

At the first meeting of the Managing Committee following members were elected as Office Bearers:

1.	Zonal Chairman	Mr. V. Nagendra Prasad
2.	Zonal Vice-Chairman	Mr. K. Sankaranarayanan
3.	Zonal Secretary	Mr. D. Amarnath
4.	Zonal Joint Secretary-1	Mr. B. S. Seethapathi Rao
5.	Zonal Joint Secretary-2	Mr. Sreedhara Parthasarathy
6.	Zonal Treasurer	Mr. Prasada Rao Pendyala

REPORT OF ELECTION OF AIFTP (CZ) IN EXTRA ORDINARY GENERAL BODY MEETING HELD ON 21-11-2015

Notice for Extraordinary General Body Meeting was issued on 22-10-2015 by Dr. S. L. Jain Advocate, Jaipur Chairman AIFTP (CZ) and Rajesh Mehta CA Indore Secretary AIFTP (CZ) for election of AIFTP (CZ) on Saturday, the 21st November, 2015 at 5 p.m. at Hotel Nicky International, Panchbati Circle, Ratanada, Jodhpur to elect 16 members of the Central Zone Managing Committee and thereafter, to elect Office Bearers for the term 2016 & 2017 - Amongst elected members to the Managing Committee. Shri R. S. Jain, Advocate, Jodhpur has been appointed as the Election Officer and Shri S. K. Asopa, Advocate has been appointed as the Deputy Election Officer as decided by the Managing Committee of Central Zone of AIFTP on 23rd August, 2015 at Jodhpur.

Before finalising the list of Nomination by the candidates I had telephonic talk with Mr. Rajesh Mehta, Indore, Secretary of AIFTP (CZ), If there is any nomination received by you at Indore, please send me the same he replied that "I have not received any Nominations nor any withdrawal please proceed ahead". I finally prepared the list of nominations received till date, as per Circular. I have received 14 valid nominations from various places including one from M.P. and one from Chhattisgarh found to be valid.

As I have received 14 nominations only, therefore, I have declared all the nominations found correct and declared elected all the 14 members.

Thereafter, Extraordinary General Body Meeting was called at 4.00 p.m. by Chairman Dr. S. L. Jain and Joint Secretary CA T. L. Jain of AIFTP (CZ) at Hotel Nicky International, Panchbatti Circle, Ratanada, Jodhpur. CA Rajesh Mehta Secretary AIFTP (CZ) was absent therefore; Joint Secretary CA T. L. Jain conducted the meeting. Past Chairman (CZ) of AIFTP Shri P. M. Chopra, Advocate was also present during the event.

After that as per the Guideline given in the AIFTP Times, 14 members declared elected as under:

1. Deep Chand Mali, Advocate, Jodhpur, Rajasthan
2. Bhanwar Lal Bissa, CA, Jodhpur, Rajasthan
3. Ashok Jangid, Advocate, Jodhpur, Rajasthan
4. Sumer Patwa, CA, Jodhpur, Rajasthan
5. Suresh Ojha, Advocate, Bikaner, Rajasthan
6. Om Banthia, CA, Balotra, Barmer, Rajasthan
7. Tansukh lal Jain, CA, Jodhpur, Rajasthan
8. Krishan Kumar Gehlot, Advocate, Jodhpur, Rajasthan
9. Hari Shankar Tak, Advocate, Jodhpur, Rajasthan
10. Balwant Rao, Advocate, Jalore, Rajasthan
11. Ravi Haloni, CA, Gwalior (M.P.)
12. Paras Chajer, CA, Rajnand Gaon, Chhatisgarh
13. D. R. Bohra, Advocate, Jodhpur, Rajasthan
14. M. M. Sharma, Advocate, Kota, Rajasthan

As per the Guideline 6 of Rules and Regulations of the Federation specified, the following new members elected as new Office Bearers for the Central Zone of AIFTP:

Sr. No.	Name of Office Bearer	Post Held
1.	Deep Chand Mali	Chairman
2.	Suresh Ojha	Vice Chairman (Raj.)
3.	Paras Chhajer	Vice Chairman (Chhattisgarh)
4.	Bhanwar Lal Bissa	Zonal Secretary
5.	Om Bantia	Jt. Secretary
6.	Ashok Jangid	Treasurer

After that Shri D. C. Mali, Chairman(CZ) and Shri B. L. Bissa, Zonal Secretary fill-up the Vaccancy of two seats one Mr. Dilip Patni, from Ratlam and one Mr. Suresh Bafna from Raipur and have Co-opted in the Managing Committee the following members. As per the guideline 6 of rules & regulations of the Federation specified the five members are below 45 years and females, out of 9 Co-opted Members.

1. CA Nirmal Soni, Udaipur (Raj.)
2. Miss Prerna Chopra, Advocate, Jodhpur (Raj.)
3. CA Kamlesh Bhati, Jodhpur, (Rajasthan)
4. Abhishek Ajmera, Advocate, Ajmer (Raj.)
5. Pankaj Jain, Advocate, Jaipur, (Raj.)
6. CA R. P Sharma, Jaipur (Raj.)
7. CA Padam Chand Bardia, Durg, (Chhattisgarh)
8. Vijay Navlakha, Advocate, Ujjain – (MP)
9. CA Ishu Jain, Kota (Raj.)

After that Mr. Vijay Navlakha from M.P. was elected as Vice Chairman and Shri Dilip Patni was elected as Jt. Secretary from Ratlam (M.P.)

The above Office Bearers and co-option of Members were made in my presence.

(R. S. Jain)
Advocate
Election Officer

MEMBERSHIP DEVELOPMENT AND PUBLIC RELATIONS COMMITTEE

Shri Dilip Kumar Agarwal, Advocate, Siliguri, a member of National Executive Committee, All India Federation of Tax Practitioners, has been appointed as the Chairman of Membership Development and Public Relations Committee. National President has been given a target of One Thousand new members in during one year Period.

The Chairman is at liberty to have his own choice of members from each zone, to constitute the committee. The Members from each zone to constitute and Co-ordinate with the Zone Chairman, Managing Committee Members, Vice President from each Zone and finally the N.E.C Members, to Identify and enroll new members. That apart the committee shall activate the inactive members by suitable process. The performance of the Committee Members and overall the enthusiastic supervision of the Zone Chairman, large mobilization by individual member, shall be appreciated and recognized by series of suitable awards by the federation. The Chairman of Committee is accordingly requested and authorized to proceed further, forthwith.

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 29-12-2015 Life Members

	Associate	Individual	Association	Corporate	Total
Central	0	841	23	3	867
Eastern	3	1196	35	3	1237
Northern	0	993	17	0	1010
Southern	1	985	14	7	1007
Western	4	1776	33	18	1831
Total	8	5791	122	31	5952

ANNOUNCEMENT

We are sorry to inform that Taxcon 2015 scheduled to be held on 8th & 9th January, 2016 is cancelled due to unavoidable circumstances.

**REPORT OF AIFTP (NZ) FOR NATIONAL TAX CONFERENCE
held on 10th & 11th October, 2015 at Hotel Clark, Varanasi**

NATIONAL TAX CONFERENCE 2015 “MANTHAN – On Tax Laws”

By **Ajay Sinha**, *Advocate*

This Conference at Varanasi was unique in many ways. Perhaps for the first time the theme of the Conference was in Hindi- ‘MANTHAN’ and just to add suggestive relevance the words ‘On TAX LAWS’ was added. The Conference had over 200 outstation delegates from all parts of the country far out numbering local participants and perhaps this was also a record of its own sort. The USP of the Conference was the ‘MUSICAL CRUISE ON GANGES WITH GANGA ARTI’ where about 225 delegates on 6 big Bajras enjoyed Ganga Arti and then Semi Classical Music with Banarsi Chat prepared and served on the boats in the midst of sacred river Ganges. The entire technical programme was conducted in the halls of Hotel Clarks, Varanasi, the oldest 5 star Hotel of the city.

The session wise details are as follows:-

- Day 1: Inaugural session** was graced by **Hon’ble Mr. Justice R. K Agrawal, Judge Supreme Court of India as Chief Guest and Mr. K. V. Chowdary, Central Vigilance Commissioner of India as Guest of Honour.** The session was chaired by Conference Chairman Respected Senior Advocate Mr. Bharatji Agrawal with J. D. Nankani (National President AIFTP), Mr. Arvind Shukla (Chairman AIFTP -NZ), Mr. V. S. Gupta (President I.T.B.A.) and Conference Secretary Mr. Prakash Gupta sharing the dais. The session was ably anchored by Mr. Virendra Khanna (Advocate) which had a jam packed house with several VIPs in the gathering.

The session started with lighting of sacred lamp amidst vedic chanting by priests of Kashi Vishwanath Temple. Mr. V. S. Gupta gave the welcome address, followed by speeches of Mr. Arvind Shukla and Mr. J. D. Nankani. Mr. Bharatji Agrawal, braved his ill health and gave a very nice speech before he became emotional. He was presented with a ‘Life Time Achievement’ award on behalf of AIFTP by Mr. P. C. Joshi (Past President AIFTP) amidst loud cheers and a standing ovation. True to his reputation Mr. K. V. Chowdary gave a very informative speech followed by Mr. R. K. Agrawal, (Judge - Supreme Court) who gave a very legally enlightening speech. Thanks for the session was delivered by Mr. Mukul Gupta, Conference Director Technical and National Vice President AIFTP (NZ).
- First Technical Session** on Income Tax was chaired by Mr. N. M. Ranka (Past President AIFTP) with Mrs. Geetmala Mohnani (Commissioner of Income Tax, Varanasi) as Chief Guest. Subject introductions by two bright young professionals namely Mr. Siddhrtha Rank and Mr. Rahul Agrawal, Advocate were highly appreciated. The main key speakers Mr. H. N. Motiwala and Mr. H. Padam Chand Khincha had the audience spell bound and delegates complained of shortage of time as they wanted to hear more.
- A unique **Second Technical Session** was held post lunch titled ‘**Mann ki Baat**’ as a panel discussion with Revenue authorities, Public representatives and Legal Experts on the dais. Nicely conducted by C.A. Shishir Bajpai and C.A. Jamuna Shukla the programme was highly acclaimed with audience not ready to leave and craving for more. Mr. Umesh Pathak, Joint Commissioner of Income Tax and Mr. R. G. Gupta, Additional Commissioner, Grade-1, Commercial Tax were on the dais with Mr. Ashok Gupta, (M.D. C/o M/s Benaras Beads Ltd.), Mr. S. N. Jhujhunwala, M. D. (C/o M/s Jhoola Vanaspati Ltd.) and Mr. R.K Choudhary, (President Small Scale Industries, Varanasi) representing the public. Experts Mr. Santosh Gupta, Advocate and C.A. Akshay Kumar Gupta very lucidly explained the legal provisions. The audience also participated very enthusiastically in the discussions. ‘Mann ki Baat’ as introduced by our Hon’ble Prime Minister Mr. Narendra Modi on National and Social issues is also turned out as a grand success on the Tax issues.
- MUSICAL CRUISE ON GANGES** The evening was a special memorable time for the delegates who were taken to Ganges on busses and cars and were welcomed on decorated Bajaras by Mr. Mukul Gupta and Mr. Vinay Kumar Jain (President Sangeet Parishad, Varanasi who being a personal friend of Mr. Arvind Shukla) had arranged for the whole show. **The evening mist, beautiful sunset on Ganges with mild flowing wind was making the ambience serene.** Amidst cheering the Bajaras went to famous Dashashamegh Ghat where the guests watched the famous Ganga Arti. Thereafter, the Bajaras were taken across Ganges where a decorated and lighted Boat with Classical Artists of Banaras Gharana (disciples of Padma Bhushan Mrs. Girija Devi ji) were performing. On another boat famous Banarasi ‘Deena ki Chat’ was prepared and served on all the Bajaras. The delegates were delighted with this lifetime memorable event as evident from innumerable congratulatory messages received.
- National Executive Committee Meeting** was held after return from Ganges which went on up to 12.30 in the night followed by Dinner.

6. **Day 2: Third technical session** started with GST as the main topic. The Chairman of the session was Mr. P.C. Joshi, (Past President – AIFTP). Mr. Rahul Kaushik, (Advocate) and CA. Sanjay Dhariwal introduced the subject in a very captivating manner and key speakers Mr. Sujit Ghosh (Residual definition of ‘Service’ in the presence of well defined and debated concept of ‘Goods’ under GST) and Mr. Pratik Jain (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) delivered masterly analysis of their topics.
7. **Fourth Session** was on both direct and indirect tax implications. The session was chaired by eminent lawyer Mr. V.N. Rai with young Varanasi Advocate Rupesh Gupta introducing the subject. Mr. Anand Singhal, Advocate clarified the difficult topic Restrictions and Impediments in claim of ‘Input Tax Credit’ and Calculation of ‘Reversal of Input Tax Credit’. C.A. Arun Kumar Agrawal deliberated on the topic Taxability of Development Agreements in Real Estate- Direct & Indirect Tax Aspects.
8. The **Brain’s Trust session** was chaired by Mr. M. L. Patodi Past President AIFTP and Panelists were Mrs. Nikita Badheka – VAT, Mr. K. L. Goyal – VAT, Dr. Anita Sumant – Income Tax, Mr. Sujit Ghosh – Service Tax, Mr. S. K. Mishra – VAT, Mr. Arun Kumar Agrawal – Service Tax, Mr. Punit Singh – Income Tax and Mr. Mukul Shah – Company Law & Income Tax. The session was widely acclaimed. The session was conducted by Mr. Ajay Sinha, (General Secretary – NZ).
9. **Valedictory session** was very lively as it was cheered with a packed house. The dias was decorated with Mr. J. D. Nankani (National President), Mr. Mukul Gupta (National Vice President - NZ), Mr. Arvind Shukla (Chairman AIFTP - NZ) on the dias. Mr. Mukul Gupta, Conference Director – Technical not only appreciated the efforts of the whole team, but also motivated them to perform much better in future whenever the opportunity comes for holding any important function of AIFTP in Varanasi. The untiring efforts of Varanasi team was acclaimed with particular mention of Mr. Arvind Shukla, Mr. O. P. Shukla, Mr. Asim Zafar, Mr. Anand Pandey, Mr. Harsh Singh, Mr. Jai Pradhwani, Mr. Brij Gopal Das, Mr. Prakash Gupta, Mrs. Jamuna Shukla, Mr. Sanjay Verma, Mr. V. S. Gupta, Mr. Ajay Sinha (Ghaziabad - Delhi NCR) and last but not the least Mr. Mukul Gupta. More than 40 Volunteers were recognised during this ceremony. National President Mr. J. D. Nankani specially thanked and recognised the Core Team members of this National Tax Conference by honouring them with shawls and gifts. The Thanks ceremony was conducted by Mr. Anand Pandey while thanks was given by Mrs. Jamuna Shukla.

The Conference thus ended in a very jovial and happy note with delegates bidding goodbye only to meet again soon. New bonds were established particularly between over 30 ladies who went back home with fond memories of Varanasi. Every delegate has appreciated the efforts done by AIFTP - North Zone.

**REPORT OF 18TH NATIONAL CONVENTION
ORDINARY GENERAL BODY MEETING AND
FIRST NATIONAL EXECUTIVE COMMITTEE MEETING
held from 25th to 27th December 2015 at Hyderabad**

By Dr. M. V. K. MOORTHY, *National President – Elect–AIFTP*

The 18th National Convention of All India Federation of Tax Practitioners was held from 25th to 27th December 2015 at Jalavihar, Necklace Road, Hyderabad. The Secretary General of the Federation issued notice for Ordinary General Body Meeting of the Federation to be held on 25th December 2015.

In Hall No. 2 of Jalavihar from 11:30 AM onwards, office bearers meeting, committee meetings and the last meeting of the National Executive Committee for 2014-15 were held. At 2:30 PM, the Ordinary General Body Meeting in terms of the notice already issued on 20-10-2015 had commenced and the agenda as already announced was taken up. The National President J. D. Nankani, Adv. welcomed the members of the Federation attending the meeting and offered presidential remarks. The attendance of the members was very much satisfactory and the President has thanked the members for evincing interest in the activities of the Federation. Then the election process to the National Executive Committee for 2016-17 had commenced. Past President Adv. P. C. Joshi being the election officer had informed the members that in four zones namely East Zone, South Zone, West Zone and Central Zone, no election was necessary, for, in South Zone and East Zone, the learned members who filed nominations in excess of the strength from the respective zones have already voluntarily withdrawn the nominations and as such there were valid nominations for 8 and 11 posts from South Zone and East Zone. In West Zone while the sanctioned strength was 16, only 13 nominations were filed and as such were

declared elected paving the way for filling up three vacancies apart from regular co-option. Similarly out of 7 in Central Zone only 6 nominations were received and as such the 6 were accordingly declared as elected. However according to the election officer in North Zone for an entitlement of 8 posts, 25 nominations were found valid and one nomination was withdrawn on 24th December, 2015 itself leaving 24 persons in the fray. Efforts were made by senior members, well-wishers and elderly people ably prevailed over, at last unanimity was found which caused a harmonious atmosphere to declare that there was no election to North Zone and there was unanimity in election and thus ultimately on account of unanimity in election to National Executive Committee, 46 members of entitlement from 5 zones were declared as elected. The National President has profusely thanked the election officer for his great efforts in obtaining unanimity in the elections and simultaneously congratulated all the newly elected members unanimously to NEC for 2016-17. After constituting the new executive committee for 2016-17, the National President at the first NEC meeting proposed the name of the sitting Deputy President Dr. M. V. K. Moorthy from South Zone as the National President for 2016. The National President elect thereafter in terms of the decision of the collegium of past presidents proposed the candidature of Senior Advocate Mrs. Premlata Bansal of New Delhi in North Zone to be the Deputy President for 2016.

The National President elect Dr. M. V. K. Moorthy, proposed the names of the following members of the NEC for 2016-17 as office bearers for 2016.

- 1) Shri Malladi Srinivasa Rao, TP – Secretary General
- 2) CA. S. B. Kabra, Honourary Treasurer

SOUTHERN ZONE

- 1) Shri Sreepada Satyanarayana, TP – Hyderabad, Vice President
- 2) CA. A. Retna Kumar, Trivandrum, Joint Secretary

EASTERN ZONE

- 1) Shri N. P. Jain, Adv., Kolkata - Vice President
- 2) Shri Anand Kumar Pasari, Adv., Ranchi - Joint Secretary

WESTERN ZONE

- 1) Shri Samir Jani, Adv., Junagardh - Vice President
- 2) Shri Bhaskar Patel, Adv., Vadodara - Joint Secretary

CENTRAL ZONE

- 1) Shri Ganesh Purohit, Senior Adv., Jabalpur - Vice President
- 2) CA. Mrs. Ritu P. Das, Kota - Joint Secretary

NORTHERN ZONE

- 1) Shri Arvind Shukla, Adv., Varanasi - Vice President
- 2) Shri Asim Zafar, Adv., Joint Secretary

The National President elect also proposed the co-option of members into National Executive Committee which was approved by the National Executive Committee Members and the following is the list of co-opted members.

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| 1) Dr. Ashok Saraf, Sr. Advocate, Guwahati. | 9) Shri S.R. Wadhwa, Adv., New Delhi. |
| 2) CA. Indu Chatrath, Kolkata. | 10) Shri Piyush Agrawal, Adv., Allahabad. |
| 3) Shri Purna Chandra Hotta, Adv., Ganjam. | 11) Shri D. K. Gandhi, Adv., Ghaziabad. |
| 4) Shri P. Lakshmi Narayana, T. P., Palakol. | 12) Shri Arun G. Baheti, Adv., Kolhapur. |
| 5) Shri C. Satyanarayana Gupta, T. P. Nellore. | 13) CA. Rajesh Muni, Mumbai. |
| 6) CA. S. Venkataramani, Bengaluru. | 14) Shri Upendra J. Bhatt, Adv., Ahmedabad |
| 7) CA. Ravi Prasad, Bengaluru. | 15) CA. Siddharth Ranka, Jaipur. |
| 8) Shri K. C. Kaushik, Adv., New Delhi. | |

The National President – elect addressing the newly elected members of National Executive Committee and the office bearers stated that mankind is his business. During his term to signal that the members of the highest policy making authority shall take up the responsibility of including or enrolling a new member tally of 1000 before the end of 31-12-2016. Adv. Dilip Kumar Agarwal, the newly elected Executive Committee Member from Siliguri was appointed as the Chairman for membership development and public relationship and accordingly

the said Chairman was appraised of the necessity of exploring the possibilities to bring new members from all zones in a minimum of 1,000 to reach the target of 7,000 and the said Chairman was to be assisted by members in that committee spread over in all the zones. The Chairman of the membership committee Adv. Dilip Kumar Agarwal is required to maintain continuous close rapport with all the zone Chairmen and Vice President to maintain continuous growth in membership as well as public relationship which *inter alia* includes a pleasant task, of activating all the inactive members which are not taking interest in the activities of the Federation and as such the National President elect emphasised on the need that in every two day National Tax Conference in any zone at least 50% of the active members of the Federation shall attend without fail. It was also conveyed to all the zone chairmen and GC members that they should actively co-ordinate with the zone vice president, the joint secretaries as also the NEC members from the zone in exploring the possibilities of holding as many one day seminars as possible particularly at non metropolitan places in all the States in the country. The Federation, it was stated to the tax practitioners would do its best to protect the interest of the Tax Practitioners at all times if necessity comes and the zones are advised to shoulder the responsibility of organising Study Circle Meetings every month to impart education, knowledge and information to the Tax Practitioners in the areas of the Central Excise, Customs and Service Tax so that the Tax Practitioners would be able to do justice as a minimum requirement when the deal with GST Regime.

West Zone Chairman Mr. Chirag Parekh announced that there would be two day National Tax Conference on 12th & 13th March 2016 at Nasik in Maharashtra State. East Zone Chairman R. D. Kakra also announced that on 9th and 10th January 2016 there would be National Moot Court Competition Programme organized by All India Federation of Tax Practitioners, East Zone in collaboration with West Bengal University of Juridical Sciences whose programme is being sponsored by Sr. Adv. Ashok Saraf in the memory of his late father Justice B. P. Saraf.

At the end of the Ordinary General Meeting, the National President appealed to all the members to maintain an atmosphere of peace, harmony, brotherhood and decency and appealed for co-operation and co-ordination in all respects, so that it would strengthen the hands of the National President to perform his duties as effectively as possible in a short period of one year though indisputably is a very little period for a National President to do any work mention programmes. At the last the Secretary General Harish N. Motiwala proposed a vote of thanks and every participant in the meeting was profoundly thanked.

On 26-12-2015, the Convention was inaugurated at 10:00 AM in Hall No. 1 of the Jalavihar by the Divine Special Guest His Holiness Bhagwan Shri Shri Shri Ramadootha Swamy who lit the lamp joined by another Guest of Honour Dr. K. Lakshman, Member of Legislative Assembly in Hyderabad City on the Dais. The other dignitaries from Federation side where National President, National President Elect, Secretary General, South Zone Chairperson, Convention Organizing Committee Chairman and the Presidents of the three partnering Associations namely A. P. Sales Tax Bar Association, Telangana Tax Practitioners Association and A. P. Tax Practitioners and Consultants Association. Dr. K. Lakshman appreciated the programmes of Federation and he had read out the speech of the Chief Guest Hon'ble Shri D. V. Sadananda Gowda, Minister for Law and Justice sent to him. Later the divine Guest Shri Ramadootha Swamy for a brief period also had spoken in appreciation of the activities of the Federation and blessed the Convention. The Past President Adv. P. C. Joshi was felicitated for his Golden Jubilee of practice and the other senior professionals belonging to various parts in South Zone were felicitated Ranka Trust awards were also distributed to the concerned persons who were adjudged by the awards committee to be eligible for the awards. The guest of honor also released the Publication of AIFTP titled "212 Frequently Asked Question on Survey - Direct Taxes" by CA M. V. Purushottam Rao, Hyderabad.

After inaugural session, technical sessions on the topics already announced went on very well and it is a unique convention which witnessed a full strength of auditorium even on second day of the convention being a Sunday. The last technical session on VAT ended at 5:15 PM on 27-12-2015 and vote of thanks were proposed by the Deputy Chairman of the South Zone, whereafter the session had disbursed after National Anthem.

In short the convention had very successfully ended on a happy note with a participation of more than 800 delegates and the auditorium was jam packed during inaugural session. The President thanked one and all responsible for successful conduct of convention and the president was also presented with the cheque for contribution for the delegates to the Federation. Every member of AIFTP and every delegate remarked that the entire programme was a memorable one in the history of the City.



WORKSHOP ON MVAT ACT, SERVICE TAX & ALLIED LAWS
Jointly with BCAS, CTC, MCTC, STPAM and
WIRC OF ICAI

We are happy to announce “Workshop on MVAT Act, Service Tax & Allied Laws” jointly with CTC, BCAS, , MCTC, STPAM, and WIRC of ICAI to be held from 5th Dec, 2015 to 30th April, 2016.

The object of Workshop is to share the essence of professional experience and expertise of the faculties which they have gained over the years. Here, the delegates will get an opportunity to gain knowledge and wisdom by interacting with seniors.

The topics selected for Workshop are Issue Based and will cover MVAT Act, 2002, CST Act, 1956, Service tax provisions and introduction to GST. These topics are of immense importance and will be of enormous help and use to Professionals practising in Indirect Taxes.

Day & Date : Saturdays

Timing : For Single Lecture Time - 2.30 pm to 5.30 pm & for Two Lectures Time – 2.00 pm. to 5.30 pm

Venue : STPAM Library Hall, 1st Floor, R. No. 104, Vikrikar Bhavan, Mazgaon, Mumbai-400 010.

Delegates Fees : Members ₹ 2,290/- (incl. of Service Tax)
 Non-Member ₹ 2,863/- (incl. of Service Tax)

Enrolment will be made on first-come-first-serve basis.

You are requested to enrol at the earliest to enable us to make proper arrangement.

Interested Members may download the “Form” from AIFTP’s website www.aiftponline.org or may collect it from The AIFTP’s office and send it along with the cheque in favour of “All India Federation of Tax Practitioners-Western Zone”. Outstation members are requested to send the DD/At Par cheque.

Day & Dates (Saturdays)	Subject	Speakers
30-1-2016	Drafting of appeal under MVAT/CST	Shri Vijay Sachiv, Adv.
	Issues in Interest, Penalties and Show Cause Notices under MVAT and CST Acts.	Shri Ashvin Acharya, Adv.
6-2-2016	Issues in Works Contract Transactions under MVAT & CST Acts.	CA Mayur Parekh
	Issues in Works Contract Services, Erection & Commissioning Services, etc. Under Service Tax	CA Vikram Mehta
5-3-2016	Issues in Taxation of Intangible Goods & Leasing/Franchisee Transactions under MVAT and CST Acts.	CA Sujata Rangnekar
	Issues in Taxation of Intangible Goods & Leasing/Franchisee Transactions under Service Tax.	CA Bharat Shemlani
19-3-2016	Issues in Definition of Services, Exempt & Declared Services	Shri Abhijit Berde
	Issues in Valuation of Services, Abatement & Reverse Charge Mechanism	CA Ashit Shah
2-4-2016	Issues in Place of Provision of Service Rules, 2012	CA Girish Raman
	Issues in Point of Taxation Rules, 2011	CA Rajiv Luthia
16-4-2016	Issues in Input Tax Credit w.r.t. Rule 53 and 54 under MVAT Act	Smt. Nikita Badheka, Adv.
30-4-2016	Overview of GST Act	Shri Deepak Bapat, Adv.
7-5-2016	Issues in Branch Transfers, Sales in Transit and High Seas Sales under CST Act	CA. Rajat Talati
*** Subject to availability and confirmation of speakers ***		

DIRECT TAXES

Ms. Neelam Jadhav, Advocate
KSA Legal Chambers

Supreme Court

1. **S.36(1)(iii) : When interest expenditure on loans diverted to sister concerns and directors can be allowed as business expenditure explained**

Assessee, claimed deduction of interest paid on borrowed sums from Bank under the prov. of s. 36(1) (iii). The deduction was disallowed by the AO on the two points. (i) The assessee had advanced to its subsidiary company known as M/s. Hero Fibers Limited and this advance did not carry any interest. According to the AO the assessee had borrowed the money from the banks and paid interest thereupon. Deduction was claimed as business expenditure but substantial money out of the loans taken from the Bank was diverted by giving advance to M/s. Hero Fibres Limited on which no interest was charged by the assessee. AO concluded that money borrowed on which interest was paid was not for business purposes and no deduction could be allowed. (ii) The assessee had also given advances to its own directors on which the assessee charged from those directors interest at the rate of 10 per cent, whereas interest payable on the money taken by way of loans by the assessee from the Banks carried interest at the rate of 18 per cent. on that basis, the AO held that charging of interest at the rate of 10 per cent from the above mentioned persons and paying interest at much more rate, i.e., at the rate of 18 per cent on the money borrowed by the assessee cannot be treated for the purposes of business of the assessee. The AO did not allow the deduction of the entire amount and re-calculated the figures. The CIT(A) set aside the order of the AO holding that the interest paid by the assessee of which deduction was claimed, on the facts was for business purposes and, therefore, the entire interest paid by the assessee should have been allowed as business expenditure. The ITAT upheld the view of the CIT(A). Further appeal of the Revenue before the High Court, has been allowed. Challenging the High Court judgment, SLP was filed in which leave was granted. The Hon'ble Supreme Court has taken view that, the High Court has not at all discussed the facts which were established on record pertaining to the interest free advance given to M/s. Hero Fibres Limited as well as loans given to its own Directors at interest at the rate of 10 per cent.

The Supreme Court held that, such an approach is clearly faulty in law and cannot be countenanced. In so far as loans to the sister concern / subsidiary company are concerned, law in this

behalf is recapitulated by this Court in the case of 'S.A. Builders Ltd. v. Commissioner of Income Tax (Appeals) and Another' [2007 (288) ITR 1 (SC)]. The expenditure may not have been incurred under any legal obligation, but yet it is allowable as a business expenditure if it was incurred on grounds of commercial expediency. In the present case, neither the High Court nor the Tribunal nor other authorities have examined whether the amount advanced to the sister concern was by way of commercial expediency. It has been repeatedly held by this Court that the expression "for the purpose of business" is wider in scope than the expression "for the purpose of earning profits". It further held that no businessman can be compelled to maximise his profit and that the income tax authorities must put themselves in the shoes of the assessee and see how a prudent businessman would act. It is manifest that the advance to M/s. Hero Fibres Limited became imperative as a business expediency in view of the undertaking given to the financial institutions by the assessee to the effect that it would provide additional margin to M/s. Hero Fibres Limited to meet the working capital for meeting any cash losses. It would also be significant to mention that subsequently the assessee company had off-loaded its shareholding in the said M/s. Hero Fibres Limited to various companies of Oswal Group and at that time, the assessee company not only refunded back the entire loan given to M/s. Hero Fibres Limited by the assessee but this was refunded with interest. In so far as the loans to Directors are concerned, it could not be disputed by the Revenue that the assessee had a credit balance in the Bank account when the said advance was given. as observed by the CIT(A) in his order, the company had reserve/surplus. Therefore, the assessee company could in any case, utilise those funds for giving advance to its Directors. On the basis of the same the Supreme Court allowed the appeal setting aside the order of the High Court and restoring that of the Income Tax Appellate Tribunal.

Hero Cycles (P) Ltd v. CIT (Supreme Court) Civil Appeal No. 514 OF 2008 dtd. 5-11-2015, Source : www.itatonline.org

Tribunal

2. **S.2(22) : Deemed dividend (Inflated Purchases) – Payment of money by inflating purchases cannot be construed as loan or advance, and accordingly**

prov. of s. 2(22)(e) not applicable in such a case

The assessee was engaged in the business of manufacturing food masala and was one of the major shareholders in AMFP. In the course of business activity, the assessee purchased spices from NF Ltd. and made payment to Pandian Enterprises who was proprietary concern of assessee's brother in law. The department found that the accumulated profit of AMFP was paid to the assessee by giving credit in the books in the name of NF Ltd. as if it was paid to Pandian and since the assessee was holding substantial interest in the company, the amount paid by the assessee was treated as deemed dividend u/s. 2(22)(e). The assessee was having substantial interest, having more than 10 per cent voting power. It is nobody's case that the assessee has borrowed loan or advance. The case of the revenue is that the assessee has inflated the purchase made from NF and the amount was paid to Pandian by crediting the amount in the account of NF. The payment of money by inflating the purchase cannot be construed as loan or advance as in the case of loan or advance, the recipient has the obligation to repay the amount. In the case of inflating the purchase amount, at the best, the recipient has to appropriate the amount. Therefore, it cannot be construed as loan or advance within the meaning of section 2(22)(e). Once it cannot be construed as loan or advance, the provisions of section 2(22)(e) are not applicable in such a case. If there is any evidence to show that AMFP Ltd. has inflated the purchase, it is for the Assessing Officer to examine and disallow the expenditure claimed by it towards purchase of spices. At any stretch of imagination, such inflated purchase cannot be treated as loan or advance. Therefore, there was no infirmity in the order of the CIT(A) (A.Y. 2008-2009)

ACIT vs. Padmasingh Isaac ITA No. 1266 /MDS/ OF 2013 dated 29-5-2015, Source : www.itat.nic.in

3. S.2(24)(iv) : Value of any Benefit or Perquisite – Property let out to the company in which husband of assessee and their relatives holding substantial interest, rent has been derived as a quid – pro quo for letting out the property, such receipt of rent could not be characterised as benefit or perquisite u/s. 2(24)(iv) (r.w.s. 22)

The assessee had let out property to the company in which her husband and their relatives were holding substantial interest. During the relevant year, the assessee has received a rent which was adjusted against interest-free deposit received from Company. AO taxed rental receipts u/s. 2(24)(iv) in preference to s. 22, and denied standard deduction of 30% u/s. 24. CIT(A) cancelled the order of AO.

The Hon'ble ITAT held that, whether the rental income derived from the letting out of the house property is chargeable u/s. 22 or s. 2(24)(iv). The provision would show that s. 2(24)(iv) seeks to cover value of benefit/perquisite derived by assessee from a company which would have been payable to the assessee or its relatives against the obligation. The provision is not intended to restrict the right of the Company to advance security deposits to its directors or relatives against the valuable consideration i.e. for obtaining house property on rent.

The ITAT taken view that, the assessee has rightly offered the rental income u/s. 22 subject to statutory deduction available u/s. 24. S. 2(24)(iv) deems value of any benefit of perquisite as income in the hands of the assessee only if it is obtained from the company which was otherwise payable by the director or other person. The agreement has been entered into with the company for which rent has been paid and hence the rent has been derived as a quid pro quo for letting out the property therefore such receipt of rent cannot be characterised as benefit or perquisite under S. 2(24)(iv).

Dy. CIT vs. Smt. Nisha Anil Jain ITA No. 1946/ PUNE/2013 dated 8-10-2015 Source : www.itat.nic.in

4. S.45 : Profit on Transfer of Assets – Rights in a property couldn't be deemed as transferable capital assets when such property was neither in existence nor its building plan or specifications were approved from the Municipal Corporation and neither any construction activity nor commencement of the project had started

The AO noticed that the assessee had shown long term capital gains on transfer of rights in the five 'office premises' in the building. AO observed that the assessee had agreed to purchase the above mentioned office premises and had paid an amount as advance to the builder on 2-9-2005. The assessee relied upon a provisional allotment letter dated 2-9-2005 issued by the builder to the assessee in this respect. Thereafter, the builder got its building plan and specifications approved from Municipal Corporation on 3-8-2006 and thereafter issued a final allotment letter dated 4-8-2006 to the assessee. The said building was being built specifically for activities related to information technology and as the assessee was not involved in the activity related to information technology, hence, it decided to sell/transfer its rights in the above mentioned office premises. On 17-12-2008, it was informed by the builder to the assessee that the builder had sold rights of the assessee. The resultant surplus was offered by the assessee as Long Term Capital Gains.

From the above facts AO observed that the assessee had got final allotment of the said office premises on 4-8-2006 and the rights were sold/transferred on 17-12-2008 and as such the holding period of the rights was less than 36 months. The gains arising therefrom had to be taxed as short term capital gains. The CIT(A), observed that the allotment letter dated 2-9-2005 clause (3) wherein it had been mentioned, We are not issuing this Final Allotment Letter since the plans and specification are now duly approved and we have also received Commencement Certificate dated 3-8-2006. The Ld. CIT(A) thereafter concluded that the first letter of 2005 was a fabricated document and no rights had passed to the assessee even *vide* the second allotment letter of 2006 and there was no transfer of any right as there was no mention of any obligation on the part of respective parties, consideration, schedule of payment, date of completion of building and date of handing over of the possession etc. The CIT(A), held that whatever interest/stake was created by the assessee was sold by the builder and the surplus so earned by the assessee is to be assessed as income from other sources.

The Hon'ble ITAT has taken view that (i) Rights in property could be considered as transferable capital asset. However, for that purpose, there should be a property in existence or there should be a property which is likely and apparently coming into existence, e.g., if the construction of the flat is started and the flat is likely to come in existence. When there is no property in existence nor any definite process for its creation has started, no one can get a transferable right or interest into such a fictional property which itself cannot be said to be even a "property". (ii) The payment was made to the builder when neither the property was in existence nor its building plan or specifications were approved from the Municipal Corporation and neither any construction activity nor commencement of the project had started. Therefore, any gain arising on transfer of booking rights in such fictional property should be taxed under the head 'income from other sources' and not as capital gains. (A.Y. 2009-2010)

S. Narendrakumar & Co. v. Dy. CIT ITA No. 7080/Mum/2012 dated 6-11-2015, Source : www.itat.nic.in

INDIRECT TAXES

SALES TAX

D. H. Joshi, Advocate

8. High Sea Sales u/s. 5(2) of the CST Act, 1956

In the absence of any bill of entry / bill of lading and without communication of the said sale to the Customs authorities in India, the alleged transfer of cement which landed in Punjab from Pakistan could not be treated as High Sea Sales. Hence, taxed the same under the local law.

Ganpati International, Ludhiana v. State of Punjab (2015) 52 PHT 381 (PVT)

9. Input credit denied to SEZ project vis-à-vis delayed revised returns

Under Karnataka VAT Act, 2003, Section 20(2) r/w Rule 130A with reference to Revisional Authority's power where the Authority disallowed the input tax credit claims to the SEZ on the sole ground that such claims are made in revised returns which were filed beyond the prescribed period. The Appellate Tribunal justified the claim and set aside the Orders passed by the Revisional Authority remanding the matter to the prescribed authority. The High Court, on State's Appeal held that the petitioner-State to work out its remedy before the prescribed authority.

State of Karnataka v. M/s Gopalan Enterprises (I) Ltd. 2015-16 (20) KCTJ 111 (KHC)

10. Non-Vatable Goods

In large number of writ petitions filed before the Madras High Court, the issue for decision was whether under the Tamil Nadu VAT Act, 2006 to which Second Schedule is appended dealing with non-vatable goods, the question was whether a FL-3 licence holder selling liquor at the third point of sale was eligible to avail set-off (input credit) of tax paid on the purchase of liquor at the second point of sale? The Court held in the negative after going through large number of case laws and in particular Article 19(1)(G) referring to the case of the Supreme Court in *Khoday Distilleries Ltd. v. State of Karnataka (1995) 1 SCC 574 (SC)* and summarising the prohibition policy introduced in the State, the State can create a monopoly either in itself or in the agency created by it for the manufacture, possession, sale and distribution of liquor as a beverage and also sell the licences to the citizens for the said purpose by charging fees. This can be done under Article 19(6) or even otherwise. The goods that are specified in the Second Schedule are not vatable. A combined reading of Section 3(5) of the Act and the Second schedule would make the said position very clear. Therefore, we are of the view that the petitioners could not seek protection under Article 19(1)(g) of the Constitution of India. Certain incidental issues were also raised by the petitioners. We do not find any tax on tax being imposed in view of Section 3(5) r/w amended

impugned provision. The petitioners did not have a case, particularly, when dealing with third sale with the value addition. In the result all the writ petitions stood dismissed.

Hotel & Bar (FL.3) Association of Tamil Nadu (HOBAT), Nagarcoil v. Secretary to Government, Commercial Taxes Dept., Chennai (2015-16) 21 TNCTJ 152 (Mad)

11. Packing material

Inter-State sale of tax paid edible oil sold in taxable packing material i.e. drums. The Appellate Board held that tax has been rightly levied on such packing materials i.e. drums @10% during the relevant period i.e. 1999-2000. The Appellate Board rejected contention of the appellant that such drums being made of iron and steel, tax on their inter-State sale should be levied @8% instead of 10%.

Ramnivas Giriraj Kishore v. C.C.T.M.P. (2015) 27 STJ 859 (MP Bd.)

12. Pre-Deposit of Tax

PVAT Act, 2005, Section 62(5) regarding pre-deposit. AO created additional demand of ₹ 16,57,800 while framing assessment order for the year 2013-14. The appeal against the said order filed by the petitioner was dismissed for non-compliance of Section 62(5). The matter was taken up before the Tribunal in Second Appeal. Counsel stated that the appellant deposited 25% of the additional demand on 10-12-2014. Therefore, the appellant may be provided an opportunity of being heard in the appeal. Having heard the contentions, the Tribunal felt that the appellant had already deposited a sum of ₹ 4,14,500, hence, in the interest of justice, the appeal could be entertained and decided on merits. Accordingly, the matter was sent back to the First Appellate Authority for decision on merit.

Baba Fateh Singh Cotton & General Mills, Bariwala v. State of Punjab (2015) 52 PHT 380 (PVT)

13. Questions of Law

Following two questions of law were decided by the Karnataka High Court:

- “1. Whether “Water For Injection (WFI) / Demineralised water” used as an input in the execution of the works contract entered into by the assessee with the principals / customers attracted levy of tax under the KVAT Act / CST Act ?” High Court held in the affirmative by referring to *BSNL v. UOI 2006 (60) KLJ 391* and *Larsen & Toubro Ltd. And Anr. v. State of Karnataka And Anr. 2014 (1) SCC 708 (SC)*.
- “2. Whether the contract executed by the assessee with its principals / or customers is a contract for service or a composite divisible contract, attracted levy of tax on sale of goods under the provisions of KVAT Act / CST Act or otherwise, levy of tax on goods as well as on services is

legally permissible in a single transaction ?” Held as a composite works contract by following *Imagic Creative (P) Ltd. v. C.C.T. And Ors. (2008) 2 SCC 614* and *AIFTP And Ors. v. UOI And Ors. (2007) 7 SCC 527 (SC)*

For detailed reasoning, kindly read the whole text of the judgment.

M/s Hicure Pharmaceuticals Pvt. Ltd. v. Dy. C.C.T., Hubli 2015-16 (20) KCTJ 120 (KHC)

14. Refund adjustment

Withholding of refund u/s. 38 of MVAT Act, the Commissioner was empowered to do so in certain cases. In the present case, ‘H’ forms and ‘C’ forms submitted by the petitioners were found to be forged and fabricated. The authorities reopened the cases and issued notices to the petitioners. Thus, the facts were not in dispute. Therefore, in a Writ Petition, the Court refused to direct the Dept. to adjust the refund against the demand raised against the petitioner. Accordingly, writ petition dismissed.

Indian Soya Industries Pvt. Ltd. v. State of M.P. (2015) 27 STJ 750 (M.P)

15. Scrutiny assessment – Mismatch in data

U/s. 29(2), in scrutiny assessment it was concluded that for A.Y. 2011-12, the appellant did not follow the provisions of Rules 23, 24 r/w Section 13 of the Act and had availed ITC, which was not available to him. Appellant had also wrongly availed ITC against discharging of the output liability due for the period involved. Accordingly, additional demand of ₹ 120,29,73,808 by way of tax, interest and penalty was imposed, thus, which gave rise to the question. First Appellate Authority upheld the Assessment Order. Before the Tribunal, both the parties argued that this was similar to the Appeal Nos. 474 to 479 of 2013 decided on 14-5-2015 in the very appellant’s case. Therefore, this appeal may be disposed of on same terms with directions to challenge the same before the High Court along with other appeals which are already pending. Accordingly, Tribunal accepted the prayer of the appellant and disposed of the appeal.

Food Corporation of India, Patiala v. State of Punjab (2015) 52 PHT 418 (PVT)

16. Service of penalty order

In this case, following the Apex Court judgment in the case of *M. Ramakishthaiah & Company (2005) 5 STJ 820 (SC)*. The M.P. High Court held that when there was unusual delay in service of order on the assessee, then, the Dept. was required to give a proper explanation and in the absence of any explanation, it was to be presumed that the Order was not passed on the date it purports to had been passed and it could have been passed after expiry of the prescribed limitation period. In the present case, there was a delay of 11 months in service of the order and for this delay, no evidence was produced by the

Dept. Thus, it had to be presumed that the Assessing Authority had not passed the Order on the date it purports to have been passed. Accordingly, by quashing the Order petitions were allowed.

Sadguru Fabricators & Engineers Pvt. Ltd., Indore v. State of M.P. And Ors. (2015) 27 STJ 743 (M.P.)

17. Service Tax

A. Writ Petitioner sought waiver of pre-deposit of service tax. Order of the Tribunal directed the Petitioner to deposit the amount shown in the Chart. Whether the Order of the Tribunal was illegal? Held in the negative. Petitioner deposited ₹ 5 Lakhs out of ₹ 40,81,074 voluntarily. Whether, in the circumstances, petitioner could be directed to deposit the balance amount of service tax? Held in the affirmative, by directing by way of Bank Guarantee.

Goutam Poul v. Union of India And Ors. (2015) 66 STA 240 (Cal)

B. APPLICABILITY OF SERVICE TAX VIS-À-VIS INDIVISIBLE WORKS CONTRACT

Supreme Court held that prior to amendment by Finance Act, 2007, there was no charge or machinery to levy and assessed service on indivisible works contracts. That was clear from the language of Section 65(105) which defined 'Taxable Service.' All the services referred to therein were service contracts *simpliciter* without any other element therein. Prior to 2007, no attempt was made to remove non-service elements from indivisible works contracts by deducting value of goods transferred in execution of a works contract from gross value of the works contract. While levying service tax on indivisible works contracts by Finance Act, 2007, various exclusions had been made such as contracts in respect of roads, airports, airways transport, bridges, etc.; such contracts were never intended to be the subject-matter of service tax. But, if the revenue was right that prior to 2007 also indivisible works contracts were liable to service tax, then, such excluded contracts would also fall within the ambit of service tax prior to 2007, which could not be the intention of the Parliament.

Indivisible works contract – In an individual works contract it was important to segregate the material and labour / service elements completely, because if some element of transfer of property in goods remained when a service tax levied, the said levy would be found to be constitutionally invalid. No one denied the legislative competence of the States to levy sales tax on sales. But, this did not allow the States to trench upon Union List and tax services by including cost of service in value of the goods

as held by this court in *Bharat Sanchar Nigam's case (2006) 8 STJ 497 (SC)*.

Accordingly appeals were decided in favour of the assesseees.

Commissioner, C.E.C. Kerala v. Larsen & Toubro Ltd. (2015) 27 STJ 713 (SC)

18. Sufficient cause

In this case, appeal filed was delayed by 284 days. On the ground that the courier containing appeal papers sent by the Counsel of the appellant well within stipulated period of limitation, but due to non-receipt of the same in the office of the Tribunal, the appeals had to be filed once again. Even otherwise, if there was doubt or dispute as to whether appeals were couriered within time or not by the Counsel of the appellant, benefit thereof had to be given to the appellant of the assessee. In the circumstances, if the appellant was not given a chance to be heard on merits, it would not be as per law and he would cry forever. The Tribunal also followed the reasoning as contained in the Supreme Court Judgment in the case of *Collector, Land Acquisition v. Mst. Katiji & Ors. reported in 167 ITR 471 (SC)*. Accordingly, the delay was condoned, but in the circumstances costs of ₹ 1,000 were awarded.

Panipat Yarn Agency, Panipat v. State of Haryana (2015) 52 PHT 430 (HTT)

19. Tax Deducted at Source (TDS)

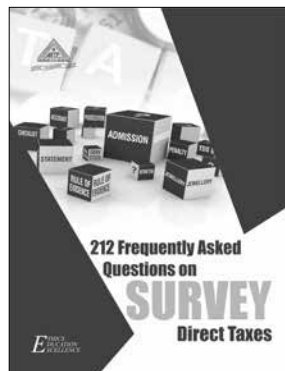
Credit for tax deducted from the appellant-works contractor u/s. 26(2) of the MP VAT Act was allowed in the original assessment for the year 2008-09, but subsequently it was disallowed by reopening the case on the ground that during 13-10-2008 to 23-7-2009, the appellant was an unregistered dealer, while for being eligible to get the credit for TDS, he should have been a registered dealer. The Appellate Board held that it would be against the principles of natural justice to disallow the credit of TDS to the appellant and to recover the same amount again from him which amounted to double taxation. Hence, the appeal was allowed and case was remanded to the AO for verification of TDS certificate and to take a judicious decision on TDS claim of the appellant.

Editorial note: Without commenting anything about the final verdict of the above order, the Editors felt that the provisions of Section 26A of VAT Act r/w Rule 45 are not relevant for TDS from works contractors u/s. 26(2). Further, the case has been remanded on the point of ITR without any discussion on the same point which was disallowed on account of appellant remaining unregistered dealer during the relevant period.

Pradeep Kumar Bhati, Sodapur v. C.C.T.M.P. (2015) 27 STJ 857 (MP Bd.)



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We are pleased to make the announcement of the release of publication of the All India Federation of Tax Practitioners titled “212 Frequently Asked Questions on Survey – Direct Taxes” by Dr. K. Lakshaman, Member of Legislative Assembly, Hyderabad on 26th December, 2015 at Hyderabad in a 18th National Convention organised by the AIFTP in association with local associations.

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This publication is authored by CA. M. V. Purushottam Rao, Hyderabad and edited by Shri N. M. Ranka, Sr. Advocate, Jaipur, Dr. K. Shivaram, Sr. Advocate, Mumbai and Shri S. R. Wadhwa, Advocate, Delhi.

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