

All India Federation of Tax Practitioners**AIFTP TIMES**

Volume 7 – No. 11 • November 2016

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
5-11-2016	Full Day Seminar on Goods and Services Tax	Thane, Mumbai
11-11-2016	National Executive Committee Meeting	Pune
11, 12-11-2016	Two Day National Tax Conference	Pune
2-12-2016	National Executive Committee Meeting	New Delhi
2-12-2016	ITAT Bar Associations' Co-ordination Committee Meeting	New Delhi
2, 3, 4-12-2016	19th National Convention	New Delhi

**NOTICE OF ORDINARY GENERAL BODY MEETING OF THE FEDERATION
TO BE HELD ON 25-11-2016 AT MUMBAI**

Dear Members,

An Ordinary General Meeting as provided in Rule 10 of the Rules & Regulations of the Federation will be held on Friday, the 25th November, 2016 at 4.30 p.m. at 215, Rewa Chambers, 31, New Marine Lines, Mumbai 400 020 to transact the following agenda as prescribed in Rule 8.

AGENDA

- Welcome address and opening remarks by the President Dr. M. V. K. Moorthy
- To confirm the proceedings of the previous EOGM held on 25th December, 2015 at Hyderabad. (Minutes enclosed as Annex-D)
- To consider and ratify the Guidelines/relevant rules for working of Zones as approved by the National Executive Committee in its meeting on 21st October, 2016 (copy enclosed – Annex-A)
- To consider and ratify Guidelines for Awards as discussed and approved by the National Executive Committee in its meeting on 21st October, 2016 (copy enclosed – Annex-B)
- To consider amendments to the Memorandum, Rules & Regulations (proposed amendments enclosed – Annex – C)
- To consider suggestions from the members in respect of rendering better service to the members and for overall progress of the AIFTP
- To transact any other business that may be raised with the permission of the chair

For All India Federation of Tax Practitioners

M. Srinivasa Rao
Secretary General

Note: 1. Copy of Constitution, rules and regulations and Annexure may be obtained from the website of AIFTP i.e. www.aiftponline.org

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

NOTICE

Dear Members,

October 1, 2016

The meeting of the ITAT Bar Associations' Co-ordination Committee (BACC) will be held on Friday, 2nd December, 2016 at Conference Room, Indian Council of Agricultural Research, NASC Complex, PUSA, New Delhi – 110 012 (PUSA Institute) from 3.00 p.m. to 4.00 p.m. The following agenda will be discussed:-

AGENDA

1. To make representation for appointing Vice Presidents of the ITAT;
2. To make representation opposing the merging of the ITAT with other Tribunals;
3. Suggestions to improve the quality of the Orders;
4. Suggestions to improve the official website of the Tribunal;
5. Any other suggestions, the Members may consider to be appropriate for efficient management of the Tribunal.

Sd/
Convenor

Note:- The National Convention will be held on 2nd, 3rd and 4th December, 2016 at New Delhi. The venue is Indian Council of Agricultural Research, NASC Complex, PUSA, New Delhi-110012 (PUSA Institute). Please contact Mr. A. K. Srivastava (Email: srivastavaanil@hotmail.com, Mob. 9810128812), for further details.

ACTIVITY OF CENTRAL ZONE

By D. C. Mali, Chairman, AIFTP (CZ)

Dated: 25-10-2016

1. New membership in October 2016 month:- Zone has introduced five new members.
2. Welcome of newly member of ITAT Mr. B. P. Jain, Accounting Member, Senior Accounting Member and Mr. P. S. Choudhary Judicial Member on joining at Jodhpur bench and welcome by bouquet on behalf of AIFTP (CZ) as well as ITAT Bar by Chairman Shri D. C. Mali, Secretary Bhanwar Bissa, ITAT Bar President Shri P. M. Chopra, ITAT Secretary Ashok Jangid along with members of Local Tax Bar Shri K. K. Gehlot, Shri R. S. Jain advocate and Shri Sumer Patwa. We also sent representation to the Government of Rajasthan for Amnesty Scheme before GST in response to the same Government has issued Amnesty Scheme on 24th October for late fees.
3. AIFTP (CZ) also sent representation for extending date of filing of TDS Return from 31st October to 15th November and for Service Tax Return extending the date up to 15th November and we also published the news in the local newspaper of Rajasthan, M.P. and Chhattisgarh.
4. AIFTP (CZ) welcomed Mr. Sunil Sharma, Hon'ble Member, Rajasthan Tax Board on 21st October, 2016. On this occasion, we also welcomed Mr. D. P. Ojha, Deputy Government Advocate.
5. AIFTP (CZ) also submitted representation to the Chief Minister and Principal Secretary (Finance) to include Tax Practitioners to represent in GST.
6. Next programme in the Zone:- Next small Tax Conference shall organise in zone in the month of December in M.P. and Chhattisgarh.

Congratulations



All India Federation of Tax Practitioner is pleased to inform as a matter of pride that our life member and sitting NEC member from South Zone **Dr. Anita Sumanth**, a leading practising advocate from Chennai has been appointed as a judge of Madras High Court by the President of India and Federation on this occasion greets Hon'ble Dr. Justice Anita Sumanth, Judge of the Madras High Court for successful and reputed stay on the bench to serve the Nation in a befitting manner and also wishes all happiness, health, dedicated judicious duty bound. Federation feels proud of her appointment.

For All India Federation of Tax Practitioners

Dr. M. V. K. Moorthy
National President

TWO DAY NATIONAL TAX CONFERENCE AT PUNE

Organised by

ALL INDIA FEDERATION OF TAX PRACTITIONERS' (WESTERN ZONE)

Jointly with

**THE WESTERN MAHARASHTRA TAX PRACTITIONERS' ASSOCIATION AND
THE SALES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA**

on 11th and 12th November, 2016

at PYC (Poona Young Cricket Club), Off Bhandarkar Road, Deccan Gymkhana, Pune – 411 004.

Session Schedule : Day I

08.30 AM to 10:00 AM	:	Registration and Breakfast
10.00 AM to 01.00 PM	:	AIFTP 40th Year Function & NTC Inaugural Session
01.00 PM to 01.45 PM	:	Lunch
02.00 PM to 03.15 PM	:	1st Session : Intricacies and controversies under capital gains tax Speaker – CA. Shekhar Nanivadekar, Pune Chairman – Dr. K. Shivaram, Sr. Advocate, Mumbai
03.15 PM to 03.30 PM	:	High Tea
03.30 PM to 4.45 PM	:	2nd Session : Inspection, search & seizure, prosecution, offences & penalty under MVAT Act Speaker – Mr. Dinesh Tambde, Advocate, Mumbai Chairman – Mr. Vinayak Patkar, Advocate, Mumbai
4.45 PM to 6.00 PM	:	3rd Session : Important definitions & charging Section (excluding supply) Speaker – Mr. A. K. Batra, Advocate, Delhi Chairperson – Mrs. Prem Lata Bansal, Sr. Advocate, Delhi

Session Schedule : Day II

8.30 AM to 9.30 AM	:	Breakfast
9.30 AM to 11.00 AM	:	1st Session : Supply – Definition, time & place of value of supply. Speaker – CA. Kiran Garkar, Mumbai Chairman – Mr. P. C. Joshi, Advocate, Mumbai
11.00 AM to 12.30 PM	:	2nd Session : Input Tax Credit under GST Speaker – CA. Dilip Satbhai, Pune Chairman – Mr. C. B. Thakar, Advocate, Mumbai
12.30 PM to 01.30 PM	:	Lunch
01.30 PM to 03.00 PM	:	3rd Session : Registration, Tax Invoice, Returns, Job work, Assessment Speaker – CA. Ashit Shah, Mumbai Chairperson – Mrs. Nikita Badheka, Advocate, Mumbai
03.00 PM to 04.30 PM	:	4th Session : Provisions relating to Import, Export, Transitional period and Misc. Provisions under GST Speaker – Mr. Vidhyadhar Apte, Advocate, Pune Chairman – Dr. Ashok Saraf, Sr. Advocate, Guwahati

Delegate Fees : For Members of AIFTP, STPAM, WMTPA:

₹ 3,250/- (inclusive of Conference materials, breakfast, lunch, tea on both days)

For Non-members: ₹ 4,000/- (inclusive of conference materials, breakfast, lunch, tea on both days)

For Accompanying Spouse: ₹ 2,250/-

- Note: 1) Kindly issue DD/Cheque at par in favour of “All India Federation of Tax Practitioners – Western Zone”, payable at Mumbai.
2) Separate cheque / DD may be sent to Hotel directly in case of room booking.
3) Registration forms to reach us by 31-10-2016.
4) Hotel accommodation will be on individual responsibility after 31-10-2016.

For Hotel details please log on to our website www.aiftponline.org

For details contact:

Shri Chirag S. Parekh, Chairman – AIFTP - WZ • 9821634128 • chiragnp7@gmail.com

Shri Deepak Godse, President – WMTPA • 9823043030 • advbabuji123@gmail.com

Dr. Shashank Dhond, President – STPAM • 9821094250 • dhondoffice@gmail.com

Dr. M. V. K. Moorthy, National President – AIFTP • 9849004423 • mvkmoorthy59@gmail.com

Shri M . Srinivasa Rao, Secretary General – AIFTP • 9885736999 • sai9malladi@yahoo.com

Shri Milind Bhone, Chairman, Conference Comm. – WMTPA • 9890090161 • milindbhone@gmail.com

Shri Prakash Joglekar, Convenor, Conference Comm. – WMTPA • 9822047015 • taxpakash@gmail.com

Shri Prashant Vora, Convenor, NRRC ommittee – STPAM • 9819938858 • prashant@rpjindia.com

Shri Narendra Sonawane, Member-In-Charge, Hotel Accom. – WMTPA • 9822601617 • sonawanenarendra@ymail.com

Shri V. G. Shah, Member-In-Charge, Registration – WMTPA • 9850527905 • vgs.office@yahoo.co.in

NATIONAL TAX CONVENTION – 2016

Organised by
ALL INDIA FEDERATION OF TAX PRACTITIONERS (NZ)

Jointly with
SALES TAX BAR ASSOCIATION (Regd.) New Delhi

2nd to 4th December, 2016

at Indian Council of Agricultural Research, NASC Complex, PUSA, New Delhi – 110 012 (PUSA Institute)

**Theme : Fundamental Duties of a Citizen – Article 51A
of the Constitution of India A Forgotten Affair!**

PROGRAMME

Friday, 2nd December, 2016

11.00 AM to 02.00 PM	National Executive Committee Meeting
02.00 PM to 05.00 PM	Registration & Tea
05.00 PM to 07.00 PM	Inaugural session : Chief Guest : Hon'ble Mr. Justice T. S. Thakur, Chief Justice of India Guest of Honour : Hon'ble Mr. Justice A. K. Sikri, Judge, Supreme Court of India Hon'ble Mr. Justice R. K. Agrawal, Judge, Supreme Court of India Special Guest : Mr. Praveen H. Parekh, Sr. Advocate, Ex-President, Supreme Court Bar Association Tribute to Hon'ble Mr. Justice S. H. Kapadia, Former Chief Justice of India
07.00 PM to 07.30 PM	Tea
07.30 PM to 08.30 PM	Spiritual conversation by Sister Shivani of Prajapita Brahma Kumaris with Shri Suresh Oberoi
08.30 PM onwards	Dinner

Saturday, 3rd December, 2016

09.00 AM to 10.00 AM	Breakfast & Registration
10.00 AM to 11.30 AM	1st Technical Session – Income Tax “Tax Planning – Formation & Assessment of HUFs & Private Trusts” Chairman : Hon'ble Mr. Justice Vibhu Bakhru, Judge, Delhi High Court Co-Chairman : Shri N. M. Ranka, Sr. Advocate, Jaipur Speaker : Dr. Girish Ahuja, FCA, Delhi Upcoming Speaker : Mr. Puneet Singh, Advocate, Varanasi
11.30 AM to 11.45 AM	Tea followed by Quiz
11.45 AM to 01.15 PM	2nd Technical Session – Income Tax “Scrutiny assessment & reassessment on the basis of AIR, CTR & STR Information” Chairman : Hon'ble Mr. Justice J. K. Ranka, Judge, Rajasthan High Court Co-Chairman : Dr. K. Shivaram, Sr. Advocate, Mumbai Speaker : Shri Salil Aggarwal, Advocate, Delhi Upcoming Speaker : Mr. Rahul Agrawal, Advocate, Allahabad
01.15 PM to 02.15 PM	Lunch followed by Hasya Kavita
02.15 PM to 03.45 PM	3rd Technical Session – Goods & Services Tax Chairman : Hon'ble Mr. Justice Rajesh Bindal, Judge, Punjab & Haryana High Court Co-Chairman : Shri P. C. Joshi, Advocate, Mumbai Subject : (a) Concept, Time & Value of Supply Speaker : CA H. L. Madan, Delhi Subject : (b) Penalty, Offences and Prosecution Speaker : Mr. Sujit Ghosh, Advocate, Delhi
03.45 PM to 04.00 PM	Tea followed by Hasya Vyang

04.00 PM to 05.30 PM	4th Technical Session – Goods & Services Tax	
	Chairman :	Hon'ble Mr. Justice Sanjeev Khanna, Judge, Delhi High Court
	Co-Chairman :	Shri M. L. Patodi, Advocate, Kota
	Subject :	a) Transitional Provisions & Tax Credits
	Speaker :	CA. Bimal Jain, Delhi
	Subject :	b) Sectoral Impact of GST
	Speaker :	CA. Ms. Rohini Aggarwal, Delhi
05.30 PM to 06.30 PM	Tea	
06.30 PM to 08.00 PM	A family play by Sparsh Natya Rang “Pati Gaye Ree Kathiawar”	
08.00 PM onwards	Dinner	
Sunday, 4th December, 2016		
09.00 AM to 10.00 AM	Breakfast	
10.00 AM to 11.45 AM	5th Technical Session – Intricate Issues relating to Works Contracts – Under VAT & Service Tax	
	Chairman :	Hon'ble Mr. Justice S. Muralidhar, Judge, Delhi High Court
	Co-Chairman :	Shri S. K. Poddar, Advocate, Ranchi
	Speakers :	(a) Service Tax - Mr. Lakshmikumar, Advocate, Delhi
		(b) VAT – Mr. Narendra Sharma, Advocate, Kanpur
Upcoming Speaker :	Mr. Sumit Batra, Advocate, Delhi	
	Parallel Session – International Taxation	
	Chairman :	Hon'ble Mr. Justice R. V. Easwar *, Former Judge, Delhi High Court
	Co-Chairman :	Shri S. R. Wadhwa, Advocate, Delhi
	Speaker :	Mr. Ajay Vohra, Senior Advocate, Delhi
	Upcoming Speaker :	CA Akhil Bansal, Delhi
11.45 AM to 12.00 Noon	Tea followed by Quiz	
12.00 Noon to 01.30 PM	Valedictory Session “Collegium System, a success or failure – The voice within”	
	Chief Guest :	Hon'ble Mr Justice Kailash Gambhir, Former Judge, Delhi High Court
	Chairman :	Shri J. D. Nankani, Advocate, Mumbai
	Co-Chairman :	Mr. Ganesh Purohit, Sr. Advocate, Jabalpur
01.30 PM onwards	Lunch	

* Confirmation awaited

REGISTRATION

Fee for Delegates : ₹ 3,000/- (₹ 500/- Fee + ₹ 2,500/- Food and Conference Kit)

Fee for Accompanying Spouse : ₹ 2,000/- (Charges for Food)

Cheque / DD in favour of “All India Federation of Tax Practitioners (NZ)-Convention A/c” payable at New Delhi

Details for NEFT/RTGS : Bank : Punjab & Sind Bank
Current A/c No. 06901100000505
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IFSC Code : PSIB0000690
MICR Code : 110023076

Note: NEFT/RTGS be made under intimation to the Co-ordination Committee Member Mr. Sanjay Sharma (09810071545), (E-mail – Adv_sanjay_31@yahoo.co.in)

For Hotel details please log on to our website www.aiftponline.org

Dr. M. V. K. Moorthy National President, Mobile : 9849004423	Prem Lata Bansal National Dy. President Mobile : 09811558194	M. Srinivasa Rao Secretary General, Mobile: 9885796999	K. L. Goyal Chairman (NZ) Mobile : 09872233224	Raj K. Batra Conference Chairman Mobile : 09810035077
CA H. L. Madan Conference Secretary Mobile : 09312238908	Sanjay Sharma President STBA Mobile : 09810071545	D. K. Gandhi Co-ordination Committee Member Mobile : 09810216801	CA A. K. Srivastava Co-ordination Committee Member Mobile : 09810128812	Suresh Agrawal Secretary STBA Mobile: 09810197362

Convention Secretariat : 2nd Floor, Vyapar Bhawan, Indraprastha Estate, New Delhi – 110 002
Email : aiftpnz2016@gmail.com

DIRECT TAXES

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

Tribunal

S. 45 : Sale of equity shares – assessee took an indexed cost for capital gain and further invested in Govt. REC Bonds – treatment given by AO that is to be taxed as ‘income from other sources’ – Held it is not correct

The assessee is a shareholder of the company namely BEC Industrial Investment Company Limited along with his family members holding 5,000 equity shares of face value of ₹ 100 each of which 2,040 equity shares were held by the assessee. The assessee holds 2,040 equity shares jointly with spouse. And She holds 1,295 equity shares jointly with assessee. The assessee had sold 2,040 equity shares of face value of ₹ 100/- per share of BEC Industrial Investment Company Private Ltd. to BAT Enterprises Ltd. @ ₹ 1,195/- per share and received ₹ 24,37,800/- as sales consideration and the long term capital gain was worked out as per provisions and same was invested in Rec Bonds claiming exemption u/s. 54EC. The AO held that the NAV of the said company was ₹ 202/- per share therefore the value taken by the assessee at ₹ 1,195/- per share was incorrect. He worked out the Long Term Capital gain at loss and further held that ₹ 20,25,720/- (₹ 24,37,800 – ₹ 4,12,080/-) is to be taxed in the hands of assessee as ‘unexplained income’ under the head ‘income from other sources’.

The ITAT held that the valuation taken by the assessee is based upon the price mutually agreed and negotiated between the parties i.e. the willing buyer and the willing seller and as per share purchase agreements it was agreed to sell shareholding in BEC Industrial Investment Co. P. Ltd. @ ₹ 1,195/- per equity share to BAT Enterprises Limited. Further it is on record that BEC Industrial Investment Co. P. Ltd. is a 100%

share. Therefore entire transaction of sale shares of BEC Industrial Investment Company Private Limited @ ₹ 1,195 per share by the assessee is a genuine and *bona fide* transaction. The assessee has rightly computed the capital gain by taking actual sale consideration @ ₹ 1,195/- per share as full value of consideration as contemplated u/s. 48 of the Act.

Shri Amritlal T. Shah v. ITO, ITA. No.766/Mum/2012 dtd. 22-9-2016 (Mum)(Trib.) Source : www.itat.nic

S. 271(1)(b) : Penalty – Non-compliance of requirements u/s. 142 – Parity of reasoning applicable as assessments for all the assessment years have been completed u/s. 143(3) r.w.s. 153A – levy of penalty u/s. 271(1)(b) was not justified

Assessee company was part of Unity Group of companies, wherein search and seizure action u/s. 132(1) was carried out by Revenue. Notice u/s. 142(1) was issued by AO for all seven AYs fixing date of hearing. Since notice was received by assessee, assessee sought adjournment and on next date of hearing assessee company furnished only part of details called for by notice u/s 142(1). AO noted in order that in response to show cause notice issued u/s. 271(1)(b), assessee submitted that due to heavy work load complete details could not be furnished in time. Not being satisfied with reply of assessee, AO held that in view of reluctance of assessee in filing details called for, it was fit case for imposition of penalty u/s. 271(1)(b). The ITAT held that there was reasonable cause with assessee for not complying with requirement contained in notice issued u/s. 142(1) that parity of reasoning applicable to the case as assessments for all captioned assessment years had been completed u/s. 143(3) r.w.s.153A, and therefore, initial non-compliance with notice issued u/s. 142(1) could be understood to be made-up subsequently and,

therefore, levy of penalty u/s. 271(1)(b) was not justified.

Magnum Infraprojects Pvt. Ltd. v. ACIT, ITA No. 5642/Mum/2014 dtd. 21-10-2016 (Mum)(Trib.) Source : www.itat.nic

S. 271(1)(c) : Penalty : Search and seizure operation u/s. 132 – undisclosed income as admitted by assessee in statement recorded u/s. 132(4) – penalty cannot be sustained

Return filed in response to notice u/s. 153A has to be as return furnished u/s. 139(1) and therefore, if, any undisclosed income as admitted by assessee in statement recorded u/s. 132(4) during course of search operation, was offered in said return and due taxes were paid which were duly accepted by AO, then no penalty could be imposed u/s. 271(1)(c).

Ramesh D Shah v. ACIT ITA No. 5179/Mum/2012 dtd. 14-10-2016 (Mum)(Trib.) Source : www.itat.nic



INDIRECT TAXES

CA. Janak Vaghani

1. ITC Credit – Allowable for all division

In the absence of any statutory provisions, restricting input – tax credit only to the output tax payable in a particular division, disallowance of ITC of particular division for want of output tax payable is not justified. The claim of adjustment of input tax credit of one decision against output tax liability of another decision under single TIN is allowable under the AP VAT Act.

(Source: M/s. Hindustan Lever Ltd. v. State of AP, TRC No. 286 of 2009 dated 13th November, 2014, (2016) 24 KTR 288 (T and AP)).

2. Classification – Monitors

Monitors like LCD/LED/TFT are covered by the term monitors appearing in item 3 below entry 41A of The Third Schedule to The Delhi VAT Act liable to tax @4%.

(Source: M/s. Samsung India Electronics (P) Ltd. v. Government of NCT of Delhi, W. P. (C) No. 2685/2014 & CM No. 5591/2014, dated 7th April, 2016, (2016) 54 PHT 14 (Del.)).

3. Rejection of Amnesty Order passed by the Additional Commissioner – In absence of delegation of power – Not proper

Under Clause 8 of the Amnesty Scheme only the Commissioner, Delhi VAT can exercise of power to reject application under the Amnesty Scheme. In absence of delegation of power by the Commissioner, Delhi VAT, the

rejection of applications for amnesty by the Additional Commissioner, Delhi VAT, is not proper. Since under Clause 8(3) of the Amnesty Scheme the SCN under Clause 8(1) would have to be issued within one year from the date of filing of declarations by the applicant and that period of one year elapsed, it is not possible for, court to place the said applications before the Commissioner for a fresh decision.

(Source: M/s. Jaycon Infrastructure Ltd. And Others v. Commissioner of Trade & Taxes, W. P. (C) No. 2314/2015 & CM No. 4147/2015 (Stay), dated 28th April, 2016, (2016) 94 PHT 35 (Del.)).

4. Claim of Input Tax Credit – Cannot be disallowed when goods are sold at discounted price

The selling of goods by claimant dealer at discounted price is none of business of the revenue to interfere in the affairs of the assessee. Even if the assessee sells goods at a loss at least revenue should not have grudge or concern. It is also not debarred under the Sales Tax or VAT Law to sell the goods below the invoice value. Once a wholesaler has issued an invoice, then input tax credit is allowable as per VAT invoice alone and same requires to be allowed to the assessee.

(Source: CTO v. M/s. Jyoti Electronics, Sales Tax VAT Ref. No. 63 of 2014, dated 18th March, 2015 (2016) 28 STJ 708 (Raj)).

**Advertisement Tariff
for AIFTP Journal
(W.e.f. 15th July, 2013)**

	Particulars	Per Insertion
1.	Quarter page	₹ 1,500/-
2.	Ordinary half page	₹ 2,500/-
3.	Ordinary full page	₹ 5,000/-
4.	Third cover page	₹ 7,500/-
5.	Fourth cover page	₹ 10,000/-
There shall be Discounts on bulk advertisements.		

**Membership of AIFTP
as on 27-10-2016
Life Members**

	Associate	Individual	Association	Corporate	Total
Central	0	882	23	3	908
Eastern	3	1301	36	3	1343
Northern	0	1031	17	0	1048
Southern	1	1103	19	8	1131
Western	4	1837	37	18	1896
Total	8	6154	132	32	6326

Hearty Congratulations

Hearty Congratulations to the newly elected office bearers of Central Gujarat Chamber of Tax Consultants for the period 2016-17.

President	:	Shri Vipul K. Shah
Vice Presidents	:	Shri Jagesh M. Shah & Shri Pranav M. Shah
Hon. Secretary	:	Shri Sanjay V. Patel
Hon. Jt. Secretaries	:	Shri Nakulesh K. Patel & Shri Kalpesh K. Jaishwal
Hon. Treasurer	:	Shri Bharat R. Derasari
Hon. Jt. Treasurer	:	Shri Samir S. Shah

We wish them all the success.

Publications for sale

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

- Notes: 1. The above publications are available for sale; those who desire to buy may contact the office of the Federation.
2. Local/Outstation members not collecting from office are requested to add courier charges, as mentioned above.
3. Please draw Cheque/Draft in favour of “All India Federation of Tax Practitioners” payable at Mumbai.

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

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215, Rewa Chambers, 31, New Marine Lines, Mumbai 400 020. • Tel.: 22006342
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