

All India Federation of Tax Practitioners



AIFTP TIMES

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We wish all our members and readers Merry Christmas
and a Very Happy New Year 2018



Report of Election of Managing Committee of AIFTP (EZ) for the term 2018 and 2019

By

S. S. Satyanarayana, Election Officer and National Vice-President, AIFTP-SZ

Notice of Extraordinary General Meeting of the AIFTP (Eastern Zone) was issued by Shri R. D. Kakra, Chairman and Shri Arvind Agarwal, Secretary for election of 28 Managing Committee members of AIFTP (Eastern Zone) for the term 2018 & 2019, along with other agenda on Sunday, 22nd October, 2017 at 2.30 p.m. at Rotary Sadan, 94/2, Chowringhee Road, Kolkata – 700 020. I was appointed as the Election Officer for conducting elections by the National Executive Committee of AIFTP in its meeting held on 2nd, September, 2017 at Kolkata.

In response to the notice, 74 members of the Eastern Zone have filed their nominations for 28 Managing Committee members. On scrutiny 69 nominations were found valid. After discussions among the contesting candidates, 41 Nominations were withdrawn making the way for unanimous election of 28 Members for the Managing Committee of AIFTP (EZ) for the term 2018 & 2019. The list of elected Members are :

Sr. No.	Name of the Candidate	Place
1	Shri Aditya Bubna	Kolkata
2	Shri Apurba Saha	Siliguri
3	Shri Arvind Agrawal	Kolkata
4	Shri Bhaskar Sinha Roy	Kolkata
5	Shri Bhola Prasad Sinha	Ranchi
6	Shri Bishnu Kumar Loharuka	Kolkata
7	Shri Hari Lal Patel	Ranchi
8	Shri Himadri Mukhopadhyay	Kolkata
9	Shri Jagadish Kumar	Patna
10	Shri Kamal Kumar Jain	Kolkata
11	Shri Kamlesh Kumar Saha	Patna
12	Shri Khanjanchilal Mittal	Jamshedpur
13	Shri Medha Lila Gope	Guwahati
14	Shri Nanda Dulal Saha	Kolkata
15	Shri Narendra R. Prasad	Patna

Sr. No.	Name of the Candidate	Place
16	Shri Natabar Mohanty	Bhubaneshwar
17	Shri Paras Kochar	Kolkata
18	Shri Purushottam Kumar Agarwalla	Kolkata
19	Shri Rabindra Nath Pal	Cuttack
20	Shri Ramesh KR Chokhani	Kolkata
21	Shri Ramesh Kumar Dhal	Bhubaneshwar
22	Shri Sandip Choraria	Kolkata
23	Shri Sanjeev Kumar Anwar	Muzaffarpur
24	Shri Santanu Choudhuri	Kolkata
25	Shri Satish Kumar Singh	Jamshedpur
26	Shri Satyajit Nanda	Keonjhar
27	Shri Sujyoti Kumar Das	Cuttack
28	Shri Vivek Agarwal	Kolkata

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

Name	Mobile	Tel. (O)	Fax	E-mail
National President – Smt. Premlata Bansal, Sr. Adv.	9811558194	011-23955703	–	plbansal49@gmail.com
Deputy President – Shri Ganesh Purohit, Sr. Adv.	9425154914	0761-2660402	4003074	purohitganesh@gmail.com
Secretary General – Shri Sanjay Sharma, Adv.	9810071545	011-45539955	45539955	adv_sanjay_31@yahoo.co.in
Treasurer – Shri Vipul B. Joshi, Adv.	9820045569	022-66333736	22080951	vipulbjoshi@gmail.com

The 28 elected members have elected the following Officer Bearers for the term 2018 & 2019.

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| 1. Shri N. D. Saha, Zone Chairman, | 6. Shri Arvind Agarwal, Vice-Chairman (WB) |
| 2. Shri Kamal Kumar Jain, Secretary, | 7. Shri Ramesh Kr Dhal, Vice-Chairman (Odisha) |
| 3. Shri Bhaskar Sinha Roy, Joint Secretary-1 | 8. Shri Jagdish Kumar, Vice-Chairman (Bihar) |
| 4. Shri Vivek Agarwal, Joint Secretary-2 | 9. Shri B. P. Sinha, Vice-Chairman (Jharkhand) |
| 5. Shri Paras Kochar, Treasurer | 10. Ms. Medha Lila Gope, Vice-Chairman (Assam) |

After a brief discussion the following new members were co-opted by the new Managing Committee for the term 2018 & 2019.

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| 1. Shri Anand Tiwari, Kolkata | 6. Shri Natbar Panda, Odisha |
| 2. Shri Anjan Sircar, Kolkata | 7. Shri Pradeep Kr. Patnaik, Odisha |
| 3. Shri Basudeb Chatterjee, Jamshedpur | 8. Shri Pramod Kr. Mohanty, Odisha |
| 4. Shri Kaushik Roy, Agartala | 9. Shri Sonu Jain, Kolkata |
| 5. Shri Ketan Satnalia, Kolkata | 10. Shri Subhasis Mullick, Dhanbad |

I take this opportunity to wish the new team of AIFTP(EZ) for the term 2018 & 2019 all the very best and hope that the new team live up to the expectations of the Members of the Zone. I also take this opportunity to sincerely thank Shri S. K. Poddar, Past President of AIFTP, Dr. Ashok Saraf, National Vice-President-EZ, Shri R. D. Kakra, present Chairman, Shri N. P. Jain, NEC Member and Shri N. D. Saha, new Chairman for their invaluable co-operation extended to me for discharging my responsibilities as Election Officer of the Zone.



**Report of Election of Managing Committee of AIFTP (WZ)
for the term 2018 & 2019**

By

Dr. Ashok Saraf, Election Officer (WZ)

In the Extraordinary General Meeting of All India Federation of Tax Practitioners – Western Zone, held on 13th October, 2017 at 4.00 p.m., the following members were declared elected to the Managing Committee of the Western Zone for the term 2018-19:

Sr. No.	Name of the Candidate	Place	Sr. No.	Name of the Candidate	Place
1	Ajit Rohira	Mumbai	15	Dr. P. Daniel	Mumbai
2	Anagha Kulkarni	Pune	16	Parimal B. Parikh	Mumbai
3	Ashvin A. Acharya	Mumbai	17	Pravin N. Veera	Mumbai
4	Avinash Lalwani	Mumbai	18	Pravin R. Shah	Mumbai
5	Bharat M. Sachdev	Thane	19	Raj P. Shah	Mumbai
6	Deepak R. Shah	Mumbai	20	Rajesh Muni	Mumbai
7	Dipak Amin	Baroda	21	Rajesh S. Shah	Mumbai
8	Girish D. Dhokiya	Thane	22	Sachin R. Gandhi	Mumbai
9	Girish J. Rathi	Thane	23	Salil Lodha	Mumbai
10	Hardik P. Marfatia	Mumbai	24	Sanjeev D. Lalan	Mumbai
11	Hemant Parab	Mumbai	25	Dr. Shashank Dhond	Mumbai
12	Hitesh R. Shah	Mumbai	26	Tushar P. Joshi	Mumbai
13	Kamlesh Saboo	Thane	27	Vijaykumar S. Shah	Baroda
14	Mahendra Sanghvi	Mumbai	28	Yatin K. Desai	Mumbai

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

Shri Deepak R. Shah, Chairman
Shri Pravin R. Shah, Vice Chairman
Shri Salil Lodha, Hon. Secretary

Shri Hemant Parab, Hon. Jt. Secretary
Dr. Shashank Dhond, Hon. Jt. Secretary
Shri Avinash Lalwani, Hon. Treasurer

Further, following members were co-opted:

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| 1. Shri Bhalchandra (Prakash) Joglekar, Pune | 4. Shri Milind Bhonde, Pune |
| 2. Shri Bharat L. Sheth, Bhavnagar | 5. Shri Parth Badheka, Mumbai |
| 3. Shri Ishaan Patkar, Mumbai | 6. Shri Satish Boob, Nashik |



**Report of Election of Managing Committee of AIFTP (SZ)
for the term 2018 & 2019**

By
V. Nagendra Prasad, Chairman, AIFTP (SZ)

Date : 15th October, 2017

1. An Extraordinary General Meeting of the Southern Zone was held on 11th October, 2017 at 11.30 A.M. at the premises of Telangana Tax Practitioners Association, Surya Complex, Gunfoundry, Hyderabad – 500 001. About 35 members, including senior members, past Chairmen, EC members of the Zone were present and they includes S/Shri J. V. Rao, Hemendra V. Shah, P. V. Subba Rao, M. Srinivasa Rao, Past Secretary-General, S. B. Kabra, Past Treasurer along with S. S. Satyanarayana, National Vice-President–SZ.
2. The EOGM of the Southern Zone was called to conduct and elect the new team for the term from 1-1-2018 to 31-12-2019. Advocate Samir S Jani, from Junagad, Vice-President of Western Zone, was appointed as election officer as per bye-laws of the Federation. Accordingly, he had issued a notice dated 27-9-2017 requiring therein, to file the nominations forms by Zone members by 6 pm on or before 9th October, 2017. However, if the copy of the same is sent by e-mail to the Elections Officer on or before 9th October, 2017 and the hard copies of the nomination forms received by the Election officer, on or before 11th October, 2017 will also be entertained.
3. According to the Election Officer, out of the total number of 24 nominations received, only one nomination was invalid since the candidate was not a life member of the Federation for a minimum of two years on the date of his nomination. Finally, 23 valid nomination forms were finalised by the Election Officer.
4. We are really honoured that Shri Samir S. Jani, Advocate conducted the elections in a very peaceful, fair, impartial and organised manner and declared only 23 candidates nomination forms were valid for elections and informed the EOGM that his role as Election Officer was culminated. He requested me to convene the meeting of the newly elected members for Election of the office bearers for the term 2018 & 2019 and left the meeting hall for sometime to have the meeting of newly elected members impartially.
5. Immediately after, I requested all the members present, except 23 elected members and myself alone, to leave the hall for election of new Office Bearers. All of them accepted my request and vacated the hall. Then, I have called the first meeting of all the 23 newly elected members and read out their names and told them to elect the Office Bearers amongst them by proposing and seconding. Accordingly, as per due procedure, the Zone Chairman, Zone Vice-Chairman, Zone Secretary, Zone Treasurer & Two Zone Joint Secretaries were elected out of 23 elected members for the term 2018 & 2019. The list of Office Bearers and Managing Committee Members are:

Name	State	Designation
Shri B. S. Seethapathi Rao	Andhra Pradesh	Chairman
Shri M. V. J. K. Kumar	Telangana	Vice-Chairman
Shri C. Sanjeeva Rao	Andhra Pradesh	Secretary
Shri Bhima Shankar Krovvidi	Andhra Pradesh	Treasurer
Shri D. R. Shankar	Karnataka	Jt. Secretary-I
Shri C. Radhakrishnan	Tamilnadu	Jt. Secretary-II
Shri A. L. C. S. Sharma	Andhra Pradesh	Managing Committee Member
Shri Adi Siva Vara Prasad Kavali	Andhra Pradesh	”
Shri B. G. Shellikari	Karnataka	”
Shri Bogagram Phani Raja	Andhra Pradesh	”
Shri D. Amarnath	Telangana	”
Shri G. Bhaskar	Tamil Nadu	”
Shri G. S. P. N. Mohana Rao	Andhra Pradesh	”

Name	State	Designation
Shri K. Narsing Rao	Telangana	Managing Committee Member
Shri M. Ganesan	Kerala	”
Shri Mahantesh V. Mudnur	Karnataka	”
Shri Narshimham P. L.	Telangana	”
Shri P. Lakshminarayan	Andhra Pradesh	”
Shri Prasada Rao Pendyala	Telangana	”
Shri S. Basavarajaiah	Karnataka	”
Shri S. Nanjunda Prasad	Karnataka	”
Shri Satyanarayana Gupta Chegu	Andhra Pradesh	”
Shri Srinivas Rao Siddam Setty	Telangana	”

6. After the election of office bearers, Shri B.S. Seethapathi Rao, AP – the Chairman-Elect, addressed the newly elected committee members that he will convene the Second Managing Committee meeting some time in January, 2018 and nominate the co-opted members after discussing with incoming NEC members, for the term 2018 & 2019, which was appreciated and unanimously agreed by all the newly elected Managing Committee members.
7. Then, I called-in all the members waiting outside to come back into the hall and introduced the new Office Bearers. All the members including the seniors felt very happy that the manner in which the Zone election and election of Office Bearers went very well and appreciated the Election Officer and the outgoing team under my leadership. They also congratulated the new team under the leadership of Shri B.S. Seethapathi Rao, AP.
8. The EOGM honoured Shri Samir S. Jani, Election Officer, who came all the way from far off place by taking pains and conducting the Southern Zone election smoothly and in well manner.
9. Later, vote of thanks was delivered by Shri D. Amarnath, Hon. Secretary of the Zone followed by sumptuous lunch.



Publications for sale

Sr. No.	Name of Publication	Edition	Rate (₹)		
			Members	Non-Members	Courier Charges
1.	AIFTP – Of Milestone and Beyond – History Book	Nov., 2016	400.00	450.00	80.00
2.	“Income Tax Appellate Tribunal – A Fine Balance – Law, Practice, Procedure and Conventions – Frequently Asked Questions”	Dec., 2017	1,000.00	1,050.00	100.00

- 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.

**Report of
Two-Day National Tax Conference at Mangaluru
on 4th & 5th November, 2017**

By

Dr. M. V. K. Moorthy), NTC-Chairman & Imm. Past President
M. Srinivasa Rao, NTC-Chief Convenor & Former Secretary General

As Chairman of the Conference Committee, I furnish the following report on the Conference.

After obtaining due permission from the respected National President of AIFTP, the South Zone in joint partnership with Karnataka's State Tax Practitioners Association and the Institute of Tax Practitioners of India proceeded with all zeal coupled with dedicated interest to organise the Conference for the first time in the port city of Mangaluru in South Kanara in the State of Karnataka. Of course it has been the long awaited, cherished desire of the Federation to organise the Conference at Mangaluru which is ultimately transformed into reality. Mr. Sreedhara Parthasarathi, Tax Practitioner, Bellary and Deputy Chairman of Membership Development Committee of the AIFTP has taken the required initiative in obtaining permission from the respected National President of Federation Smt. Prem Lata Bansal. Thereafter at the request of the organisers, it was at the sincere and honest efforts of the respected National President Smt. Prem Lata Bansal and the Secretary General Mr. Sanjay Sharma, the organisers were able to succeed in obtaining the consent of the Judge of the Hon'ble Supreme Court from the state of Karnataka, His Lordship Hon'ble Mr. Justice S. Abdul Nazeer. The organisers also fixed Dr. D. Veerendra Heggade, Shrikshethra, Dharmasthala, Shri Ritvik R. Pandey, IAS, Secretary to Govt. Finance Department, Karnataka, Shri H. Rajesh Prasad, IAS, Commissioner of GST/VAT, Government of NCT of New Delhi and finally Mrs. Vatika Pai, President, Kanara Chamber of Commerce & Industry, Mangaluru as Guests of Honour.

A hectic schedule for the Two-Day Conference was drawn by the organisers. In addition to the Chief Guest for the inaugural session, Hon'ble Mr. Justice S. Abdul Nazeer, Judge, Supreme Court of India, the Guests of Honour, the Chairman of the Conference, National President of the Federation, Secretary General, the President of Karnataka State Tax Practitioners Association and Institute of Tax Practitioners of India, Chairman of South Zone of AIFTP and National Vice President of AIFTP from South Zone were accommodated on the dais.

Shri Y. N. Sharma, Co-Chairman of the Conference Committee invited the dignitaries on to the dais and flower bouquets were presented to them. The Conference was inaugurated by lighting of the lamp. There was one more luminary in the inaugural session Hon'ble Mrs. Justice Nagarathnamma, Judge of the Karnataka High Court who was also requested to sit on dais.

The Chairman of the Conference Committee welcomed the dignitaries on the dais, and the delegates, office bearers of the Federation, members of the NEC and the Members of the Print Media and explained the object behind organising the Conference. Later the National President of the Federation – Smt. Prem Lata Bansal, Sr. Advocate from New Delhi once again welcomed the participants and explained the role of the Federation in maintaining the high standards in respect of education, excellence and ethics amongst professionals through the continuous education being imparted through various national conferences, one day seminars and RRCs organised across the country.

The Chief Guest of the Inaugural Session, Hon'ble Mr. Justice S. Abdul Nazeer, Judge, Supreme Court greeted the participants in Kanara. He hails from Mangaluru District and remembered more nostalgies as a law student, advocate and then judge of the Karnataka High Court before he travelled to Delhi to function as Judge of Supreme Court, His Lordship mainly emphasised the concept of philosophy of tax, collection, responsibilities and accountability rest on the tax administrators, tax professionals and finally taxpayers. Payment of tax is essential for a civilized society in a democratic setup. He stressed that enormous responsibility on the tax professionals to educate the taxpayers of India to pay the tax legitimately due to the exchequer and tax planning to some extent is considered as lawful but evasion is illegal. His Lordship clearly stated that he is not inclined to speak anything on GST. He quoted certain excerpts from the speech of the Hon'ble Prime Minister Shri Narendra Modi on the eve of the introduction of GST from the Central Hall of Parliament on the night of 30th June, 2017. He has appreciated activities and rules being played by the Federation, the apex body of professional fraternity in creating awareness amongst taxpayers and tax professionals for payment of taxes, needed for a welfare oriented society in our country. His Lordship also wished that it was a very good gesture on the part of the organisers in conducting the Conference in the

District Headquarters while mainly such Conferences are seen in cities. A souvenir was released by the Chief Guest. Also the GST Act book compiled by T.P. Parthasarathi and published by the Institute of Tax Practitioners of India was also released by the Chief Guest.

A very rare situation did arise at the Inaugural Session of the Conference, when the organisers after seeking permission of the Chief Guest requested the Hon'ble Judge of Karnataka, Mrs. Justice Nagarathnamma, and thereafter Mrs. Vatika Pai, President of Kanara Chamber of Commerce & Industry, Manguluru to address the participants, of course for a short time. It is really a great and rare gesture on the part of Chief Guest to permit the others to address after completion of the speech of Chief Guest. Finally a member of the Conference Committee proposed a Vote of Thanks to mark the end of the Inaugural Session.

There was a delay in commencement of inaugural session. After Inaugural Session, the technical session started by the Chairman for the first technical session Shri. Ritvik R. Pandey, IAS, Secretary to Govt., Finance Department, Karnataka explained the developments that have taken place from time-to-time from the day of introduction of GST and how the Government of Karnataka has been confiding in and giving preference to the tax professionals and for the benefit of the tax professionals, training programmes were also conducted and thereafter the speakers spoke on the topics assigned to them. The moderator of the session B. T. Manohar explained the cream of the deliberations of the session. The second session has commenced. It was on direct taxes and Past President of the Federation, Sr. Advocate from Mumbai Dr. K. Shivaram presided over the session and the session was ably handled by C.A. A. K. Srivastva from New Delhi.

After lunch break, the 3rd and 4th technical sessions went on well on the topics assigned. The 3rd Session was presided by Shri H. Rajesh Prasad, IAS, Commissioner of GST, New Delhi and the speaker was none other than a popular and seasoned CA. S. Venkataramani of Bengaluru and the 4th technical session was presided by another famous CA. Deepa Balidas and speaker was young, bright and upcoming advocate with all expertise in GST, Mr. Ishaan Patkar, S/o Sr. Member of the Federation, Advocate Vinayak Patkar at Mumbai. The session was well managed to the satisfaction of one and all.

In the evening, a cultural programme was organised with Mahila Yakshagana by Sai Kala Prathisthana Artists, Shivamogga. It was really a wonderful feast the eyes of participants. The said programme was well-attended a large number of 350 delegates out of which the AIFTP members more than 100 were present and graced the occasion. It was followed by AIFTP Foundation day celebrations in which the Sr. Professionals as part of the Convention were felicitated. AIFTP celebrated its 40th year Foundation Day celebrations on 11-11-2016 at Pune and felicitated all its Past Presidents, Past Secretaries General, Past Vice Presidents, Past Zone Chairman, Past NEC members and those who couldn't turn up at Pune were felicitated at Mangaluru and the felicitation programme sponsored by Chartered Accountant Shri Kakarala Rajendra Vara Prasada Rao, Eluru, Life Member, AIFTP. Mr. Srikar M. S., IAS, Commissioner of Commercial Taxes, Govt. of Karnataka was the Chief Guest and Mr. B. T. Manohar and Shri Jeevan Saldana Immediate Past President, Kanara Chamber of Commerce & Industry, Manguluru were the Guests of Honour. Madam Smt. Prem Lata Bansal adorned the dais and it was a great and grand event where all the seniors in the Federation were felicitated and the local organisers were also given mementos in appreciation of their great efforts in transformation of the Conference into a memorable successful event. Dr. K. Shivaram, Sr. Advocate Mumbai, Past President of the Federation & Chief Editor, AIFTP Journal, news graced the occasion with life member AIFTP Dr. Daniel, Advocate, Mumbai.

On the 2nd Day of the Conference namely 5th November, 2017, the day started with modern yoga and nature cure whereafter the fixed technical sessions went on well with the respective chairmen and calibered speakers.

Overall, it was a well-organised and successful Tax Conference in South Zone going to the credit of the National President before completion of her tenure. The Chairman of the Zone and the Vice-President from the Zone are also equally responsible for extending their encouragement and guidance, cooperation in all respects. The Chief Convenor of the National Tax Conference and Past Secretary General of AIFTP Mr. Malladi Srinivasa Rao of Eluru was the centre of attraction in the Foundation month celebrations in the evening of first day and he invited the identified awardees and others for being felicitated suitably.

The Federation once again, with all due appreciation places on record for the well-organised Two Day National Tax Conference of all the three partners for zeal, dedication and enthusiasm to transform the Conference into great success for being an additional colourful feather in the cap of the glorious organisation.



**Report of
Seminar on Benami Transactions and Insolvency & Bankruptcy Code
held on 18th November, 2017 at Calcutta Chamber of Commerce**

By
R. D. Kakra, Zone Chairman, AIFTP (EZ)

All India Federation of Tax Practitioners (East Zone) organised a Half Day Seminar on 18th November, 2017 at Calcutta Chamber of Commerce.

First Session was on Benami Property & Income Tax Acquisition & Penalty. Speaker Mr. Paras Kochar, Advocate, highlighted the provisions of Benami and checklist to handle the notices received from Department Prof. Mr. Narayan Jain, Chairman, Direct Tax Committee of AIFTP shared some important practical issues related to Benami Transactions and further explained in what circumstances a property can be considered Benami. Zone Chairman Mr. R. D. Kakra in course summed up the first session and said that there are many areas apart from Benami properties where the Government will take action under this new provisions. Huge cash deposits in Co-operative Bank/ Banks will be investigated under this Benami Act. Further he stated that there is need to hold workshops on the topic.

The second session was held on the current topic of “Insolvency & Bankruptcy Code 2016 – An Analysis” Speakers CA Sumit Binani & Mr. Deepak Jain, Advocate, analysed in detail the provisions of the Code and the procedure to be followed. A complimentary copy of Book on the subject written by Mr. Sumit Binani was distributed amongst participants.

Mr. R. D. Kakra, Zone Chairman presided over and to sum up said that Government desires financial discipline by enacting this Code. Benami, RERA and the present Code are measures of financial swach Bharat. Further he welcomed all participants present for making the Seminar a grand success.

Mr. Deepak Jain was felicitated for drafting of Code of Conduct for Insolvency Professionals.

Mr. N. D. Saha, Vice Chairman sincerely thanked all the speakers as well as participants for active interaction.

Mr. Achintya Bhattachaya (NEC Member), Mr. Arun Agarwal, Mr. Kamal Jain, Mr. Bishnu Loharuka, Mr. S. K. Sultania, Mr. B. L. Kheria, Mr. M. M. Khandelwal, Mr. Himadri Mukhopadhyay, Mr. Nagarmal Agarwal, Mr. B. D. Sharma, Mr. Shanti Jain extended their full support for success of Seminar.



Activity Report of Central Zone for the month of November, 2017

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

We have sent representation to GST Council for extending different dates and simplification of compliance of GST. Same has been considered by GST Council.

We also sent representation to extend the date of Tax Audit from 30th October to 15th November

But lastly it was extended up to 7th November by the efforts of all the Tax Associations and CA Associations of India including AIFTP

We also welcomed with a bouquet, Mr. O. S. Ashiya, Additional Commissioner (Tax), Government of Rajasthan for being elevated as Hon'ble Member, Rajasthan Tax Board, Ajmer. We also sent letter of congratulations to Mr. Hasmukh Hathia for becoming Finance Secretary, Government of India.

We also have given farewell party and memento to P. S. Choudhary, Hon'ble Judicial Member, ITAT on his transfer from Jodhpur to Lucknow. Our Members of Federation also attended farewell function of Hon'ble Mr. Justice Govind Mathur held by High Court Advocates Association and High Court Lawyer's Association on the occasion of his transfer from Rajasthan High Court to Allahabad High Court. On this occasion our members of Federation Shri M. S. Singhvi, Sanjeev Johari, D. C. Mali, Dinesh Sharma, P. M. Chopra, K. L. Thakur, Manoj Bhandari along with members of ITAR Bar and Marudhara Tax Bar were also present. Our Zone prepared 20 new members in this month.

DIRECT TAXES

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

1. **S.2(24)(ii)(a) : Donation received by Trust for specific purpose of acquiring the capital assets treating them as tied up grants, which are not taxable as income under S. 2(24)(ii)(a)**

The assessee is a Trust registered with District Registrar of Societies, Kakinada engaged in Ecclesiastical activities such as training to Pastors, Bible lessons, preaching, conducting of prayers etc., and social development activities. The assessee had filed an application to CIT seeking grant of registration u/s. 12AA of the Income-tax Act and the same was rejected. The AO noted that there was no registration to the assessee society, thus, the assessee is not eligible for exemption u/s. 11 and accordingly, he treated the status of the assessee as "Association of Persons (AOP)" and taxed the entire receipts as income. Further he noted that during the previous year assessee had received donation and contribution and he spent the entire amount of the donations received for the purpose of corpus by purchase of fixed assets. The assessee filed appeal before the CIT(A) and the CIT(A) held that assessee would be ineligible to claim exemption from taxation of its income by way of corpus donation. Before the Tribunal, the assessee argued that the contribution received from Touching Heart Ministries with specific purpose of acquiring the fixed assets and submitted the documents evidencing the aforesaid matters.

The Hon'ble Tribunal observed that the assessee got the registration only after filing of application to the CIT. The donations received for specific purpose for acquiring the fixed assets and evidencing documents are produced. The entire amount received for acquiring the fixed assets was utilised by the assessee and there are no surplus funds available to the assessee. Therefore, it cannot be treated as income u/s. 2(24)(ii)(a).

Touching Heart Ministries v. ITO, ITA No. 101/Viz/2015 dated 22-11-2017 (Visakhapatnam)(Trib.) Source :www.itatnic.in

2. **S.28 : Amount received as subsidy from the State Government under 'Capital Investment subsidy' is not taxable under the Income-tax Act as it is 'capital' in nature**

The assessee declared receipt as capital in nature, being the amount of subsidy from West Bengal Government

under West Bengal Incentive Scheme 2000. The assessee maintained that the same was 'Capital Investment subsidy' given to incentivise the setting up of units in West Bengal and, hence, not revenue receipt. The AO, however, treated the amount as revenue receipt and demanded tax. The CIT(A) reversed the order of the AO.

Before the Tribunal revenue is in appeal. The Hon'ble Tribunal observed that, the given amount of subsidy for setting up of unit in West Bengal and the same has been characterised as 'Capital Investment subsidy'. Further following the *Sahney Steel and Press Works v. CIT (1997) 228 ITR 253 (SC)*, held that the operational subsidy which is received after commencing the business is taxable income. When assessee received this amount as a *quid pro quo* for setting up of its unit in West Bengal and same being allowed for setting up of industry has been rightly a capital receipt.

ACIT v. Pasadensa Foods Ltd., ITA No. 3002/Del/2011 dated 23-11-2017 (Delhi)(Trib.) Source : www.itat.nic

3. **S.22 : Rent received during eviction of tenants on a property purchased for setting up of project is not taxable as Income from House Property**

Assessee is a company incorporated for the purpose of development and construction of a commercial complex and filed its returns. The main issue is whether the rental income received during the period of project completion is taxable or not, and if so under what head. During the assessment, the AO noted that the assessee has credited the work-in-progress account with various amounts and also noticed that the assessee has taken a contrary stand as the rental income from one party was offered as 'Income from House Property' but did not include another party. The assessee contended that they purchased the property from another two companies and an individual for setting up an industrial park. These properties were tenanted at the time of registration of the property and the company has spent a lot of money for evicting them. During these proceedings the company received rentals from the tenants. The rentals were collected in course of evicting the tenants; hence they were credited to work-in-progress account as "capital receipts". The AO's opinion that the rent received should be treated under the

head 'Income from Other Sources' and accordingly be assessed.

The ITAT observed that while getting vacant possession for completing the project the assessee had taken steps to evict tenants and also paid compensation to them. And the rental receipts received by the assessee during the period have to be set off to the cost of project. So the receipts are to be considered as capital receipts only. Hence it cannot be treated under

the head 'Income from Other Sources' and the assessee has rightly treated them as 'capital receipts' and also set off to work-in-progress. Therefore, rent received during eviction of tenants on a property purchased for setting up of project is not taxable as Income from House Property.

M/s. DSL Infrastructure and Space Developers (P) Ltd., ITO I.T.A. Nos. 319 to 322/HYD/2017 dated 17-11-2017 (Hyd.) (Trib.) Source : www.itat.nic.



INDIRECT TAX DECISIONS – VAT UPDATE

CA. Janak Vaghani

1. Interpretation of Entry – Entry Tax “Mediker” Revive Instant Starch is not a chemical

“Mediker” is used for anti-lice treatment which is a drug because of its medicinal effect, once it is held as a drug, it cannot be a shampoo.

The Revive Instant Starch is used while washing clothes. In common parlance it is not regarded and treated as a chemical or a bleaching powder. If the very substance or product would have a chemical composition, then only it would make the said substance a chemical within the meaning of Entry 55. The purpose and use are to be taken note of. If the revenue desired to establish it as a chemical, it was obligatory on its part to adduce the evidence.

(Source: State of MP v. Maricco Industries Ltd., Civil Appeal No. 8656 of 2015 dated 22nd July, (2016) 29 STJ 162 (SC)).

2. Input Tax Credit cannot be disallowed for failure to report it in return by vendors

The claim of Input Tax Credit under The Tamil Nadu VAT Act, cannot be disallowed for failure to report transaction by selling dealer in his VAT returns.

(Source: M/s. Sri Laxmi Textiles v. CCT, WP (Mad.) No. 17266 of 2015, dated 25th September, 2015, (2016) 29 STJ 205 (Mad.)).

3. Inter State sale – Burden of proof

When dealer had claimed inter-State sale by producing C Form then department to prove the contrary. In absence of any material, the department cannot raise a presumption that the purchaser must have diverted the goods after taking delivery at factory.

(Source: CST v. Pure Beverages Ltd. STR. No. 1 of 1994, dated 3rd December, 2004, (2016) 29 STJ 213 (Guj.)).

4. Clarification issued by Commissioner – Revision

The clarification issued by the Commissioner u/s. 28A of The Tamil Nadu General Sales Tax Act, 1959 cannot be the sole basis for reopening or revising a concluded assessment.

(Source: Venkateshwara Industries v. Special Comm., WP No. 5510 to 5513 of 2008, dated 18th December, 2014, (2016) 29 STJ 328 (Mad.)).

5. Recovery of tax – Strictures against Commissioner

Special mode of recovery should not be made general by the Assessing Officer. In the facts of the case, there was no need of the Assessing Officer to take recourse under Section 46 of the Jharkhand Value Added Tax Act, 2015 for recovery of the money from the nationalised bank as per the order dated 10-12-2014 and it is expected from the very same Assessing Officer that such type of mistakes will not be repeated henceforth. The Commissioner, Commercial Taxes, to decide the appeal preferred by the petitioner within a period of four weeks from the date of receipt of the copy of the order passed by this Court.

It is high time for the State either to change the Assessing Officer or Commissioner, Commercial Taxes because none of them can make assessee's appeal or revision infructuous or can encash the amount lying in the nationalised bank in the manner in which this Assessing Officer has realised the money.

(Source: Tata Steels Ltd. v. State of Jharkhand, W.P. (T) No. 6400 of 2014, dated 27th February 2015, (2016) 29 STJ 331 (Jhar.)).



SERVICE TAX CASES

S. S. Satyanarayana, Tax Practitioner, Hyderabad

A. Appeal / Limitation

1. Adjudication order dated 30-3-2012 was served by Excise Inspector on assessee's 'kitchen boy' on 3-4-2012, who had unauthorisedly affixed assessee's stamp on acknowledgement. Assessee claimed that it came to know of adjudication order on 26-7-2012 when recovery proceedings were initiated and appeal before the Commissioner (Appeals) was filed on 22-8-2012. Commissioner (Appeals) dismissed the appeal as time-barred counting from 3-4-2012, being beyond his power of condonation. **Held** : Daily wagger 'Kitchen boy' cannot be said to be an authorised agent of assessee, hence, service of adjudication order on him is not a valid service as per section 37C of Central Excise Act, 1944.

[*Saral Wire Craft P Ltd. v. CCE – 2017 (50) STR 237 (SC)*]

2. The assessee through their letter dated 5-9-2005 had submitted month-wise details of all payment received by them against HVAC works for the period from 1-7-2003 to 15-6-2005. A show cause notice was issued to the assessee on 30-10-2007 much beyond a period of one year for availing the benefits of extended period of five years of limitation. The Tribunal held that once the details of the value of taxable services were available to the Department on 5-9-2005, there was no reason to invoke the extended period under the proviso to section 73(1) of the Finance Act, 1994. The appeal of the Department for extension of limitation was dismissed.

[*CCE v. Swoidha Engineers India Ltd. – 2017 (50) STR 268 (Allahabad HC)*]

B. Penalty

The show cause notice issued to assessee was adjudicated and all the three demands raised were confirmed in the Order imposing equal penalty in terms of section 11AC of the Central Excise Act, 1944. The Tribunal, in appeal, set aside one demand but maintained the other two demands and reduced the penalty. **Held**: The Tribunal could not reduce the penalty for an amount lesser than the duty.

[*CCE, Surat-I v. Vandana Art Prints P Ltd. – 2017 (50) STR 91 (SC)*]

C. CENVAT Credit

The appellant is engaged in providing packing services at client's place and utilised GTA services for transporting packing material to client's place.

CENVAT credit was taken on service tax paid on GTA services and was utilised for payment of output services provided. The Adjudicating Authority has denied the credit alleging there is no nexus between input services used and output services. The Tribunal, while allowing the appeal passed strictures against Adjudicating Authority and Commissioner (Appeals) for passing orders without understanding the controversy arising out of show cause notice.

[*Hitech Laminations Films P Ltd. v. CST, Chennai-III – 2017 (50) STR 154 (Tri. – Chennai)*]

D. Demand/Assessment

The assessee, a sole proprietor, had stopped manufacture and production of tread rubber. The department alleged that the assessee had manufactured and cleared tread rubber from the factory premises by suppressing the fact of such production and removal with an intent to evade payment of excise duty. The sole proprietor died and department issued second show-cause notice to his wife and daughters asking them to pay duty. **Held**: In absence of any machinery provisions to assess and collect tax from a deceased person/dissolved firm, all proceedings against such deceased person/dissolved firm abate and therefore, proceedings cannot be continued against legal representatives.

[*Shabina Abraham v. Collector of CE 2017 (50) STR 241 (SC)*]

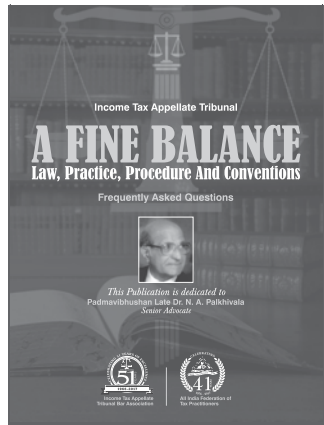
E. Natural Justice

Adjudicating authority after reply to the show cause notice fixed three alternative dates in single hearing notice. Assessee chose to appear on third date but Adjudicating Authority was not available on the date of hearing. Adjudicating Authority passed the order *ex parte* without serving further hearing notice though assessee requested for fixing fresh date. Order passed on 8-5-2012 was received by the assessee on 10-8-2013. The Commissioner (Appeals) dismissed the appeal of the assessee on the ground that appeal was filed beyond limitation. **Held** : Rejection of the appeal on the ground of limitation was not proper. Impugned order was set aside and matter remanded back to the original authority to decide afresh after giving a proper opportunity to the appellant to meet the ends of natural justice.

[*Power Lind System P Ltd. v. CCE, Coimbatore – 2017 (50) STR 150 (Tri.-Chennai)*]



BOOK RELEASE ANNOUNCEMENT



We are pleased to announce the release of the joint publication by the All India Federation of Tax Practitioners and the ITAT Bar Association, Mumbai, titled “**Income Tax Appellate Tribunal – A Fine Balance – Law, Practice, Procedure and Conventions – Frequently Asked Questions**”, dedicated to Padmavibhushan Dr. N. A. Palkhivala, Sr. Advocate.

Hon’ble Mr. Justice Dipak Misra, Chief Justice of India, along with Hon’ble Mr. Justice Hemant Gupta, Chief Justice of the M.P. High Court and Hon’ble Mr. Justice Rajendra Menon, Chief Justice of the Patna High Court, will be releasing the said publication on 2nd December, 2017 at Jabalpur in the 20th National Convention organised by the Federation.

Encouraging and motivating messages have been written in the said publication by Hon’ble Mr. Justice Dipak Misra, the Chief Justice of India, Hon’ble Mr. Justice A. K. Sikri, Hon’ble Mr. Justice S. C. Dharmadhikari and Hon’ble

Mr. G. D. Agrawal, the President of the ITAT. The Foreword for the said publication is written by Hon’ble Mr. Justice R. C. Lahoti, the former Chief Justice of India. The Editorial Board for the publication consist of Adv. Arati Vissanji (Mrs.), Sr. Adv. Dr. K. Shivaram, Sr. Adv. N. M. Ranka, Sr. Adv. Percy Pardiwala, Sr. Adv. Firoz B. Andhyarujina, Adv. Subash S. Shetty and Adv. M. Subramaniam, who have shared their experience and knowledge. The Research Team of the publication consists of Adv. Aditya Ajgaonkar, Adv. Ajay Singh, Adv. K. Gopal, Adv. Neelam Jadhav (Ms.), Adv. Nitesh Joshi, Adv. Paras Savla, Adv. Rahul Hakani, Adv. Rahul Sarada, Adv. Sashank Dundu, CA. Anant Pai, CA. Reepal Tralshawala and CA. Sanjay Parikh, who regularly appear before the Income Tax Appellate Tribunal.

This is a unique publication compiled in a question-answer format explaining the provisions, laws, conventions etc. An aggregate of 406 questions are answered by giving references to relevant case laws on the respective subject. This scholarly publication will be a useful referencer for the Lawyers, Chartered Accountants, Tax Practitioners, Departmental Representatives, as well as the Hon’ble Members of the ITAT to better understand the law and procedure relating to Appellate Tribunal. The publication is divided into 36 Chapters viz. Income Tax Appellate Tribunal – An overview, jurisdiction, duties, powers, additional grounds, additional evidence, rectification of mistake apparent from the record, stay applications, precedent, appeals and writs, check lists, minutes of meeting with the Hon’ble Presidents and Vice-Presidents, reference to Finance Bills, Finance Acts and Circulars explaining the provisions and Double Taxation Avoidance Agreements, specimen drafts, code of ethics, suggestions, conventions, principles of good representation, do’s and don’t’s etc.

This publication would be an invaluable treasure in the library of tax professionals.

A few words about the publication by the Hon’ble Chief Justice:

Hon’ble Mr. Justice Dipak Misra, Chief Justice of India

“As I see from the contents of the book, it includes, *inter alia*, chapters on powers, duties and procedure of the Appellate Tribunal, Conventions, reference to various Committees’ Reports on Direct Taxes and Articles, Code of Ethics and Case Laws. It will, undoubtedly, be a loyal friend to tax professionals as well as others for its content and accuracy”

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