

All India Federation of Tax Practitioners



AIFTP TIMES

Volume 10 – No. 2 • February 2019

FORTHCOMING PROGRAMMES

| Date & Month | Programme | Place |
|----------------|---|------------|
| 16-2-2019 | National Executive Committee Meeting | Aurangabad |
| 16, 17-2-2019 | National Tax Conference | Aurangabad |
| 2-3-2019 | GST Seminar | Kolkata |
| 2, 3, 4-3-2019 | Prayagraj Kumbh Darshan | Prayagraj |
| 24-3-2019 | Tax Seminar | Siliguri |
| 6-4-2019 | National Executive Committee Meeting | Ranchi |
| 6, 7-4-2019 | National Tax Conference | Ranchi |
| 22, 23-6-2019 | National Tax Conference | Tirupathi |
| 4-8-2019 | One Day Seminar | Patna |
| 6 to 8-9-2019 | National Tax Conference | Shimla |
| 12-10-2019 | National Executive Committee Meeting | Udaipur |
| 12, 13-10-2019 | National Tax Conference | Udaipur |
| 11, 12-11-2019 | One Day Seminar & Darshan of Lord Viswanath, Ganga Arti and Dev Deepavali | Varanasi |

Report of One-Day Tax Seminar at Jajpur, Odisha on 23rd January, 2019

By N. D. Saha, *Chairman*, AIFTP (EZ)

AIFTP, Eastern Zone organised One-day Tax Seminar at Jajpur, Odisha on 23rd January, 2019 in association with Jajpur District Tax Bar Association of Odisha on its 10th Foundation Day from 10.30 a.m. to 4.30 p.m. at Hotel Brahmani, Jajpur, Odisha. At the end of the Seminar, First Managing Committee Meeting was held at 4.30 p.m at the same venue.

Justice Dr. Akhaya Kumar Mishra, Odisha High Court as Chief Guest inaugurated the Seminar in presence of Guest of Honour Sri Bibhu Prasad Tripathy, Bar Council Member and Secretary General of All Odisha Lawyers' Association, Both of them in their deliberations, emphasised on judiciary system. Shri Achintya Bhattacharjee, Vice-President, Shri Anand Kumar Pasari, Secretary General and Shri N. D. Saha, Chairman (EZ) welcomed all the delegates and narrated the objectives of the Federation in the inaugural session.

First Technical Session was conducted by Shri Jitendra Kumar Lenka, IRS, Jt. Commissioner of Income Tax and Shri Basudeb Panda, Advocate, Odisha High Court, as Guest of Honour. Shri Sarat Chandra Bhadra discussed the Income-tax Act in the First Technical Session.

In Second Technical Session, speakers CA. Arun Agarwal, Kolkata discussed Annual Return under GST Act and CA Sushil Goyal, Kolkata, Vice-Chairman Indirect Tax Committee of ICA, discussed GST Audit and statement in presence of Guest of Honour Mr. Akash Das Nayak, Hon'ble MLA, Koria, Mr. Pradip Kumar Biswas, IAS, Spl. Secretary, Finance Dept. Odisha and Shri Sahadev Sahoo, Addl. Commissioner GST Cell, Finance Dept. Odisha. Deliberations of all the learned Speakers were enjoyed by the 250 delegates in the Seminar. Shri Bibekananda Mohanty, President, Jajpur District Bar Association being the conference chairman, conducted the entire programme nicely. Entire programme and the hospitality of the local organizers were excellent.



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

| Name | Mobile | Tel. (O) | Fax | E-mail |
|--|------------|--------------|----------|-------------------------|
| National President – Dr. Ashok Saraf, Sr. Adv. | 9864020679 | 0361-2529532 | 2460041 | drashoksaraf@gmail.com |
| Secretary General – Shri Anand Kumar Pasari, Adv. | 9431125350 | 0651-2209612 | — | anandpasari17@gmail.com |
| Treasurer – Shri Chirag S. Parekh, Adv. | 9821634128 | 022-26705006 | 26705006 | chiragnp7@gmail.com |

National Tax Conference

Organised by

ALL INDIA FEDERATION OF TAX PRACTITIONERS (WESTERN ZONE)

Jointly with

**GOODS AND SERVICES TAX PRACTITIONERS ASSOCIATION OF MAHARASHTRA
AURANGABAD BRANCH OF WIRC OF ICAI • TAX PRACTITIONER'S ASSOCIATION, AURANGABAD**

on

Saturday, 16th February, 2019 and Sunday, 17th February, 2019

at

ICAI Bhavan, Gut No. 72, Beed Bypass Road, Near MIT College, Aurangabad – 431 005

The Western Zone of All India Federation of Tax Practitioners is pleased to announce the **2 day National Tax Conference** at ICAI Bhavan, Gut No 72, Beed Bypass Road, Near MIT College, Aurangabad – 431 005 on **Saturday, 16th February, 2019 and Sunday, 17th February, 2019.**

The venue of "Aurangabad" was chosen after much thought and request from our members. Aurangabad is a city in Maharashtra State. The city is a tourism hub, surrounded by many historical monuments, including the Ajanta and Ellora Caves comprising ancient rock-cut Buddhist shrines which are UNESCO World Heritage Sites, as well as 17th-century marble Bibi ka Maqbara shrine, (replica of the Taj Mahal), Battlements surround the medieval Daulatabad Fort and Shivaji Maharaj Museum, dedicated to the Maratha King Shivaji, displays war weapons and a coin collection, Panchakki, Ghrihsheshwar temple (Jyotirling) and many more... The current day Aurangabad offers a wonderful opportunity to step back to past history.

The NTC is packed with a lot of learning. To enrich the participants with the knowledge, papers covering recent developments in Direct & Indirect tax laws have been selected to be discussed at the Conference. The historical monuments will make learning a pleasure, and NTC will enable good networking and create long-term intangible assets of fond memories.

DETAILED PROGRAMME

| Day 1 | | | | |
|--------------------------|-------------------------------------|--|---|--|
| Time | Event | Coverage | Chairman | Speaker |
| 9.00 a.m. to 9.55 a.m. | Registration & Breakfast | | | |
| 10.00 a.m. to 11.15 a.m. | Inaugural session | Chief Guest / Guest of Honour | Hon'ble Mr. Justice S. V. Gangapurwala, Judge, Bombay High Court | |
| 11.15 a.m. to 11.35 a.m. | Tea Break | | | |
| 11.35 a.m. to 01.05 p.m. | First Technical session: Income Tax | Private Trust – Succession Planning, Wills and Taxation Aspects thereof | Shri N. M. Ranka, Sr. Advocate, Jaipur | CA. Bhadresh K. Doshi, Mumbai |
| 01.05 p.m. to 02.00 p.m. | Lunch Break | | | |
| 02.00 p.m. to 03.30 p.m. | Second Technical session: GST | Taxation of Intermediary Services in GST | Ms. Nikita Badheka Advocate, Mumbai | CA. Sagar Shah, Pune |
| 03.30 p.m. to 03.50 p.m. | Tea Break | | | |
| 03.50 p.m. to 05.20 p.m. | Third Technical session: Income Tax | Prosecution – Recent Developments, consequences on Independent Directors / Legal Heirs | Ms. Prem Lata Bansal, Sr. Advocate, Delhi | Shri Rahul Hakani, Advocate, Mumbai |
| Day 2 | | | | |
| 09.00 a.m. to 09.50 a.m. | Breakfast | | | |
| 10.00 a.m. to 11.30 p.m. | Fourth Technical session: GST | Recent Developments in ITC | Shri C. B. Thakar, Advocate, Mumbai | Shri Dinesh Tambde Advocate, Mumbai |
| 11.30 a.m. to 11.45 a.m. | Tea Break | | | |
| 11.45 a.m. to 01.45 p.m. | Brains' Trust Session | Direct Tax & Indirect Tax | For Indirect Tax: CA. Umesh Sharma, Aurangabad & Mr. M. L. Patodi, Advocate, Kota | For Direct Tax: CA Harish Motiwalla Mumbai, & CA M. R. Hundivala, Aurangabad |
| 01.45 pm to 1.55 pm | Vote of Thanks | | | |
| 01.55 p.m. to 03.00 p.m. | Lunch Break | | | |

Fees for Members of above Associations/Non-Members

| Registration Fees | |
|--|---|
| Members | ₹ 5,000/- + 900 (18% GST) = ₹ 5,900/- |
| Non-members | ₹ 6,000/- + 1,080 (18% GST) = ₹ 7,080/- |
| Accompanying Spouse Fees | - ₹ 2,500/- + ₹ 450 (18% GST) = ₹ 2,950/- |
| The fees include, course material, delegate kit, Meals : Breakfast / Lunch / High Tea & Dinner on 16-2-2019 & breakfast & lunch on 17-2-2019 | |

Bank details for sending registration

| | |
|-----------------------|---|
| NAME OF BANK ACCOUNT: | ALL INDIA FEDERATION OF TAX PRACTITIONERS (Western Zone) |
| CORPORATE ADDRESS: | 215, Rewa Chambers, 31 New Marine Lines, Mumbai – 400 020 |
| BANK NAME: | CANARA BANK |
| BANK ADDRESS: | New Marine Lines, Mumbai – 400 020 |
| BANK BRANCH: | New Marine Lines |
| BANK A/C NO. | 1389101053451 |
| ACCOUNT TYPE: | Saving |
| NEFT / IFSC CODE. | CNRB0001389 |

NOTES : a) **In case of online Payment, please intimate on e-mail aurangabadntc@gmail.com**

b) We have arranged the tour to Ellora / Daulatabad Fort & Grishneshwar Temple for those interested (on advance intimation & payment before 15-1-2019)

Date : 15-2-2019 from 11 am to 6 pm – Cost per person : ₹ 1,200/-

c) **NEC Meeting will be held on 16-2-2019 from 5.45 pm at ICAI Bhavan**

STAY : Suggested Hotels with whom rates have been negotiated are listed hereunder:

(Payment details of Hotels would be put up shortly on website. In the meantime members can e-mail the preferred Hotel)

| Name of Hotel | Star Category | Location | Charges (Per Day per Room - Including Breakfast) | Distance from venue of Conf. |
|--------------------------------|---------------|--|--|------------------------------|
| Welcomhotel Rama International | 5 | R-3 Chikalthana, Jalna Road, Town Center, MGM, Aurangabad, | Single : ₹ 5000/- plus GST 18% Double : ₹ 5750/- plus GST 18% | 5 Km. |
| The One | 3 | F - 21, Town Centre, CIDCO, Jalna Road, Aurangabad, Maharashtra 431003 | Single : ₹ 3,000/- plus GST 18% Double : ₹ 3,500/- plus GST 18% | 4 Km. |
| Hotel VITS | 4 | Vedant Nagar, Railway Station Road Aurangabad 431005 | Single : ₹ 2,800/- plus GST @ 18% Double : ₹ 3,200/- plus GST @ 18% | 2.5 Km. |
| Amar Preet | 4 | Jalna Road, Amarpreet Chowk, Aurangabad, Maharashtra 431 001 | Single : ₹ 3,000/- plus GST 18% Double : ₹ 3,500/- plus GST 18% | 3 Km. |
| Hotel Keys | 3 | Padampura Circle, Station Road, P.O. Krant Chowk, Aurangabad 431 005 | Single : ₹ 3000/- plus GST 18% Double : ₹ 3,500/- plus GST | 2.5 Km. |
| Hotel Manor | 3 | Kranti Chowk, Opp Rani Lakshmi Bai Park, Aurangabad, Maharashtra 431 001 | Single : ₹ 3,000/- plus GST 18% Double : ₹ 3,500/- plus GST 18% | 3 Km. |

Connectivity

Aurangabad airport is directly air-linked to major cities like Mumbai, Delhi, Kolkata, Hyderabad, Chennai & Bengaluru. The airport is conveniently located at a distance of around 10 km. east of the town.

Two trains leave daily from Mumbai for Aurangabad. Tapovan Express departs Mumbai early morning and arrives Aurangabad by late afternoon, while the Devgiri Express is an overnight train. Several luxury and State buses too run between Mumbai and Aurangabad that extend up to Ajanta/Ellora Caves.

For any query or assistance relating to room booking please contact :

Mr. Deepak R. Shah, Conference Chairman, 9820148536

For any further enquiries relating to NTC, please contact

Dr. Ashok Saraf, National President, 9864020679
 Shri Bhaskar B. Patel, Vice President, 9979733033
 Shri Anand Kumar Pasari, Secretary General, 9431125350
 Shri Santosh Gupta, Hon. Jt. Secretary, 9890033480
 Shri Chirag S. Parekh, Hon. Treasurer, 9821634128
 Shri Kishor Vanjara, Member, NEC, 9820186480
 Smt. Nikita R. Badheka, Member, NEC, 9821037885

Shri Deepak R. Shah, Chairman, AIFTP (WZ), 9820148536
 Shri Pravin R. Shah, Vice Chairman, AIFTP (WZ), 9821476817
 Shri Salil R. Lodha, Hon. Secretary, AIFTP (WZ), 9820149302
 Shri Hemant Parab, Hon. Jt. Secretary, AIFTP (WZ), 9820310091
 Dr. Shashank Dhond, Hon. Jt. Secretary, AIFTP (WZ), 9825006479
 Shri Avinash Lalwani, Hon. Treasurer, AIFTP (WZ), 9821118801
 Shri Pradip Kapadia, President, GSTPAM, 9821029082
 Shri Sachin Lathi, Chairman, Aurangabad Branch of WIRC of ICAI - 9823330901
 Shri Shankar Rao Ambilkar, Chairman, TPA - 9422203091
 Shri Anand Partani, Co-ordinator, Aurangabad, (AIFTP (WZ), 9850503051

E-mail: aurangabadntc@gmail.com

Prayagraj Kumbh Darshan

(Organised by AIFTP – North Zone)

Venue: Kumbh – AGAMAN Tent City, Opp. DPS School, Araill, Prayagraj

Date : 2-3-2019 – 4-3-2019

Tentative Schedule

| Date | Timing | Event |
|---------------|------------------------|---|
| 02.03.2019 | Up to 13.00 | Arrival at Kumbh |
| | 13.00 – 14.30 | Lunch |
| | 14.30 – 15.00 | Rest |
| | 15.00 – 18.00 | Kumbh Darshan - Brief on Kumbh and visit to various Pandals |
| | 18.00 – 19.00 | Light Refreshment |
| | 19.00 – 20.00 | Talk & Discussion on Professional Spiritual Issues |
| | 20.00 – 20.30 | Folk Dance, Bhajan & Discourse |
| | 20.30 – 21.30 | Dinner |
| 03.03.2019 | 07.00 – 08.00 | Bed Tea |
| | 08.00 – 09.00 | Kumbh Snan |
| | 09.00 – 10.00 | Breakfast |
| | 10.00 – 13.00 | Talk & Discussion on Professional Issues |
| | 13.00 – 14.30 | Lunch |
| | 14.30 – 15.00 | Rest |
| | 15.00 – 18.00 | Cruise Ride & visit to various Pandals |
| | 18.00 – 19.00 | Light Refreshments |
| | 19.00 – 20.30 | Spiritual Talk by Swami Basudevanand Saraswati ji Maharaj |
| 20.30 – 21.30 | Dinner with Folk Dance | |
| 04.03.2019 | 07.00 – 08.00 | Bed Tea |
| | 08.00 – 11.00 | Rudrabhesekh & Havan |
| | 11.00 – 11.30 | Breakfast |
| | 11.30 – 13.00 | Sharing of Experience by Delegates |
| | 13.00 – 14.00 | Lunch |
| | 14.00 | Dispersal |

Co-ordinators

Arvind Kumar Mishra, (9839503498)

A. K. Srivastava, Sanjay Kumar, O. P. Shukla, Arvind Shukla, Jamuna Shukla, Anjana Singh

Total Package Cost : ₹ 9,000/- (including Stay and Food)

Bank Details:

Name of Account : PRAYAGRAJ TAX CONFERENCE

SB A/C No. 035001000062900

IFSC: IOBA0000350

Indian Overseas Bank Civil Line Prayagraj



AIFTP's Members' Directory

AIFTP Members Directory is available for members free of cost at Mumbai Office. If required it can be couriered at a nominal cost of ₹ 100/- to be paid in advance. Contact Ravi at Mobile 8169472814 for getting the latest updated directory.

Workshop on GST Law

Due to Overwhelming response, the enrollment and also the Link to Live Streaming is closed. Thanks to everyone.

Activity Report of AIFTP (CZ) for the month of January 2019

| S. No. | Event | Details | Date | Place | No. of Participants | Other Remarks |
|--------|--------------|---------|-----------|--------------------------------|---------------------|--|
| 1. | Seminar | | 5-1-2019 | Kalpvrksha Restaurant, Jodhpur | 150 | <p>Seminar-cum-Felicitation Function of Office Bearers of AIFTP (CZ), Officers of Rajasthan High Court Bar Association and Members of Bar Council was organized in Kalpvrksha Restaurant in which felicitation of Mr. Ranjeet Joshi and Mr. Prahalad Singh Bhati, members of our federation and Mr. P. M. Chopra on becoming 2nd time Vice-President, Mr. D. C. Mali on becoming Joint Secretary and Mr. Devendra Kansara on including in PRO Committee of AIFTP.</p> <p>On this occasion, welcome of Mr. Inder Raj Choudhary, Mr. Sachin Acharya, Mr. Sunil Beniwal, Mr. Rajesh Panwar, Mr. Balvinder Singh Sandhu, Mr. Ranjeet Joshi and Mr. Devendra Singh Mehlat on becoming Member, Bar Council. Memento was also given. On this occasion Special Felicitation of Mr. P.M. Chopra for contribution towards Association from last 35 years in all fields, in giving representations and in development of membership.</p> |
| 2. | Felicitation | | 5-1-2019 | Jodhpur | 150 | <p>Felicitation of Shri C. M. Birla, our member of Federation and the founder member of Jodhpur branch Chartered Accountant on completing 50 years of their profession. Special memento was given by AIFTP (CZ) and Marudhara Tax Bar.</p> |
| | | | 9-1-2019 | Ajmer | | <p>Welcome of Mr. B. L. Kothari, IAS on appointed as new Member of Tax Bar, Ajmer. All these news were properly published in newspapers.</p> |
| | | | 16-1-2019 | Jodhpur High Court Campus | 400 | <p>Oath function of High Court Bar Association was held at 5:00 PM where Senior Judge, Rajasthan High Court Mr. Sangeet Lodha was the Chief Guest. Shri Prahalad Singh Bhati, Member of our Association was present there who is Secretary of one of the biggest local Tax Bar of India, which consists of 3000 members. On this occasion they gave privilege to Vice-President Shri P. M. Chopra as Special Guest on dais. On this occasion gathering of more than 1000 advocates and CA was there. In the function Shri J. R. Lohia, Shri D. C. Mali, Shri S. K. Asopa, Shri K. K. Gehlot, Shri Vijay Sharma, Shri R. K. Arya, Shri Hari Shankar Tak were present. On this occasion oath function was held of Rajasthan High Court Bar Association, one of the biggest association of India. Whole programme was covered by all the media along with newspaper i.e. ETV, Dainik Bhaskar, Rajasthan Patrika etc. On this occasion Shri Ranjeet Joshi who became 14th time President only with the support of All India Federation was also present and he assured AIFTP (CZ) for giving chamber as well as make arrangement for place for ITAT Bar and Bench.</p> |

| S. No. | Event | Details | Date | Place | No. of Participants | Other Remarks |
|--------|----------------|---------|-----------|----------|---------------------|--|
| | | | 20-1-2019 | Jaipur | | Felicitation of Shri R. C. Sharma on joining Senior member of Jaipur Bench by Dr. S. L. Jain Advocate, Ex-Chairman (CZ). |
| | | | 25-1-2019 | Jodhpur | 60 | Foundation day of ITAT Bar was celebrated in the presence of many members participated. This programme is organized by AIFTP (CZ), ITAT Bar, Marudhara Tax Bar, Rajasthan High Court Advocates' Association jointly and programme was conducted by Shri K. C. Meena, Assistant Registrar, Jodhpur Bench of ITAT Vote of thanks was delivered by Shri D. C. Mali. News were published in all the newspapers of Rajasthan. |
| | | | 25-1-2019 | ITAT Bar | 70 | On this occasion message of Hon'ble President P. P. Bhatt has been read out which stated that this Tribunal was started on 25-1-1941 before independence and today maintains high dignity of the profession. On this occasion, our member demanded for posting of permanent member of ITAT, Jodhpur. Mr. Bhati says that Income Tax Appellate Tribunal is the last fact finding body. |
| | | | 26-1-2019 | Jodhpur | | A joint programme was organised by All India Federation of Tax Practitioners (CZ) and flag hoisting was done. Chief Guest of the function was Shri Prahalad Singh Bhati, Secretary, Rajasthan High Court Bar Association. On 26th January programme was conducted on invitation by Income Tax Department at the Income Tax Office by Office Bearer of C.Z. and the department also gave a chance to Vice President to give speech. |
| | | | 27-1-2018 | Jodhpur | | Felicitation of Shri M. S. Singhvi by giving him flowers by Shri P. S. Bhati, Shri P. M. Chopra, Shri Vijay Sharma, Shri D. C. Mali, Shri K. K. Gehlot, Shri R. K. Arya and Shri S. K. Asopa. Also felicitated Shri Sunil Beniwal on becoming Additional Advocate General and Shri S. S. Shah, Shri Anil Gaur, Shri Pankaj Sharma, Madam Rekha Borana who were appointed as Government Advocate. |
| 3. | Representation | | 4-1-2019 | By Mail | | Representation to GST Council for extending date of TRANS-1. |
| | | | 8-1-2019 | Jaipur | | Visited Jaipur for giving representation to Chief Minister, Commissioner, Principal Secretary and D. S (Tax) |
| | | | 16-1-2019 | By mail | | Representation sent to Mr. S. R. Wadhwa, Chairman, Direct Tax Advisory Committee to be included in pre-budget Memorandum of AIFTP and we also submitted representation for the problem under GST to Mr. Mukesh Gupta to submit before GST Council. |
| | | | 29-1-2019 | Jodhpur | | Representation to the Chief Minister on their visit to Jodhpur. |

| S. No. | Event | Details | Date | Place | No. of Participants | Other Remarks |
|--------|---------------------|---------|-----------|--|---------------------|---|
| 4. | New Members | | | | | 4 new members were enrolled. |
| 5. | Visit | | 18-1-2019 | Jaipur | | Welcome of Chief Minister and State Finance Minister by Mr. P. M. Chopra alongwith Mr. Anubhav Chandel, Advocate and CA. Mr. Parmanand Sharma advocate and CA. R. P. Sharma in the leadership of Shri D. C. Mali and Shri Devendra Kansara and on this occasion near about 30 persons from the Federation from Jodhpur were present and they gave representation regarding issue of GST Refund, late fees and introducing of the amnesty scheme and extension of date of 'C' form and 'D' form. |
| 6. | Obituary/ Reference | | 29-1-2019 | Rajasthan High Court, Jodhpur at 3:30 PM | | A Full Court reference was jointly conducted by all the judiciary including Rajasthan High Court Bar Association and Rajasthan High Court Lawyer's Association, Bar Council of Rajasthan, All India Federation of Tax Practitioners (CZ) on the death of Former Hon'ble Chief Justice Shri Jagdish Bhalla, Rajasthan High Court. On this occasion members of our central zone Shri D. C. Mali, Shri P. M. Chopra, Shri Hari Shankar Tak, Shri S. K. Asopa, Shri K. K. Gehlot and Shri Ajay Sharma were there. |
| 7. | Future Programme | | | | | Proposed to be held at Barmer, Jaisalmer, Bhilwara, Mansour and Ganganagar in the month of February. |

(P. M. Chopra)
Vice President

(D. C. Mali)
Jt. Secretary

(Rajesh Mehta)
Chairman

(Devendra Kansara)
Secretary

(Ashok Jangid)
Treasurer

(Sudheer Bhansali)
Vice Chairman (Raj.)

(Paras Chhajer)
Vice Chairman (Chat.)

(Ajay Chaajer)
Vice Chairman (MP)

Congratulations

Hearty Congratulation to **Shri Mahendra Singh Singhvi**, Member, AIFTP being appointed as Advocate General in the State of Rajasthan.

We wish him all success.



AIFTP Online Membership

AIFTP Membership is now **ONLINE**. You can ask your professional friends to join the AIFTP by online filling the application forms, uploading documents. The membership fees can also be paid online. Please log on to www.aiftponline.org & click.

Complaints regarding non-receipt of AIFTP Journal/Times

Now you can make an online complaint by clicking "Non-Receipt of Times / Journal", if you have not received the copy of Times or Journal and we will send you soft copy of the Times/Journal by email.

Direct Taxes

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

High Court

Unreported Decisions

Ss.54 & 54F : Date of allotment letter leads to creation of proper and effective right over the capital asset/residential unit, such date of allotment would be relevant date for the purpose of capital gain tax as a date of acquisition

The assessee is an individual had filed the return of income for AY 2009-10 and claimed long term capital gains arising out of capital asset in the nature of a residential unit. The AO examined claim of the assessee and came to the conclusion that the gain arising out of sale of capital asset was a short term capital gain. The assessee contended that the residential unit in question was acquired on the date on which the allotment letter was issued by the builder on 31-12-2004. The AO held that the transfer of the asset in favour of the assessee completed only on the date of agreement which was executed on 17-5-2008 and therefore he denies the deduction to the assessee. The CIT(A) as well as Tribunal held in favour of the assessee.

The Hon'ble High Court while deciding the issue observed that the issue was clarified by the CBDT in two circulars i.e., the date of allotment would be the date on which the purchaser of a residential unit can be stated to have acquired the property. The allotment in construction scheme promised by the builder in the present case was materially different from the terms of allotment and construction by Delhi Development Authority. The High Court held that date

of allotment would be relevant date for the purpose of capital gains tax as a date of acquisition. (r.w. CBDT Circular No.471 dt. 15-10-1986 and 672 dt. 16-12-1993)(AY 2009-10)

Pr. CIT v. Vembu Vaidyanathan, ITA No. 1459 of 2016, dt. 22-1-2019 (Bom.)(HC), Source : www.bombayhighcourt.nic.in

S. 54F : Sale of under construction property is not sale of residential property, benefit claimed u/s. 54F is allowable

The assessee claimed deduction u/s. 54F on account of sale of flat. The AO denied the benefit stating that the flat was in the nature of residential unit and therefore, section 54F would not apply. The Tribunal held that the property transferred by assessee could not be termed to be a residential house and the provisions of section 54F enacted for the purpose of promoting the construction/purchase of residential houses and therefore Tribunal allowed the claim of the assessee.

The High Court held that the builder failed to complete the construction and the scheme ran into multiple legal disputes, under such circumstances, the construction was completed much later, meantime, the assessee had sold the flat, and same was still under construction. Therefore, same resulted in a long-term capital gains and hence appellant is eligible for deduction u/s. 54F. (AY 2006-07)

CIT vs. Kalpana Hansraj, ITA No.767 of 2016 dt. 7-1-2019 (Bom.)(HC) www.bombayhighcourt.nic.in



Congratulations

Hearty Congratulations to the newly elected office bearers of Income Tax Appellate Tribunal Bar Association, Mumbai for the period 2019-20.

| | | |
|------------------|---|---|
| President | : | Shri Hiro Rai |
| Vice Presidents | : | Shri P. J. Pardiwalla & Shri Vipul B. Joshi |
| Hon. Secretaries | : | Shri K. Gopal & Shri Nitesh S. Joshi |
| Hon. Treasurer | : | Shri Reepal G. Tralshawala |

We wish them all success.

Congratulations to the newly elected Office Bearers of Rajasthan High Court Advocates' Association, Jodhpur for the year 2019

| | | |
|-------------------|---|-------------------------------|
| President | : | Shri Ranjeet Joshi |
| Vice-President | : | Shri Sajjan Karnawat |
| General Secretary | : | Shri Prahalad Singh Bhati |
| Library Secretary | : | Ms. Dimple Bhati |
| Joint Secretary | : | Shri Gajendra Singh Tanwar |
| Treasurer | : | Shri Birbal Ram Bishnoi Saran |

We wish them all success.

Indirect Taxes

Tanmay Mody, GST Practitioner

1. GST – Valuation under GST to include TCS

Valuation for the purpose of ascertainment of GST on Tax Collected at Source (TCS). Validity of Circular No. 76/50/2018-GST?

Held: Petitioner contention that the amount of 1% the petitioner-dealer collects from the purchaser of a car worth more than ten lakhs, under Section 206C(1F) of the Income-tax Act, cannot be treated as an integral part of the value of the goods and services, as the dealer acts only as an agent for the State to collect the income tax and that amount will eventually go to the vehicle purchaser's credit. The petitioner has raised a *prima facie* issue which needs the Court's attention. The authority will not act on the clarification at Sl.No.5 of Circular No. 76/50/2018-GST pending the disposal of the writ petition .

(Source: Kerala High Court Order in the case of PSN Automobiles P. Ltd. vs The Union of India & Ors., dated 17th January, 2019)

2. GST – Composite Supply in case of Electricity Distribution

Validity of Circular No.34/8/2018-GST? What is the taxability of charges recovered for the activities directly connected with the distribution and transmission of electricity such as application fee, meter rent, testing fee, labour charges for shifting meters and shifting of service line, etc?

Held: The meaning of “transmission and distribution of electricity” does not change either for the negative list regime or the GST regime. If that be so, the services which stood included within the ambit of transmission and distribution of electricity during the pre-negative list regime cannot now be sought to be excluded by merely issuing a clarificatory circular, that too, with retrospective effect. From the very manner in which the Department has treated the services related to transmission and distribution of electricity during the pre-negative list regime, such services would stand covered by the exemption granted to transmission and distribution of electricity by virtue of inclusion of such services in the list of negative services under section 66D (k) of the Finance Act as well as by virtue of exemption notification issued under the CGST Act. Where the services are naturally bundled in the ordinary course of business and the single service which gives such bundle its essential character is exempt from tax, the entire bundle will have to be treated as provision of such single service. Charges such as application fee, meter rent, testing fee, etc. collected by the Petitioners are part of composite supply of which principal supply is the actual supply of electricity and therefore the entire composite supply is exempt from tax under Entry 25 of Notification No.12/2017 dated 28-6-2017. The Paragraph 4(1) of the impugned Circular No.34/8/2018-

GST dated 1-3-2018 is hereby struck down as being *ultra vires* the provisions of section 8 of the CGST Act, 2017 as well as Notification No.12/2017-CT(R) serial No. 25.

(Source: Order by the Gujarat High Court in the case of M/s. Torrent Power. vs The Union of India, dated 19th December, 2018)

3. GST – Supply to Duty-Free shops

Whether supply of goods and services made by an Indian supplier to the duty free shops in India is to be treated as exports on the ground that the duty free shops at international airports in India are located beyond the customs frontier of India?

Held: No provision of law has been brought to the notice of this Court under the CGST Act, 2017, which grants exemption from payment of taxes. The statute governing the field does not provide any such exemption as prayed by the petitioner. The petitioner is supplying goods to Duty Free Shops and as per Section 2(5) of IGST Act, 2017 export of goods takes place only when goods are taken out to a place outside India. Therefore, the goods can be said to be exported only when they cross territorial waters of India and the goods cannot be called to be exported merely on crossing customs frontier of India. In light of the definition as contained under the IGST Act, 2017 a Duty Free Shop situated at the airport cannot be treated as territory out of India. As the supply to a DFS by an Indian supplier is not to ‘a place outside India’, therefore, such supplies do not qualify as ‘export of goods’ under GST. The concessions / exemptions granted earlier during the pre-GST regime cannot be claimed as a matter of right.

(Source: Order by the Madhya Pradesh High Court in the case of M/s. Vasu Clothing P. Ltd. vs. The Union of India & Ors., dated 17th December, 2018)

4. GST – Maharashtra AAR

Whether the service of Market Research on the matters related to functions of Holding company, supplied by the Applicant under the Service Agreement constitute a supply of “Support services” falling under HSN code 9985 “Intermediary service” classifiable under HSN code 9961/9962? Whether the services amount to export of services?

Held: The services provided by the applicant in the nature of Research on the matter related to functioning of the holding of company such as corporate accounting, corporate finance, corporate personnel and labour relations, corporate research and development, quality assurance and corporate intellectual property, and provide Party A with its report of the research thereon would fall under

service code tariff 99859 as other support services nowhere elsewhere classified. The services provided by the applicant in the nature of Information on Market in the territory which includes Economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory, To provide necessary assistance in business activities (including interpreting) to such representatives, To undertake market surveys of the Products in the Territory and report the results thereof to Party and Ancillary services to all above services, including, but not limited to, those services with regard to finance, accounting, and patent and legal matters would fall under service code tariff 99837 with service description market research services. The services supplied by the applicant under the Marketing Services Agreement would fall under Group 99837 as Market Research Services. The services provided by the Applicant is an export of services as defined under Section 2(6) of the Integrated Goods and Services Tax Act 2017.

(Source: Maharashtra AAR Order No. GST-ARA-35/2018-19/B-108 in the case of M/s. Asahi Kasei India P. Ltd., dated 5th September, 2018)

(Important to note that the same Authority has given a contradictory Order in the case of M/s. Vservgloval P. Ltd. dated 7th September, 2018 on similar facts of the case.)

5. GST – Madhya Pradesh AAR

Whether applicant is eligible to avail the exemption from the levy of GST under Entry No. 25 of Notification No. 12/2017-CT (Rate), dated 28-6-2017 bearing description 'Transmission or Distribution of electricity by an electricity transmission or distribution of electricity utility' with respect to the Delay Payment Charges recovered by the applicant from its consumers?

Held: The applicant is recovering delayed payment charges not only towards supply of electrical energy as goods, supply Transmission/distribution of electricity service as an electricity distribution utility which are exempted, but also towards charges like metering charges and others which are taxable as per Circular No. 34/8/2018-GST. Thus, in the instant case the supply in question is a set of both, exempted and taxable supply. Therefore, it can be concluded that the Delayed payment surcharge cannot be treated as separate service and same shall be included in the value of initial service. Thus, portion of Delayed payment surcharge attributable to exempted supply shall be exempted and portion of Delayed payment surcharge attributable to taxable supply shall be taxable at the rate on which the corresponding supply is taxed.

(Source: Madhya Pradesh AAR Order No. 19/2018 in the case of M/s. Madhya Pradesh Poorv Kshetra Vidyut Vitaran Co. Ltd., dated 22nd November, 2018)

6. GST – Rajasthan AAR

Whether "bill-to ship-to" model can be followed while invoicing for a transaction which involves 4 persons?

Held - The business conditions require that the sale of the manufactured products where the cycle of supply of goods from the applicant to the final customer, involves four persons. Section 10(1)(b) of IGST Act, 2017 does nowhere limit the transaction to only three parties/persons. The said section only contemplates about role of 'third party' and declaration of 'principal place of business'. Therefore, the supply from applicant to various customers on a "Bill to Ship to" mode as per provisions of Section 10(1) (b) of IGST Act, 2017 is permissible. The applicant can issue an e-way bill in which the 'bill to' will be mentioned in the name of M/s RSE/RPG whereas 'ship to' would be in the name of final customer.

(Source: Rajasthan AAR Ruling No. RAJ/AAR/2018-19/25 in the case of M/s. Sanjog Steels P. Ltd., dated 2nd November, 2018)

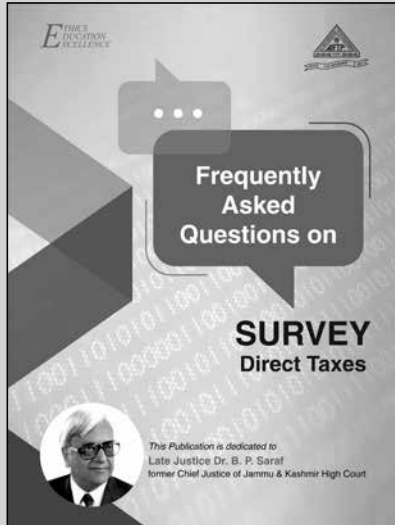
7. GST – National Anti-Profiteering Authority – Hindustan Unilever Ltd.

The Respondent has resorted to profiteering being very well aware of the law and the rules which warranted him to pass on the benefit of GST rate reductions. Further he has also consciously and illegally recovered the excess realisation which was due to his Redistribution Stockists as Input Tax Credit and thereby denied the benefit of tax reductions to the customers. He has further acted in conscious disregard of the obligation which was cast upon him to pass on the benefit of GST rate reductions. Instead he had deliberately increased the base prices by enhancing them equivalent to the amount of GST rate reductions in order to keep the old MRPs in place or not reduced them proportionately to the benefit of tax reductions, accordingly he has committed an offence under section 122(1)(i) of the CGST Act, 2017 by issuing incorrect invoices to his customers and thus penal provisions under the Act are required to be invoked against him. After allowing the deductions of grammage benefit and supplies made to the CPF & the CRPF, an amount of ₹ 383.35 crore is confirmed as the amount the benefit of which has been denied by the Respondent to his customers. Accordingly, as per the provisions of Rule 133(3)(c) of the CGST Rules, 2017 fifty percent of the amount of ₹ 383.35 crore is required to be deposited in the Central CWF and the balance amount is to be deposited in the CWF of the concerned State. Since the Respondent has been held guilty of profiteering and has also been found to have violated the provisions of Section 122(1)(i) of the CGST Act, 2017 a fresh notice be issued to explain why penalty should not be imposed.

(Source: Director-General, Anti-Profiteering vs M/s. Hindustan Unilever Ltd., Order in case no. 20/2018 dated 24th December, 2018)



BOOK RELEASE ANNOUNCEMENT



We are pleased to announce the release of the publication by the All India Federation of Tax Practitioners titled **“311 – Frequently Asked Questions on Survey – Direct Taxes”**.

Hon’ble Mr. Justice Deepak Gupta, Judge, Supreme Court of India released the said publication on 22nd December, 2018 at Guwahati at the 21st National Convention of AIFTP in the presence of 1237 delegates across the country organised by the AIFTP.

This publication is dedicated to Late Justice Dr. B. P. Saraf, Former Chief Justice of Jammu & Kashmir High Court.

The Editorial Board for the publication consists of N. M. Ranka, Sr. Adv., Dr. K. Shivaram, Sr. Adv. and S. R. Wadhwa, Adv., who have shared their experience and knowledge. The publication is authored by CA. M. V. Purushottama Rao.

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