

President's Communique



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Light at the end of Tunnel

Although we are surrounded with the cases of Covid-19, the partial opening has started shaping the economy. We the professionals have started attending to the work. The meeting with clients be best kept virtual. I am sure we all have now adopted ourselves to virtual world; virtual meetings and virtual hearings before Courts as also appellate authorities. The incoming festivals would bring hopes for a brighter year. The hustle-bustle of activities every where indicates the economy is slowly trying to revive. It's a very good sign. While we are expecting and looking forward to brighter days of festival ahead, we can't afford to be slack about the health care protocols to be followed in office and at home. So friends, let's be part of the reviving economy.

Faceless Appeal under Income Tax Act

After faceless assessment, we have now faceless appeal proceedings under Income Tax Act. There is difference between faceless assessment and faceless appeal. A person files the appeal as he is aggrieved by the assessment order and he wish himself to be heard by higher authority. Appeal is a statutory right provided by the law. In the new Faceless Appeal Scheme, 2020, the right of being heard, even through the videoconferencing mode shall be subject to the approval of the Chief Commissioner or the Director General and therefore the same is discretionary, i.e. he "may" or "may not" provide a right of personal hearing in the matter. Such provision would not only result in injustice, but would promote corruption and malpractice. This would promote highhanded attitude of superior authorities. Such provisions take away the entire charm of scheme Faceless appeal. The Hon'ble Delhi High Court has directed the respondents in case of LAKSHYA BUDHIRAJA to file affidavit in reply.

The aforesaid mechanism was challenged as discriminatory, against the settled principles of law and in violation of the Article 14 of the Constitution of India. The right to provide or not to provide a hearing in the matter is also against the principle of *audi alteram partem* i.e. no person should be judged without a fair hearing in which each party is given an opportunity to respond to the evidence against them. The Faceless Appeal Scheme is contrary to sections 250(1), 250(2) and 250(5) of the Act, which specifically state that right of hearing shall be granted to an assessee at the appeal.

One more aspect I find missing in faceless appeal is with regard to right to the inspection of assessment and Investigation records. Federation would represent to the CBDT and FM about many such lacuna in the faceless appeal scheme. If required we may file writ petition challenging arbitrary and unjust provisions.

Extension for the name sake

The trying times on account of pandemics are being made more miserable by the Government. The annual return form 9 and audit report in form 9C under GST acts for the FY 2018-2019 were required to be filed by 30th September 2020. Representations were made from all the corners of India, including by Federation to extend the time up to 31st Dec 2020. Unfortunately, like a miser giving charity, the time was extended only by one month, that too, just a day prior to the prescribed date. The time is

obviously not sufficient for major part of Country, mainly big cities where the partial opening also has restrictions. The public transport and local trains are not working. The Registered persons and CA and Cost accountants are not having their support staff in full strength. Under such circumstances the dates for audit report under GST ought to have been extended up to 31st Dec 2020. In any case the government has no revenue to loss, but granting time would ensure that a satisfactory compliance is made by the registered persons.

Mega event by North zone

The second virtual NTC was organized by North Zone on 2nd and 3rd October. The Chief Guest and the Guests of Honour were the High court Judges who had been our active members in past. It was wonderful to have all the Gems of the association being present on one platform. One more unforgettable part of the VNTC and icing on the cake was the last session named Ashirvachan. We had the opportunity to meet our heroes of past, Shri R D Sharma, who is 90 + age, Shri Bharatji Agarwal,etc. I congratulate The North zone Chairman and the Conference Chairman Shri Sanjaykumar for wonderful experience of meeting the persons who have been regular source of inspiration for activities of Federation.

Release of Book - 151 landmark judgments of SC

On the second Virtual NTC, we have released a very important, informative and valuable book i.e. 151, land mark Judgments of SC. A rare book containing gist of 151 judgments of SC which are applicable as on today, along with special comment by the team of experts. We have made it available on our website free to all members. I request you all to down load the same for future reference. This book would be permanently helping the tax practitioners.

Refresher course for the legal concepts by West Zone

While we are grappling to digest GST and new schemes under Income tax Act, the West Zone has thought of a novel idea of having six work shops on some basic legal concepts the Subject selected are on law of writs, principles of Interpretation of statutes as applicable to tax laws (two lecture), law of precedents, evidence Act and Information technology acts, law of affidavits and doctrine of natural Justice.

The first workshop would be on 11th November 2020, our foundation day. Kindly watch our website for the detail program.

Gear up for multiple compliances

The lockdown has delayed many compliances and legal formalities. You would find yourself loaded with host of pending work and new work. Yes the silver line in the clouds is visible now. Lets look forward to brighter and better days.

Maa Durga Devi's Navratri days have started, Diwali is not so far. Enjoy the festive season.

But safety first. Mask, social distancing and regular hand wash should be the way of life. Stay safe and healthy.

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