



All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

Regd. Office :
215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400 020.
Tel.: 2200 6342 / 43 / 4970 6343
E-mail: aiftpho@gmail.com
Website: www.aiftponline.org

NATIONAL PRESIDENT

Samir Jani
Junagadh

IMM. PAST PRESIDENT

Narayan P. Jain
Kolkata

DY. PRESIDENT

S. Venkataramani
Bengaluru

VICE PRESIDENTS

Vinayak Patkar, Mumbai
M. V. J. K. Kumar, Hyderabad
O. P. Shukla, Varanasi
Sandeep Agarwal, Jaipur
Vivek Agarwal, Kolkata

SECRETARY
GENERAL

Santosh Gupta
Nagpur

TREASURER

Bhaskar B. Patel
Vadodara

Date: 20-02-2025

To

1. The Chairperson,
GST Council,
5th Floor, Tower II,
Jeevan Bharti Building, Janpath Road,
Connaught Place, New Delhi-110 001.
2. The Hon'ble Union Minister,
Ministry of Finance,
Government of India,
North Block,
NEW DELHI.

Respected Sir /Madam,

Sub.:- CGST Act 2017-All India Federation of Tax Practitioners, Mumbai – Request for exemption from levy of GST – representation submitted –consideration –requested –Reg.

Ref.:- 1) Judgement of the Hon'ble Supreme Court in the case of State of West Bengal and Ors Vs. Kolkata Club Ltd,. And Ors dated 03-10-2019 in (2019) 19 SCC 107 / (2019) 70 GSTR 209 (SC)

2) Section 2(84) for definition of person, Section 7(1)(aa) for scope of supply, Section 9 for levy and collection and section 11 for power to grant exemption from tax.

@ @ @

Apropos the captioned subject, we the All India Federation of Tax Practitioners, Mumbai being a premier apex association of professional fraternity practicing direct and indirect tax laws since 1976, registered under Societies Act 1860 and Bombay



All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

Regd. Office :
215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400 020.
Tel.: 2200 6342 / 43 / 4970 6343
E-mail: aiftpho@gmail.com
Website: www.aiftponline.org

NATIONAL PRESIDENT

Samir Jani
Junagadh

IMM. PAST PRESIDENT

Narayan P. Jain
Kolkata

DY. PRESIDENT

S. Venkataramani
Bengaluru

VICE PRESIDENTS

Vinayak Patkar, Mumbai
M. V. J. K. Kumar, Hyderabad
O. P. Shukla, Varanasi
Sandeep Agarwal, Jaipur
Vivek Agarwal, Kolkata

SECRETARY
GENERAL

Santosh Gupta
Nagpur

TREASURER

Bhaskar B. Patel
Vadodara

Public Trusts Act, humbly submit the following justifiable and valid request for the kind perusal and consideration of the Constitutional authority for doing the needful in the matter.

2) The All India Federation of Tax Practitioners, hereinafter, for brevity popularly known as AIFTP is a federation at the National Level of unique nature comprising of advocates, Chartered Accountants, Tax Practitioners, Company Secretaries and Cost and Management Accountants as also various associate Associations of professional fraternity at District level throughout the country in various States across country. It is respectfully submitted that many of our member advocates practicing in taxation laws of both direct and indirect tax laws at various High Courts in the country were elevated as Judges of High Courts and also of the Hon'ble Supreme Court. That apart our member advocates practicing on direct tax laws were appointed as judicial members to the Income Tax Appellate Tribunal at various places. These are the appreciable high profile standards of the members of our Federation. The pivotal and prime object of the Federation is Ethics, Education and Excellence to say and elaborate that the Federation imparts professional education amongst its members through various educational seminars / conferences held at National level for periods ranging from One Day to Two Days. Sometimes, regional refreshing courses are also conducted. Thus, the federation



Regd. Office :
215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400 020.
Tel.: 2200 6342 / 43 / 4970 6343
E-mail: aiftpho@gmail.com
Website: www.aiftponline.org

All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

NATIONAL PRESIDENT

Samir Jani
Junagadh

IMM. PAST PRESIDENT

Narayan P. Jain
Kolkata

DY. PRESIDENT

S. Venkataramani
Bengaluru

VICE PRESIDENTS

Vinayak Patkar, Mumbai
M. V. J. K. Kumar, Hyderabad
O. P. Shukla, Varanasi
Sandeep Agarwal, Jaipur
Vivek Agarwal, Kolkata

SECRETARY
GENERAL

Santosh Gupta
Nagpur

TREASURER

Bhaskar B. Patel
Vadodara

has been working for the benefit of its members by organizing educational programmes.

- 3) The Federation in addition to its aforesaid activities has also been instrumental in advising the Central and State Governments on ways and means for bringing the needed amendments / changes to the fiscal law every year and we are happy to submit that majority of the suggestions are always welcomed and accepted in principle.
- 4) For maintaining the day to day affairs of the Federation and also to meet the recurring expenses for publishing certain landmark authoritative books on direct and indirect tax laws authorized by its members and also to publish its monthly journals, federation is required to strengthen its hands by receiving contributions such as membership fee and also the delegates being members of the Federation would voluntarily contribute the required divided share in the expenditure for organizing the educational programmes. As far as the direct tax law is concerned, the Federation is a charity institution exempted from payment of income tax.
- 5) However, the Central Goods and Service Tax Act 2017 has taken a different facet of consideration to impose GST on contributions made by members to the



Regd. Office :
215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400 020.
Tel.: 2200 6342 / 43 / 4970 6343
E-mail: aiftpho@gmail.com
Website: www.aiftponline.org

All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

NATIONAL PRESIDENT

Samir Jani
Junagadh

IMM. PAST PRESIDENT

Narayan P. Jain
Kolkata

DY. PRESIDENT

S. Venkataramani
Bengaluru

VICE PRESIDENTS

Vinayak Patkar, Mumbai
M. V. J. K. Kumar, Hyderabad
O. P. Shukla, Varanasi
Sandeep Agarwal, Jaipur
Vivek Agarwal, Kolkata

SECRETARY
GENERAL

Santosh Gupta
Nagpur

TREASURER

Bhaskar B. Patel
Vadodara

Federation towards admission as also delegate fee in connection with the educational programmes eyeing that Federation and its members are different constituents / entities so as to impose GST. In this connection, it is relevant to submit about the law recently laid down by the Hon'ble Supreme Court in the case of State of West Bengal and Ors Vs. Kolkata Club Ltd., and others mentioned supra in the 1st Respondent cited holding that in respect of Association of persons, clubs, societies of members, the doctrine of mutuality would apply to fiscal laws namely Sale of Goods Act and Service Tax Laws. The basic and fundamental ingredient for imposition of tax on sale or service is an activity undertaken by one for another for consideration that means in respect of sale, there shall be a seller and purchaser in which case there will not be any applicability of the principle of mutuality, was of course succinctly considered by various High Courts across the country in respect of levy of sales tax as well as service tax in relation to societies including cooperative societies as well as clubs registered under the provisions of Societies Act and finally concluded that sale by self to self or for that matter, service by self to self would not attract the tax liability. The decisions of the High Courts in the case of Ranchi Club Ltd., and Kolkata Club Ltd., were finally considered by the Hon'ble Supreme Court in Civil Appeals at the instance of the concerned State Governments or for that matter the Commissioner of Service Tax finally came to be



All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

Regd. Office :

215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400 020.

Tel.: 2200 6342 / 43 / 4970 6343

E-mail: aiftpho@gmail.com

Website: www.aiftponline.org

NATIONAL PRESIDENT

Samir Jani
Junagadh

IMM. PAST PRESIDENT

Narayan P. Jain
Kolkata

DY. PRESIDENT

S. Venkataramani
Bengaluru

VICE PRESIDENTS

Vinayak Patkar, Mumbai
M. V. J. K. Kumar, Hyderabad
O. P. Shukla, Varanasi
Sandeep Agarwal, Jaipur
Vivek Agarwal, Kolkata

SECRETARY
GENERAL

Santosh Gupta
Nagpur

TREASURER

Bhaskar B. Patel
Vadodara

affirmed by well textured judgement. The Hon'ble Supreme Court in its well reasoned judgement rendered on 03-10-2019 considered the scope of sales tax / VAT even in terms of the 46th Constitutional Amendment Act 1982 in general, vis-à-vis sub clause (e) of Clause (29A) of Article 366 as well as the definition of service in terms of sections 65B(44) r/w Section 65B(37) defining the expression of person as well as section 66 finally came to a conclusion that the expression person in Finance Act 1994 vide Section 65B (37) which is analogous to section 2(84) of CGST Act which is an inclusive definition to embrace within its scope, a company, society and every artificial judicial person not falling in any of the sub clauses thereto as also any Association of persons or body of individuals regardless incorporated or not. The Hon'ble Supreme Court clearly stated that the concept of sales tax including transfer of property in goods for consideration by seller to purchaser applies on all fours to service tax, as if the doctrine of agency, trust and mutuality is to be applied qua members, clubs, there has to be an activity as already mentioned supra carried out by one person for another for consideration. This is the requirement of law for levy of either sales tax or service tax before the advent of GST and the same continues to be so even under GST regime. Sub clause (f) of clause (84) of section 2 of CGST Act is without any modification or change is materially in para materia with the definition of person as envisaged in



All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

Regd. Office :

215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400 020.

Tel.: 2200 6342 / 43 / 4970 6343

E-mail: aiftpho@gmail.com

Website: www.aiftponline.org

NATIONAL PRESIDENT

Samir Jani
Junagadh

IMM. PAST PRESIDENT

Narayan P. Jain
Kolkata

DY. PRESIDENT

S. Venkataramani
Bengaluru

VICE PRESIDENTS

Vinayak Patkar, Mumbai
M. V. J. K. Kumar, Hyderabad
O. P. Shukla, Varanasi
Sandeep Agarwal, Jaipur
Vivek Agarwal, Kolkata

SECRETARY
GENERAL

Santosh Gupta
Nagpur

TREASURER

Bhaskar B. Patel
Vadodara

section 65 (37) of Finance Act 1994. Accordingly, it was held by the Hon'ble Supreme Court as a conclusion that the expression club or association defined under section 65(25a) and section 65(25aa) would mean that body persons therefore would not within the definition include a body constituted under any law for the time being in force; much more concentration and attention was paid by the Hon'ble Supreme Court to the consideration and interpretation of the provisions of Finance Act 1994 enshrining levy of tax on services and concluded that section 65B(44) namely service by one, to another for consideration does not apply to members, clubs. Different groups of individuals either bunched together in the form of association, society or otherwise as a group of persons who come together with some common object in mind in whichever way it is looked at. What is important is that the expression "body of persons" cannot possibly include within it a bodies corporate, thus following law laid down in Young Men's Indian Association in 1970 (1) SCC 462 upheld the decisions of the High Court and the appeals of the revenue are dismissed quashing all demands towards sales tax / VAT service tax.

6) It is respectfully submitted that there is nothing new that can be stated to have been invented as far as administration of the GST law is concerned to take away the scope and applicability of the doctrine of mutuality in respect of members clubs, professional fraternity members, bar associations or federation by whatever



All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

Regd. Office :

215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400 020.

Tel.: 2200 6342 / 43 / 4970 6343

E-mail: aiftpho@gmail.com

Website: www.aiftponline.org

NATIONAL PRESIDENT

Samir Jani
Junagadh

IMM. PAST PRESIDENT

Narayan P. Jain
Kolkata

DY. PRESIDENT

S. Venkataramani
Bengaluru

VICE PRESIDENTS

Vinayak Patkar, Mumbai
M. V. J. K. Kumar, Hyderabad
O. P. Shukla, Varanasi
Sandeep Agarwal, Jaipur
Vivek Agarwal, Kolkata

SECRETARY
GENERAL

Santosh Gupta
Nagpur

TREASURER

Bhaskar B. Patel
Vadodara

name it is called. Kindly appreciate that the GST law is founded on the first principle that either the supply of goods or services as the case may be by one for another, for consideration with concomitant condition of passing of transfer of property in goods include in a supply or the benefit of services in the process of providing services. In both the cases there shall be two independent contracting separate person to be called supplier as well as recipient. When there is only and normally supplier satisfying both the supply and receipt, there cannot be any assumption that supplier per se is also receipt. The logic coupled with common sense is simple. In our case AIFTA is of members of professional fraternity, for members of professional fraternity, and by members of professional fraternity, like club is of members, for members and by members. The expressions club, association or body is nothing but a group of individuals as members thereto. Therefore, the individual members for their exclusive benefit join together for pursuit of the sole object set out in such formation. Therefore, the combination of individual members, of professional fraternity members or others would not be eligible to GST.

7) It is respectfully submitted that the Federation being a prime National Association of Professional fraternity as and when required in times of necessity contributed to the growth of all branches of law. As already humbly submitted the federation was



All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

Regd. Office :

215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400 020.

Tel.: 2200 6342 / 43 / 4970 6343

E-mail: aiftpho@gmail.com

Website: www.aiftponline.org

NATIONAL PRESIDENT

Samir Jani
Junagadh

IMM. PAST PRESIDENT

Narayan P. Jain
Kolkata

DY. PRESIDENT

S. Venkataramani
Bengaluru

VICE PRESIDENTS

Vinayak Patkar, Mumbai
M. V. J. K. Kumar, Hyderabad
O. P. Shukla, Varanasi
Sandeep Agarwal, Jaipur
Vivek Agarwal, Kolkata

SECRETARY
GENERAL

Santosh Gupta
Nagpur

TREASURER

Bhaskar B. Patel
Vadodara

established for imparting professional education and ameliorating the educational standards, raising of value based principles and ethics amongst its members of professional fraternity. Commercialism, business or trading is not its activity as on converse are strangers. Therefore, there may not be any justification to import the definitions of person from Finance Act 1994 to CGST Act 2017 vide Section 2(84)(f). There is no second person in between the federation and its members and consideration is out of sight. Thus, the infirmities, deficiencies defects or lacunas pointed out by the Hon'ble Supreme Court are not overcome or cured or obliterated. In view of the binding precedent of the Hon'ble Supreme Court in terms of article 141 of the Constitution of India, the association of members or federation of members of professional fraternity like AIFTP or a club members cannot be visited with any liability under the GST Law as the first principle is clearly absent. It is not the intent of AIFTP to question the wisdom of the Parliament to import the provisions of Finance Act 1994 into the GST law in general and section 2(84)(f) vis-à-vis section 7(1)(aa) for charge of GST in terms of section 9.

8) Suffice would it be, if the Hon'ble Chairperson heading the GST Council, a Constitutional authority in terms of article 279A of the Constitution of India as also the Hon'ble Union Minister for Finance are pleased to consider our representation



All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

Regd. Office :
215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400 020.
Tel.: 2200 6342 / 43 / 4970 6343
E-mail: aiftpho@gmail.com
Website: www.aiftponline.org

NATIONAL PRESIDENT

Samir Jani
Junagadh

IMM. PAST PRESIDENT

Narayan P. Jain
Kolkata

DY. PRESIDENT

S. Venkataramani
Bengaluru

VICE PRESIDENTS

Vinayak Patkar, Mumbai
M. V. J. K. Kumar, Hyderabad
O. P. Shukla, Varanasi
Sandeep Agarwal, Jaipur
Vivek Agarwal, Kolkata

SECRETARY
GENERAL

Santosh Gupta
Nagpur

TREASURER

Bhaskar B. Patel
Vadodara

with a pragmatic approach in the interest of spread of legal education in taxation branches of law to the members by admission and conduct of periodical one day / two day National conferences as also regional refreshing courses for being exempt from levy and payment of GST in exercise of the powers under section 11 of the GST Act for which act of kindness we owe a deep debt of gratitude.

Be pleased to consider.

Thanking You

Yours sincerely,

(Samir S Jani)
National President
All India Federation of Tax Practitioners (AIFTP)