

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

Volume 7 – No. 8 • August 2016

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
20-8-2016	National Executive Committee Meeting	Jamshedpur
20, 21-8-2016	Two Day National Tax Conference	Jamshedpur
28-8-2016	Seminar on Taxation	Bhavnagar
15-10-2016	National Executive Committee Meeting	Trivandrum
15, 16-10-2016	Two Day National Tax Conference	Trivandrum
11-11-2016	National Executive Committee Meeting	Pune
11, 12-11-2016	Two Day National Tax Conference	Pune
2, 3, 4-12-2016	19th National Convention	Delhi

**REPORT OF PUBLIC MEETING ON
INCOME DISCLOSURE SCHEME & DISPUTE RESOLUTION
SCHEME 2016 ON 5TH JULY, 2016**

Organised by

THE ALL INDIA FEDERATION OF TAX PRACTITIONERS (WESTERN ZONE)

Jointly with

**Tax Practitioners' Association, Thane, Thane Branch of WIRC of ICAI, Tax Friends, Mumbai,
Rotary Club of Thane Premium, Rotary Club of Thane Downtown, Rotary Club of Thane Lake City,
Rotary Club of Thane Suburban and Rotary Club of Thane East**

By Vijay N. Kewalramani, Hon. Secretary AIFTP (WZ)

The All India Federation of Tax Practitioners (Western Zone) jointly with Tax Practitioners' Association, Thane, Thane Branch of WIRC of ICAI, Tax Friends, Mumbai, Rotary Club of Thane Premium, Rotary Club of Thane Downtown, Rotary Club of Thane Lake City, Rotary Club of Thane Suburban and Rotary Club of Thane East organised a Public Meeting on the two schemes viz. Income Disclosure Scheme 2016 (IDS) and Dispute Resolution Scheme 2016 (DRS) on 5th July, 2016 at Thane.

The programme started with the President of the Tax Practitioners' Association, Thane, Shri Sunil Khushalani Advocate welcoming the Chief Guest, Hon'ble Chief Commissioner of Income Tax, Thane, Shri S. M. Misra, Guest of Honour Shri K. K. Ramani, Advocate, who has also been Chairman of All India Federation of Tax Practitioners (Western Zone), the Speaker Shri N. C. Jain, Chairman of Income Tax Settlement Commission (Retd.), Principal Commissioner of Income Tax-1, Thane, Shri S. K. Gupta, Principal Commissioner of Income Tax-2, Thane, Shri Pramod Kumar and Principal Commissioners of Income Tax-3, Thane Shri Krishna.

The meeting started with a 5 minute video released by the Income Tax Department on IDS and was followed by the Keynote speech of the Chief Guest CCIT, Thane, Shri S. M. Misra, who explained the Government of India initiative in bringing out the IDS as a very assessee friendly scheme, which would be extremely beneficial to

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

Name	Mobile	Tel. (O)	Fax	E-mail
National President – Dr. M. V. K. Moorthy, Adv.	9849004423	040-23228474	23261667	mvkmoorthy59@gmail.com
Deputy President – Smt. Prem Lata Bansal, Sr. Adv.	09811558194	011-23955703	—	plbansal49@gmail.com
Secretary General – Shri M. Srinivasa Rao, TP	09885796999	08812-238898	—	sai9malladi@yahoo.com
Treasurer – CA. S. B. Kabra	09849024732	040-23228854	23228275	ca.sbkbra@gmail.com

those having undisclosed income and / or assets and also stated that the scheme was giving a last opportunity to the citizens to come out clean and also assured the members that there would be full co-operation from the Department and no harassment of honest taxpayers. He further warned of dire consequences, in case any person fails to come out clean and is caught subsequently having income and/or assets over and above his known sources of income. He also stated that the DRS has been brought in to reduce the litigation at the First Appellate level, where there is a huge backlog.

The Guest of Honour Shri K. K. Ramani, Advocate emphasised the need for the public to come out clean and disclose the undisclosed income and / or assets under IDS and live a peaceful life. He also emphasised that DRS shall be very helpful in reducing litigation and thereby clearing the backlog at the First Appellate Stage.

The Speaker on the subject Shri N. C. Jain, Retd. Chairman, Income Tax Settlement Commission, explained the provisions of the Income Disclosure Scheme 2016 (IDS) and Dispute Resolution Scheme 2016 (DRS) to more than 200 citizens who attended the meeting. The Secretary of the AIFTP (WZ) Shri Vijay Kewalramani, who is also the President, Tax Friends, Mumbai, Shri C L Bhanushali, Vice President, Tax Practitioners' Association, Thane, Shri Mahavir Jain, Chairman, Thane Branch of WIRC of ICAI, Shri Sameer Shinde, President Rotary Club of Thane Premium, Shri Manish Bhasien, President of Rotary Club of Thane Lake City, Shri Rajendra Shinde, President of Rotary Club of Thane Downtown, Shri Bhushan Mulye, President of Rotary Club of Thane Suburban and Shri Vashdev Dodeja, President of Rotary Club of Thane East were present along with several members of AIFTP and other associations from Thane.

Thereafter, Principal Commissioner of Income Tax-1, Thane, Shri S. K. Gupta, Principal Commissioner of Income Tax-2, Thane, Shri Pramod Kumar and Principal Commissioner of Income Tax-3, Thane, Shri Shri Krishna jointly with the Speaker Shri N. C. Jain clarified on the issues raised by the Senior Advocates & Chartered Accountants from Thane and also from members of the public and many outstation AIFTP members who attended the programme and participated in the Brains' Trust Session which was moderated by Shri Vijay Kewalramani, Secretary of The Tax Practitioners' Association, Thane.

The meeting ended with a Vote of Thanks by Shri Vijay Kewalramani, Secretary of The Tax Practitioners' Association, Thane.



ACTIVITIES OF CENTRAL ZONE FOR THE MONTH OF JULY, 2016

Felicitation of Chief Commissioner of Income Tax Shri D. D. Goel (IRS) D. G. Rajasthan and programme regarding Income Disclosure Scheme, 2016 of Income Tax conducted by AIFTP (CZ), with Tax Bar Association which was organised by AIFTP (CZ) at Jodhpur in which near about 140 delegates attended the Meeting. The Meeting was chaired by Chairman of AIFTP(CZ) & attended by Chairman, Jodhpur Branch of CIRC of ICAI, Executive member of Tax Bar Association, AIFTP Members & different Associations along with Principal Chief Commissioner of Income Tax, Commissioner of Income Tax, Jt. Commissioner of Income Tax, ACIT of Income Tax and Member of Rajasthan High Court.

News was published in all the newspapers of Rajasthan.

Welcome of on the occasion of elevation of Judge of Rajasthan High Court Shri G. R. Moolchandani and Shri Pankaj Bhandari. Also welcome of Shri Rajeev Choudhary, Judge Judicial Member on first time camping at Jodhpur and elevation of Member Rajasthan Tax Board, Ajmer.

On occasion of opening of e-court of ITAT. Function was attended by Member of AIFTP (CZ) with Tax Bar Association, Jodhpur & ITAT Bar Association, Jodhpur.

Our Zone Conference Chairman Shri P. M. Chopra also visited Ujjain and Ratlam for organising the Conferences in the months of October and December, 2016.

We also welcome Shri Khemraj Choudhary Senior IAS posted as Chairman, Rajasthan Tax Board, Ajmer.

(D. C. Mali)
Chairman(CZ)

(Bhanwar Lal Bissa)
Hon. Secretary

TWO DAY NATIONAL TAX CONFERENCE 2016

Organised by
ALL INDIA FEDERATION OF TAX PRACTITIONERS (EZ)
Jointly with

**JAMSHEDPUR TAXATION BAR ASSOCIATION • JAMSHEDPUR CHARTERED ACCOUNTANTS SOCIETY
JAMSHEDPUR COMMERCIAL TAXES BAR ASSOCIATION**

On 20th & 21st August, 2016
at Michael John Auditorium, Bistupur, Jamshedpur – 831 001.

PROGRAMME

Day One : Saturday – 20-8-2016

- 9:00 A.M. to 10:30 A.M. : Breakfast, Registration
- 11:00 A.M. to 12:30 P.M. : INAUGURAL SESSION –
Hon'ble Mr. Justice R. K. Agarwal, Hon'ble Supreme Court
Hon'ble Mr. Justice Virender Singh, Chief Justice – Jharkhand High Court*
Hon'ble Mr. Justice P. K. Mohanty, Judge, Jharkhand High Court*
(*Confirmation awaited)
- 12:30 P.M. to 01:30 P.M. : Lunch
- 01:30 P.M. to 2:00 P.M. : Panel Discussion with Shri Binod Poddar, Advocate General of Jharkhand
- 2:00 P.M. to 4:00 P.M. : **FIRST TECHNICAL SESSION**
Chairman – Shri S. K. Poddar, Advocate
- | Topics | Speakers |
|---|-----------------------------|
| (1) Search, Seizure under Income-tax Act – 1961 | Shri N. K. Poddar, Advocate |
| (2) Survey under Income-tax Act | Dr. Anita Sumanth, Advocate |
- 4:00 P.M. to 4:15 P.M. : Tea Break
- 4:15 P.M. to 6:15 P.M. : **SECOND TECHNICAL SESSION**
Chairman – Shri P. C. Joshi, Advocate
- | Topics | Speakers |
|---|------------------------------------|
| 1. Real Estate Transactions – Legal, Taxation & Accounting Aspects. | |
| (a) Income Tax | Smt. Premlata Bansal, Sr. Advocate |
| (b) Service Tax | Shri Mukul Gupta, Advocate |
| 2. Salient features under GST | Eminent faculty |
- 6:30 P.M. to 7:30 P.M. : National Executive Committee Meeting
- 7:30 P.M. to 8:45 P.M. : Cultural Programme
- 8:45 P.M. onwards : Dinner

Day Two : Sunday, 21-8-2016

- 8:30 A.M. to 9:30 A.M. : Breakfast
- 9:30 A.M. to 11:30 A.M. : **THIRD TECHNICAL SESSION**
Hon'ble Guest : Hon'ble Mr. Justice D. N. Patel, Judge, Jharkhand High Court
Chairman – Dr. Ashok Saraf, Sr. Advocate
- | Topics | Speakers |
|--|-------------------------------|
| 1. (a) I T C under J VAT Act after recent amendments | Shri Sumit Garodia, Advocate |
| (b) Controversial issues of ITC under VAT Act | Smt. Nikita Badheka, Advocate |
| 2. Problems & Remedies under Service Tax Act | CA. Arun Agarwal |
- 11:45 A.M. to 1:45 P.M. : **FOURTH TECHNICAL SESSION**
Hon'ble Guest : Hon'ble Mr. Justice Ananda Sen, Judge, Jharkhand High Court
Chairman – Dr. M. V. K. Moorthy, Advocate
- | Topic | Speaker |
|---|---------------------------|
| (1) Important amendment made by Finance Act, 2016 | Shri N. P. Jain, Advocate |

- 1:45 P.M. to 2:30 P.M. : Lunch
 2:30 P.M. to 4:00 P.M. : Brains' Trust Session
 Chairman – Shri R. D. Kakra, Advocate
 Trustees – Eminent faculties
 4:00 P.M. to 5:00 P.M. : VALEDICTORY SESSION
 National Anthem
 HIGH TEA

Registration Charges:- ₹ 2,000/- for Members, ₹ 1,000/- for Spouse & ₹ 2,500/- for Corporate.
 DD or Cheque at par in favour of "Jamshedpur Taxation Bar Association" payable at Jamshedpur

For further details, please contact

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 Shri P. S. Sen, General Secretary, Conference Committee, 9204934445, pssen.jsr@gmail.com
 Shri R. D. Kakra, Chairman (EZ), 9831052151, rdkakra@gmail.com
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 Shri Rajesh Mittal, Chairman, Hotel Accommodation, 9431113487, snmital@hotmail.com

RENEWAL SUBSCRIPTION TO AIFTP JOURNAL

Dear Members,

We have posted bill for renewal subscription of AIFTP Journal in first week of April, 2016. Members are requested to send the DD or Cheque at par in favour of "All India Federation of Tax Practitioners" payable at Mumbai as early as possible.

Members can also download the subscription form from our website; i.e. www.aiftponline.org and send us the subscription.

Thanking you,

For All India Federation of Tax Practitioners

CA. S. B. Kabra
Treasurer

Note:

- Members who have not paid the subscription for AIFTP Journal for the year 2016-17 will not receive the AIFTP Journal from July, 2016 onwards.
- Members who required the AIFTP Journal to be couriered separately at their communication address, should add ₹ 300/- per year as courier charges.

Subscription Rates w.e.f. 1-4-2014

1. Life Membership of the AIFTP					₹ 2,500/-*
ID Card Fees					₹ 100/-*
Subscription of AIFTP Journal (for 1 year)					₹ 800/-
Subscription of AIFTP Journal (for 3 years)					₹ 2,100/-
2. For Non-Members					
Subscription of AIFTP Journal (for 1 year)					₹ 1,000/-
Subscription of AIFTP Journal (for 3 years)					₹ 3,000/-
Single copy of the AIFTP Journal					₹ 80/-
3. Corporate Membership					
Nature of fees	Type I (5 Yrs.)	Type II (10 Yrs.)	Type III (15 Yrs.)	Type IV (20 Yrs.)	
Admission	500/-*	500/-*	500/-*	500/-*	
Subscription	5,000/-	7,500/-	11,500/-	15,000/-	
Total	5,500/-	8,000/-	12,000/-	15,500/-	

Note: Members may download the membership form from the website of AIFTP., i.e., www.aiftponline.org

* 15% Service Tax as applicable.

SEMINAR ON TAXATION

Jointly Organized By

**ALL INDIA FEDERATION OF TAX PRACTITIONERS – WESTERN ZONE
ALL GUJARAT FEDERATION OF TAX CONSULTANTS
THE BHAVNAGAR INCOME TAX BAR ASSOCIATION
&
THE BHAVNAGAR SALES TAX BAR ASSOCIATION**

on

28th August, 2016

at

Shiv Shakti Hall, Sir Pattani Road, Crecent, Bhavnagar

SCHEDULE

9.00 a.m. to 10.00 a.m.	Registration and Break fast
10.00 a.m. to 10.30 a.m.	Inaugural Function
10.30 a.m. to 12.15 p.m.	1st Technical Session Subject : Goods and Service tax Chairperson : Smt. Nikita Badheka, Advocate, Mumbai Subject : GST-High Lights Speaker : Shri Bharat L. Sheth, Advocate, Bhavnagar. Subject : Over view of Draft GST law Speaker : CA. Janak Vaghani, Mumbai
12.15 p.m. to 01.15 p.m.	2nd Technical Session Subject : Analysis of Recent Income-tax Amendment, Cases and Circulars of Practical Importance Speaker : Shri Mukeshbhai M. Patel, Advocate, Ahmedabad
01.15 p.m. to 02.30 p.m.	Lunch
02.30 p.m. to 03.30 p.m.	3rd Technical Session Subject : Negative List under Service Tax and Levy of Excise Duty on Jewellery. Speaker : CA. Rashminbhai Vaja, Ahmedabad
03.30 p.m. to 04.30 pm	Brains' Trust
04.30 p.m. to 05.00 p.m.	High Tea

WARM INVITATION FROM

Dr. M. V. K. Moorthy <i>President</i>	M. Srinivasa Rao <i>Secretary General</i>	Chirag S. Parekh <i>Chairman – WZ</i>	Vijay Kawalramani <i>Hon. Secretary– WZ</i>	Bakul Parekh <i>President</i>
All India Federation of Tax Practitioners				All Gujarat Federation of Tax Consultants.

CA Ashwin Patel <i>President</i>	CA Prem Gopalani Adv. Suresh Langalia <i>Secretaries</i>	Mahipal Sinh Rana <i>President</i>	Dipak Jani <i>Secretary</i>
The Bhavnagar Income Tax Bar Association.		Bhavnagar Sales Tax Bar Association.	

Tributes to Late Shri K. J. Chandran

It is a great shock to me on learning about the loss of my dear friend Chandran. Of late he was not well and inactive but used to keep abreast about AIFTP by talking on phone. A very sincere and dedicated person whom I inducted into our fold in 1995. Since then he has actively worked for the expansion of the Federation. First as NEC member, and last as Secretary General. At many of the conferences and seminars he shared his knowledge and experience with the fellow professionals both as a faculty member as well as Chairman of the technical sessions. The entire credit for a successful Convention and the seminars goes to late Shri K. J. Chandran as the President of the Revenue Bar Association. He will always be remembered by one and all who happened to exchange the views on any of the complex problems under Indirect Taxes – Sales Tax. Several landmark judgments from the Madras High Court bore his stamp of deep knowledge and expertise.

May God bestow eternal peace to his Soul and Strength to Mrs. Padma Chandran and his two daughters Jayashree and Priya to bear such an irreparable loss.

— **P. C. Joshi**
Advocate and Past President



I am shocked to learn about the sad sudden and untimely demise of my close friend dear K. J. Chandran, former Secretary General of the Federation. I have been in close contact with him and his wife and daughter since 1995 when I was Vice President. He was highly knowledgeable, soft spoken and lovable person. He was highly respected in Tamil Nadu. He spread Federation and organised Tax Conferences in Chennai. His passing away at an early age is a big loss. I pray Lord Mahaveera to confer peace to the departed soul and give strength to his wife, daughter, other members of the family, friends, relatives and members of the Federation strength to bear the irreparable loss. My wife Mrs. Urmila Ranka joins me in extending her heartfelt condolences.

— **N. M. Ranka**
Senior Advocate and Past President



A TRIBUTE – A SIMPLE PERSON WITH HIGH THINKING – A ROLE MODEL OF TAX PROFESSION

Late Shri K. J. Chandran was a simple person who followed the ethics and values of the profession. He was a legal luminary, an institution in his own right and above all a noble human being. He was the one of the guiding spirit of our association.

I had the great fortune of interacting with him and I got to know his personal qualities and his love for his professional brothers. His ever smiling face was an inspiration and will be remembered by all the members of the Federation.

Late Shri K. J. Chandran will be remembered as a role model of tax profession.

I Pray the almighty to give strength to his bereaved family to bear this irreparable loss.

May his Soul rest in peace.

— **Dr. K. Shivaram**
Senior Advocate and Past President

Date : 28th July, 2016



It's a great shock for all of us to learn about the sad and sudden demise of Shri K. J. Chandran, Past Secretary General of AIFTP who has been associated with us since long.

Personally, I came in his contact in connection with the Seminars organised by Madras Chamber of Commerce and Industry (MCCI) at Chennai.

My visit to Chennai was never complete unless I had long sitting with Shri K. J. Chandran along with my wife.

He was extremely nice gentleman, quite updated with the Sales Tax and VAT Laws of the country, on which the Seminar was organised by MCCI at Chennai.

Apart from him, I was regular faculty member in the Seminar of MCCI in which he actively participated, who was a great friend indeed.

I pray to God to give sufficient strength to his bereaved family to bear this irreparable loss, especially to his wife and other family members.

May his Soul rest in peace!

— **Bharat Ji Agrawal**
Senior Advocate and Past President



I was saddened to know that Mr. K. J. Chandran has gone on his heavenly abode on 4th July, 2016. He was a very learned, sober & simple man and having in-depth knowledge particularly of tax laws. I had the opportunity of meeting him several times personally. He spread the message of Federation in the State of Tamil Nadu and organised Conferences/Seminars in the past at Chennai. He will always be remembered for his services rendered to the Federation when he was the Secretary General of the Federation during the tenure of 2008 & 2009. We will cherish his memory when he organised a grand function on the occasion of completing his 50 years of practice. He was a man who will be remembered by the tax fraternity for years together.

In this critical hour of grief, I convey my heartfelt condolences and pray to Almighty to grant peace to the departed soul and strength & courage to the bereaved family to bear this irreparable loss.

— **M. L. Patodi**
Advocate and Past President



We have lost a very dedicated and devoted worker of AIFTP and our great friend in the sad demise of Adv. K. J. Chandran.

He was our Secretary General for 2 years although he had in full devoted himself to work for the development of the organisation in South Zone especially and for the country in general. His tenure as Secretary General with Past President Late Shri V. Ramachandran was a period of success which is remembered and shall be followed by all of us.

He shall always be remembered for his ever smiling face and soft nature, working hard for the organisation without getting tired.

We pray to almighty to give strength to his family to bear with the irreparable loss and we pray for the eternal peace of the departed soul.

Let us pledge to follow his guidance and dream to make our organisation great.

— **S. K. Poddar**
Advocate and Past President



It was a great shock for all of us that Respected Shri K. J. Chandran has left us for his heavenly abode. This irreparable loss has created vacuum in the sphere of Tax Professionals as he was very much supportive to the tax professionals and the guidance and support extended by him is an enduring truth.

At this juncture, we pray before the Almighty God to give strength to members of the bereaved family to bear this irreparable loss and also give eternal peace to the departed Soul.

May his Soul rest in eternal peace.

— **J. D. Nankani**
Advocate and Imm. Past President



We, the All India Federation of Tax Practitioners, Mumbai through its National President, office bearers and members of National Executive Committee convey our deep, heartfelt, sincere and respectful condolences on the sad and most sorrowful demise of Adv. K. J. Chandran who has been its great stalwart member, served the institution with all devotion, dedication, sincerity and honesty from the beginning as a disciplined, faithful and loyal activist on 4th July 2016 at Chennai.

We are of the firm view that the sad demise of former Secretary General of the Federation has created a vacuum, which is incapable of being filled in, as our beloved K. J. Chandran as popularly called and known as K. J. in AIFTP family has been a faithful companion to the former National President Sr. Adv. V. Ramachandran. With his experience, skill, dispute resolution mind and above all friendly relation with one and all, late. K. J. Chandran had in times of necessity rendered wonderful and ever memorable services to sort out any kind of differences and settle the scores amicably to the satisfaction of one and all. He has been guide and philosopher to the younger generation members of the Federation as well as to the members of the Bar at large.

It is a matter of great praise coupled with satisfaction that there may not be a member in the Federation to whom K. J. Chandran is unknown. A man of great calibre with a sense of responsibility and accountability, K. J. has always been on the forefront to share any kind of responsibility in the service of the Federation. Though the demise of K. J. Chandran is an irreparable and irreconcilable loss to his family, nevertheless the Federation in all sincerity feels that it has lost a great, dedicated activist as well as a very good calibre leader.

We take this occasion to place on record with fullest appreciation and praise of the ever memorable services of our proud and dedicated leader for the information, knowledge to be a classic example to the generations to come. We also sincerely convey our moral support and solidarity to the members of the bereaved family and at the same time pray the Almighty to rest the departed soul in peace and shower His blessings for amalgamation of the departed soul with the Almighty.

— **Dr. M. V. K. Moorthy**
National President



Deeply grieved by the sudden demise of the past Secretary General of our Federation Shri K. J. Chandran who had been the pillar of the Federation. His vision and farsightedness was unparalleled. His sudden demise has brought a great vacuum in the Federation. It is not only a loss to the family but an irreparable loss to the Federation as well.

May the departed soul rest in eternal peace. I pray almighty to give strength to the bereaved family.

— **Prem Lata Bansal**
Deputy President



In the passing away of Shri K. J. Chandran, Senior Advocate, I lost a personal friend and guide. Equally AIFTP lost a long time active member and former office bearer.

Until a couple of years back when due to mobility issues he could not travel Shri K. J. Chandran never missed a programme of AIFTP in any part of India, which he attended accompanied by his wife Mrs. Padma, actively participating in the proceedings. He developed close friendship with several members of AIFTP throughout India.

For us in Chennai Shri K. J. Chandran was the driving force behind National Tax Conferences/Seminars organised by AIFTP in Chennai. The participation of a large number of delegates from all over India in such Seminars was in no small measure due to Shri K. J. Chandran's personal contacts and friendship with AIFTP members throughout India.

As an eminent lawyer practising Sales Tax he nurtured a number of junior Advocates. A stickler for punctuality he infused that virtue in others; he was soft but plain spoken, whether in Court or in various social and cultural organisations he was associated with. Shri K. J. Chandran was a keen Rotarian.

May the departed Soul rest in peace.

— **T. N. Seetharaman**
Advocate, Chennai



Hearty Congratulations

Hearty Congratulations to the newly elected office bearers of Bombay Chartered Accountants' Society, Mumbai for the period 2016-17.

President : CA. Chetan M. Shah
Vice President : CA. Narayan Pasari
Hon. Jt. Secretaries : CA. Sunil B. Gabhawalla & CA Suhas S. Paranjpe
Treasurer : CA. Manish P Sampat

We wish them all the success

Hearty Congratulations to the newly elected office bearers of The Chamber of Tax Consultants, Mumbai for the period 2016-17.

President : CA. Hitesh R. Shah
Vice President : Shri Ajay Singh, Advocate
Hon. Jt. Secretaries : CA. Hinesh R. Doshi and CA. Haresh P. Kenia
Treasurer : CA. Parag S. Ved

We wish them all the success

Hearty Congratulations to the newly elected office bearers of The Malad Chamber of Tax Consultants, Mumbai for the period 2016-17.

President : Shri Jayprakash M. Tiwari
Vice President : Shri Adarsh S, Parekh
Hon. Jt. Secretaries : Shri Swapnil G. Modi and Shri Amit D. Kothari
Treasurer : Shri Vipul M. Somaiya

We wish them all the success

Hearty Congratulations to the newly elected office bearers of The Sales Tax Practitioners' Association of Maharashtra for the period 2016-17.

President : Dr. Shashank S. Dhond
Vice President : Shri Pranav P. Kapadia
Hon. Jt. Secretaries : Shri Dinesh M. Tambde and Shri Raj P. Shah
Hon. Treasurer : Shri Pradip R. Kapadia

We wish them all the success

Hearty Congratulations to the newly elected office bearers of Income Tax & Sales Tax Bar Association, Chandigarh for the term 2016-17.

President : Shri Ajay Gupta
Senior Vice-President : Shri Adarshvir Singh
Vice-Presidents : Shri Suresh K. Bhuria and Shri Atul Gupta
General Secretary : Shri Abhay Sharma
Secretary : Shri Ishan Malhotra
Joint Secretary : Shri Chetan Jain
Finance Secretary : Shri Ashutosh Vaid

We wish them all the success.

DIRECT TAXES

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

Unreported Decisions

1. S.132: Search and seizure – In absence of incriminating/fresh material AO is not authorised to disturb the findings of the earlier year (r.w.ss. 22 and 28)

During the search and seizure action u/s. 132 at the residential/business premises of the Group and the assessee was also covered by the same action. AO observed that the assessee was engaged in letting out flats for licence fee under Leave and Licence Agreement, which the licence fee received was composite, no bifurcation was given for rent charged for the building and that charged for furniture and fixture. He held that the income received by her should be assessed as 'business income'. AO held that the leave and licence income had to be brought to be taxed under the head Income from House Property, that the depreciation claimed on the said flats had to be disallowed.

The Hon'ble ITAT held that no incriminating material was found during the course of search and seizure proceedings that could lead to the conclusion that income assessed under the head Business Income could be assessed under the head Income from House Property. In absence of incriminating/fresh material AO is not authorised to disturb the findings of the earlier year if on the date of search assessments of earlier years have been completed. A different stand can be taken by AO about the tax liability of an assessee during the subsequent years only if he establishes that facts for that particular year were distinguishable from the facts of the earlier years. In absence of a categorical finding about the distinguishing fact the AO cannot take a new stand.

ACIT vs. Ms. Shibani S. Bhojwani ITA/7365/Mum/2014, dated 22-7-2016 (Mum.)(Trib.)

2. S.147: Reopening on same issue was decided u/s. 154 is not justified

The assessment completed on 27-9-2007. Notice issued u/s. 154 dated 23-6-2009 for rectification of mistake along with details of mistake namely TDS not deducted on transport charges u/s. 194C. In the order passed u/s. 154 dated 10-11-2009 the AO disallowed ₹ 14,73,759/- for not complying with the provision of section 194C. The CIT(A) allowed the appeal of assessee. On 9-2-2012 the AO issued a notice u/s.148 seeking to reopen the case on the very same issue which was subject matter of appeal before CIT(A). Notice u/s.148 dated 9-2-2012 on the reason recorded on the same issue relating to which earlier proceeding u/s. 154. The Hon'ble ITAT held that once again initiating the proceeding u/s. 147 on the very

same issue is not justified more so when the earlier rectification proceeding had merged with the CIT(A) order. Reopening not valid as very same issue has already been decided by the CIT(A) u/s. 154.

M/s. Swastik Trading Co. v. ITO, ITA No. 2883/Mum/2015 dated 20-7-2016 (Mum.)(Trib.)

3. S.234C: On the relevant dates assessee was not in a position to estimate receipt of income, levy of interest u/s. 234C is not proper

The dispute is that while processing return u/s. 143(1) interest u/s. 234C was levied on account of shortfall in payment of advance tax on first and second instalments, due on 15-9-2011 and 15-12-2011, in respect of gift claimed to have been received on 17-12-2011. On such deferment in payment of instalments, interest was charged u/s. 234C. Such levy has also been affirmed by CIT(A).

Gift received on 17-12-2011 was in the nature of a windfall gain and, therefore, it was not possible for the assessee to estimate accrual or receipt of such income at any time when the payment for first and second instalments were due on 15-9-2011 and 15-12-2011. The ITAT had held that, the liability to pay advance tax enshrined under the Act is based on the principle of 'pay as you earn', the assessee has been charged interest u/s. 234C on the ground that the requisite instalments were not paid on the specified dates of 15-9-2011 and 15-12-2011. The income in question is by way of gifts received by the assessee after the date of instalments due. Assessee could not have anticipated the receipt or accrual of such income before the event, and such event has taken place after the due dates of instalments. An assessee could not be defaulted for a duty, which was impossible to be performed, therefore levy of interest u/s. 234C in a situation where on the relevant dates assessee was not in a position to estimate receipt of such income is not justified.

Kumari Kumar Advani v. ACIT, ITA No. 7661/Mum/2013, dated ../7/2016 (Mum)(Trib.)

4. S.263 : Revision of Order – A. O. passed order by making proper enquiries and taking a plausible view, the same cannot be termed as erroneous prejudicial to the interests of the Revenue

CIT revised the assessment order u/s. 263 with the observations that "the source of cash deposits not verified" and "assessee has acquired immovable property for a consideration jointly with his wife. The source of investment of 50% share of wife and the

investment by the assessee during the financial year relevant not verified". In reference to notice u/s. 263 made submission. Considering the submission the ITAT held that, during original assessment A. O. has taken up the case of the assessee for scrutiny upon receipt of AIR information about the cash deposits made into the bank account of the assessee as well as the properties purchased by him. The A. O. has asked specific queries with regard to the abovesaid items. The assessee, has furnished his replies. A perusal of the same shows that

the assessee has explained the details and sources for purchase of properties as well as the opening balance of cash. The assessee has given proper explanations to the Assessing Officer with regard to the queries. Therefore, the order could not be termed as erroneous, when the Assessing Officer has passed the same by making proper enquiries and taking a plausible view of the matter.

Manojkumar Shreeprakash Gupta v. CIT, ITA No. 3341/ Mum/2014 dated 20-7-2016 (Mum.)(Trib.)

INDIRECT TAXES

CA. Janak Vaghani

1. Exemption u/s. 6(2) – Subsequent Inter-State Sale – Effect of Furnishing Form E-1

Section 6(2) of the Act provides that no subsequent sale shall be exempt from tax unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner and within the prescribed time or extended time a certificate duly filled in and signed by the registered dealer from whom the goods were purchased containing prescribed particulars.

The sale of any goods during movement of goods inter-State has to be proved by furnishing a certificate in the prescribed Form i.e. E-1 or E-2. Therefore, once a certificate in Form E-1 has brought on record and it was not disputed, the sale would enure to the benefit of the dealer u/s. 6(2) of the Act.

(Commissioner of Sales Tax v. Kanpur Engineering Stores, 2016 NTN (Vol. 60) – 382 (All.), Sales / Trade Tax Revision No – 102 of 2016, dated 6th April, 2016).

2. Penalty for Late Deposit of Assessed Tax-Due to Postal Delay – Not Justified

The deposit of tax with interest was made six days late due to postal delay for which department levied penalty for late payment of tax. Since the entire amount was paid with interest and demand draft was drawn before the due date for payment, the SC deleted the penalty.

(Shell India Market Pvt. Ltd. v. Commissioner of Commercial Tax, 2016 NTN (Vol. 60) 383 SC, Sales / Trade Tax Revision No. 99 of 2016, dated 1st April, 2016).

3. Works Contract – Rate of Composition

Under the Kerala VAT Act, the rate of Composition 5% is applicable to works contract awarded by the Government of Kerala. Kerala Water Authority or Local Authority. The Contract awarded by the Kerala State Construction Corporation Ltd., a wholly owned Government Company cannot be equated with the Government for Kerala for the purpose of the concessional 5% rate of composition. Hence rate of composition would be 7%.

(Nizamuddin v. Deputy Commissioner & Ors., (2016) 24 KTR 161 (Ker.), WP (C) No 30537 of 2015, dated 8th October, 2015).

4. Overriding Effect of SEZ Act

Section 22 of the Gujarat SEZ Act was enacted giving overriding effect. Having done so, without making any matching provision in the VAT Act, the overriding effect given to the provisions made in the SEZ Act by virtue of section 22 of the SEZ Act cannot be whittled down. If the VAT Act and in particular sections 5A and 9(5) also had a similar *non-obstante* clause, it would become a matter of legal scrutiny as to which one of the two *non-obstante* clauses would prevail. This is not in the VAT Act. The demand raised for levy of purchase tax u/s. 9(5) of The Gujarat VAT Act on purchase of capital goods and fuels used in generation energy in areas situated in SEZ was held as invalid and impermissible.

(Torrent Energy Ltd. v. State of Gujarat & Ors., (2016) 24 KTR 163 (Guj), SPL Civil Application No. 14856 of 2010 with SPL Civil Application No. 711 of 2014, dated 16th April, 2014).

5. Constitutional Validity – Provision Enabling Confiscation of Goods to Prevent Tax Evasion – Valid

Section 49 of the Kerala Act enabling confiscation of goods is essentially for the purpose of ensuring that there is no activity of smuggling and thereby on attempted evasion of tax, that is due under the KVAT Act, in respect of notified goods, is in the nature of a machinery provision under the legislation that is intended to levy a tax on sale or purchase of goods. The provisions are constitutionally valid.

(New Amal Plywood v. Intelligence Officer & Ors., (2016) 24 KTR 179 (Ker.), W. P. (C) No 30117 of 2010 (2), dated 28th November, 2014).

6. Entry Tax- “Mediker” – Drug and Not Shampoo – Not Liable

“Mediker” which is used for anti-lice treatment is a drug because of its medicinal effect. Once it is a drug, it cannot be a shampoo. As a natural corollary, it will not invite the liability of levy of entry tax being not covered by any Schedule.

(State of Madhya Pradesh v. Marico Industries Ltd., 2016 (7) TMI 1057 – SC No.- Civil Appeal No. 8656 of 2015 (@ S.L.P. (C) No. 21106 of 2014), dated 22nd July, 2016).

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

Printed by Kotecha Mitesh Ashwin Published by Kotecha Mitesh Ashwin on behalf of All India Federation of Tax Practitioners (name of owner) and Printed at Finesse Graphics & Prints Pvt. Ltd., 309, Parvati Industrial Premises, Sun Mill Compound, Lower Parel, Mumbai – 400 013. (name of the printing press with address) and published at All India Federation of Tax Practitioners, 215 Rewa Chambers, 31, New Marine Lines, Mumbai – 400 020 (full address of the place of publication). Editor: Vanjara Kishor Dwarkadas.

To

Posted at Mumbai Patrika Channel Sorting Office
Mumbai – 400 001.

Date of Publishing : 1st of every month.

Date of Posting : 3rd & 4th August, 2016

If undelivered, please return to :



ALL INDIA FEDERATION OF TAX PRACTITIONERS

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