

All India Federation of Tax Practitioners



AIFTP TIMES

Volume 8 – No. 8 • August 2017

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
2nd September, 2017	National Executive Committee Meeting	Kolkata
2nd September, 2017	Annual General Meeting	Kolkata
2nd & 3rd September, 2017	Two Day National Tax Conference	Kolkata

Notice of Annual General Meeting

Notice is hereby given that the Annual General Meeting of the All India Federation of Tax Practitioners will be held on Saturday, the 2nd September, 2017 at 7.30 p.m. at The Park Hotel, 17, Park Street, Kolkata – 700 016 to transact the following business:

A G E N D A

- To read and approve the minutes of last Annual General Meeting held on September 24, 2016 at Mumbai.
- To consider and adopt the Report of the National Executive Committee of AIFTP for the year 2017.
- To consider and adopt the Audited Accounts of AIFTP for the year ended 31st March, 2017.
- To appoint Auditors for the year 2017-18 and to fix their honorarium.
- To transact any other business that may be raised with the permission of the Chair.

Place : New Delhi
Date : July 28th, 2017

Sd/-
Sanjay Sharma
Secretary General

Note:

- The Annual Report and the Audited Profit and Loss Account and Balance Sheet will be circulated to the Members by e-mail.
- Accounts for the year ended 31st March, 2017 and the report of the National Executive Committee can be collected from the office of the Federation from August 28, 2017 onwards between 11.30 a.m. and 5.00 p.m. The accounts and reports can be made available to the members through email on request to the office.
- If there is no quorum by 7.30 p.m., the meeting will be adjourned by half an hour and the members present at such adjourned meeting shall form the quorum.

Activity Report of Central Zone for the Month of July 2017

- Representation submitted to the State Commissioner Shri Alok Gupta for extension of Amnesty Scheme for old demand of VAT and Luxury Tax.
- On joining of Shri V. Srinivasa Rao as Chairman, Rajasthan Tax Board, Ajmer, we sent welcome on behalf of All India Federation of Tax Practitioners (CZ) and Marudhara Tax Bar Association (Western Rajasthan).
- We also welcomed Shri K. R. Meena for joining as Chief Commissioner, Income Tax Department, Jaipur.
- We also welcomed Shri K. R. Meghwal for joining as Principal Commissioner of Income Tax Department, Jodhpur.
- We also welcomed Shri P. S. Mehra who previously was the Principal Finance Secretary, now appointed as Chairman, Chief Election Commission to the Government of Rajasthan for five years.

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

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Secretary General – Shri Sanjay Sharma, Adv.	9810071545	011-45539955	45539955	adv_sanjay_31@yahoo.co.in
Treasurer – Shri Vipul B. Joshi, Adv.	9820045569	022-66333736	22080951	vipulbjoshi@gmail.com

- We also welcomed Shri D. B. Gupta on his joining as Principal (Finance) Secretary, Government of Rajasthan, Jaipur.
- We have organised Tax Seminar on GST and Income Tax on 22-7-2017 at Jodhpur jointly with AIFTP (CZ), ITAT Bar and Marudhara Tax Bar Association (Western Rajasthan) and Rajasthan Steel Re-Rollers Association. Chief Guest of the function was Mr. Ganesh Purohit, Deputy President, AIFTP and Special Guest was Past President Mr. M. L. Patodi and Guest of Honour was Mr. Alok Gupta, Commissioner, Central Excise. In this Conference, 150 delegates have taken participation. Speaker on this Seminar were Ms. Prerna Chopra Advocate Delhi Reina Legal, CA Akshay Kumar Jain Jaipur, CA Janak Vaghani Mumbai, CA Rajesh Mehta Indore, Dr. S. L. Jain Jaipur. One of the sessions was chaired by Mr. Ganesh Purohit, Deputy President. Brain Trust Session was chaired by Past President Mr. M. L. Patodi. CA Mr. Janak Vaghani Mumbai was the key-speaker on GST. In the Conference, welcome address was delivered by Mr. D. C. Mali Chairman CZ and Mr. P. M. Chopra, Conference Chairman CZ welcomed the delegates and emphasised on the activities of Association from last one year and future programme of the Association shall be at Bhopal and Bikaner. Vote of thanks was given by Mr. Ashok Jangid.
- From AIFTP we have also joined in the programme of 157 years Income Tax Day on 24th July, 2017 in which AIFTP was one of the Dais Share Participants with 25 members of Federation & Conference Chairman Mr. P. M. Chopra.

Hearty Congratulations

Hearty Congratulations to the newly elected office bearers of Bombay Chartered Accountants' Society for the period 2017-18.

President	CA. Narayan R. Pasari
Vice-President	CA. Sunil B. Gabhawalla
Hon. Joint Secretary	CA. Manish Sampat
Hon. Joint Secretary	CA. Abhay R. Mehta
Treasurer	CA. Suhas S. Paranjpe

We wish them all the success.

Hearty Congratulations to the newly elected office bearers of The Goods and Services Tax Practitioners Association of Maharashtra for the period 2017-18.

President	CA. Pranav P. Kapadia
Vice-President	CA. Pradip R. Kapadia
Hon. Joint Secretary	Shri Raj P. Shah, Tax Consultant
Hon. Joint Secretary	CA. Aalok K. Mehta
Treasurer	Shri Dinesh M. Tambde, Advocate

We wish them all the success.

Hearty Congratulations to the newly elected office bearers of The Chamber of Tax Consultants for the period 2017-18.

President	Shri Ajay R. Singh, Advocate
Vice-President	CA. Hinesh R. Doshi
Hon. Joint Secretary	CA. Ketan L. Vajani
Hon. Joint Secretary	CA. Nishtha Pandya
Treasurer	CA. Parag Ved

We wish them all the success.

Hearty Congratulations to the newly elected office bearers of The Malad Chamber of Tax Consultants for the period 2017-18.

President	CA. Vipul M. Somaiya
Vice-President	CA Vaibhav Seth
Hon. Joint Secretary	Shri Darshan Shah, Tax Consultant
Hon. Joint Secretary	Shri Nimish Mehta, Company Secretary
Treasurer	CA. Viresh B. Shah

We wish them all the success.

National Tax Conference at Kolkata

Saturday, 2nd September, 2017 & Sunday, 3rd September, 2017

at

“The Park Hotel” 17, Park Street, Kolkata – 700 016

Organised by

ALL INDIA FEDERATION OF TAX PRACTITIONERS (EASTERN ZONE)

Supported by

ALL TAX BAR ASSOCIATION OF WEST BENGAL

PROGRAMME SCHEDULE

Saturday, 2nd September, 2017

08.30 AM to 09.30 AM	Registration & Breakfast
09.30 AM to 10.30 AM	Inaugural Session Inauguration by : Hon'ble Justice Mr. Adarsh Kumar Goel, Supreme Court of India
	Chief Guest : Hon'ble Mr. G. D. Agarwal, President, ITAT*
	Guest of Honour : Shri K. L. Maheshwari, Pr. Chief Commissioner of Income Tax West Bengal & Sikkim
10.30 AM to 11.00 AM	Tea Break
11.00 AM to 01.30 PM	1st Technical Session Chairman : Hon'ble Mr. Justice Adarsh Kumar Goel (SC) Co-Chairman : Shri P. C. Joshi, Advocate, Mumbai Supply – the new object of Taxation Speaker : Shri Shailesh Sheth, Advocate, Mumbai Input Credit – New Issues & Challenges Speaker : CA. S. Venkataramani, Bengaluru GST Composition Scheme – A Sanjeevani to small traders Speaker : Shri Sandip Goyal, Advocate, Chandigarh
1.30 PM to 02.15 PM	Lunch Break
02.15 PM to 04.15 PM	2nd Technical Session Chairman : Shri N. M. Ranka, Senior Advocate, Jaipur Survey, Search & Seizure & Implications of GAAR Speakers : Shri N. K. Poddar, Senior Advocate, Kolkata Shri Mahendra Gargeiya, Advocate, Jaipur*
04.15 PM to 04.30 PM	Break
04.30 PM to 05.30 PM	3rd Technical Session Chairman : Shri S. K. Poddar, Advocate, Ranchi New Restrictions on Cash Transactions & Implications of Changes made by the Finance Act, 2017 Speakers : Shri Narayan Prasad Jain, Advocate, Kolkata CA. Vipin Garg, Delhi
05.30 PM to 06.00 PM	High Tea
06.00 PM to 07.30 PM	NEC Meeting at Hotel “The Park” (For NEC Members Only)
07.30 PM onwards	Annual General Meetig of AIFTP followed Dinner at Hotel “The Park” Beside Conference Venue

Sunday, 3rd September, 2017

09.00 AM to 09.30 AM	Breakfast & Tea with Cookies
09.30 AM to 11.30 AM	4th Technical Session Chairman : Dr. Ashok Saraf, Sr. Advocate, Guwahati IGST & Place of Supply Speaker : Shri Mukul Gupta, Advocate, Ghaziabad Work Contract in GST Speaker : Smt. Nikita Badheka, Advocate, Mumbai
11.30 AM to 11.45 AM	Break

11.45 AM to 01.45 PM	5th Technical Session Chairperson : Hon'ble Dr. Justice Anita Sumanth, Judge, Madras High Court Taxation of Real Estate Transactions (Income Tax & GST) Speakers : Shri K. Sampath, Advocate, New Delhi (I. Tax) CA. Arun Agarwal, Kolkata (GST)
01.45 PM to 02.30 PM	Lunch Break
02.30 PM to 03.30 PM	Practical Problems on GST Panellists : Shri Shailesh Seth, Advocate, Mumbai Shri Ganesh Purohit, Sr. Advocate, Jabalpur Shri Mukul Gupta, Advocate, Ghaziabad Moderator : Shri P. C. Joshi, Advocate, Mumbai
03.30 PM to 05.00 PM	Brains' Trust & Valedictory Session Chairman : Shri N. M. Ranka, Senior Advocate, Jaipur, Past National President, AIFTP Co.Chairman : Ms. Prem Lata Bansal, Sr. Advocate and National President, AIFTP Members : Shri P. C. Joshi, Advocate, Mumbai Dr. M. V. K. Moorthy, Advocate, Hyderabad Shri S. R. Wadhwa, Advocate, Delhi Shri R. D. Kakra, Advocate, Kolkata Shri K. L. Goyal, Sr. Advocate, Chandigarh
05.00 PM to 05.30 PM	High Tea

*Confirmation Awaited

Delegate Fees (Early Bird Discount @ 10%) Last Date : 15-8-2017

For Members ₹ 3,000/- (Delegate Fee – ₹ 500/- Food & Kit Charges – ₹ 2,500/-)

For Accompanying Spouse ₹ 2,500/- (Towards Food)

For Non-Members ₹ 3,500/- (Delegate Fee – ₹ 1,000/- Food & Kit Charges – ₹ 2,500/-)

Outstation Delegates are requested to e-mail their travel plan & accommodation details OR assistance if any required to aiftpkolkata@gmail.com / rdkakra@gmail.com

Cheque (at par)/Draft Payable "All India Federation of Tax Practitioners (EZ)", Kolkata

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Mr. Ganesh Purohit, Dy. President
Dr. Ashok Saraf, Vice-President
Mr. Sanjay Sharma, Secretary General,
Mr. Dilip Kumar Agarwal, Jt. Secretary
Mr. Vipul B. Joshi, Treasurer

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Mr. Ramesh Kumar Dhal, Hon. Jt. Secretary
Mr. Bishnu Kumar Loharuka, Hon. Treasurer

DIRECT TAXES

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

Tribunal Unreported Decisions

1. S.2(14) : Capital asset – Sale of agricultural land – Surplus money arising out of on sale of agricultural land would partake character of agricultural income itself

Assessee along with his wife had acres of agricultural land which was cultivated with rubber and was having Rubber Board registration. Assessee claimed that, sale proceeds of agricultural land were not capital asset as per s. 2(14). The AO noticed that, sale proceeds of agricultural land and as per sale deed specified amount was very less and that amount could be give credit, the AO gave credit for agricultural income declared in return of income and balance of amount was brought to tax as unexplained deposit under head 'Income from other sources. The CIT(A) held that, amount deposited in bank account was sale proceeds of agricultural land and was not liable to be taxed as 'Income from other sources'.

The Hon'ble ITAT held that there was nothing on record to suggest that assessee along with his wife were in position to generate unaccounted income other than on-money on account of sale of agricultural land. Therefore, ITAT held that any surplus money arising out of sale of agricultural land would partake character of agricultural income itself. (AY 2013-14)

ITO v. Abraham Varghese Charuvil ITA No. 30/Coch/2017 dt. 26-4-2017(Kochi)(Trib) Source : itat.nic.in

2. S.272A(2)(K) : Penalty – Delay in filing e-TDS return within stipulated time – Reasonable cause for delayed in terms of s. 273B – Penalty not justified

AO imposed penalty u/s.272A(2)(K) holding that assessee had delayed in filing quarterly e-TDS return within stipulated time. CIT(A) upheld penalty and observed that delay was not of one or two days but there was delay of 1024 days, hence, it revealed wilful attempt for non-compliance of statutory provisions.

The Hon'ble ITAT held that penalty levied u/s 272A(2) (K) which talked about failure to deliver copy of statement within time as mentioned in s.200(3) or proviso to s. 206C(3). Delay in filing of quarterly e-TDS returns which was covered under provisions of s. 272A(2)(C). In this case, AO was not clear about basis of charge, levy of penalty could not be sustained as there was no loss to Revenue which caused due to delay in filing of e-TDS returns which

was totally unintentional done by the assessee. As there was change effected in IT system for mandatory requirement of PANs of all deductees before validated and uploaded. And therefore there was a reasonable cause for delayed filing of its e-TDS returns as per section 273B. Penalty cannot be sustained. (r.w.s. 273B) (AY. 2011-12)

Argus Golden Trades India Ltd. v. Jt. CIT ITA No. 522/JP/16, dt. 24/05/2017 (JP)(Trib.) Source : itat.nic.in

3. S.115JB : Declared all particulars of computation – Assessment framed u/s. 115JB – AO was not empowered to take contrary view to review entire assessment order already framed

The assessee is running a hospital under the name and style of Mukut Hospital and Heart Institute at Chandigarh. The assessee filed return declaring total income of ₹ NIL, calculated tax u/s. 115JB and shown tax liability as NIL. The case was selected for scrutiny. The AO disallowed some expenses and computed the total income after reducing unabsorbed depreciation and assessed income at NIL *vide* order u/s. 143(3) dt. 25-11-2008.

Further on perusal of computation sheet the AO noted that assessee shown book profit at ₹ 48,84,807/- for the relevant year. While finalizing the return u/s. 115JB the assessee has shown ₹ 9,25,932/- as brought forward business loss set off and ₹ 59,51,104/- as brought forward depreciation set off. Thus, for the purpose of computation u/s.115JB, an amount of ₹ 9,25,932/- was to be reduced from the book profit of ₹ 48,84,807/-. The assessee has reduced an amount of ₹ 59,51,104/- from the book profit as a result it reduced the MAT at ₹ 9,43,492/- and has not paid any tax u/s. 115JB. The AO therefore held that it is a mistake apparent on record and issued notice u/s.154. The AO considered the submission of the assessee and passed the order u/s.154 and further raised demand of ₹ 5,14,727/-. CIT(A) upheld the decision of the AO.

The Hon'ble ITAT held that, when assessee has declared all particulars regarding computation and assessment was framed u/s. 115JB. And while finalising the assessment u/s. 143(3) the AO has consciously took a view and made certain additions. Therefore, AO is not empowered to take once again a contrary view to review entire assessment order already framed u/s. 143(3). It is against the spirit of provision of s. 154 and AO cannot be allowed to pass impugned order u/s.154 on debatable issue.

City Clinic Pvt. Ltd. v. ACIT ITA No. 112/Chd/2017, 2-6-2017 (Chd)(Trib.) Source : itat.nic.in

4. S.254(2) : Time limit to rectify the ITAT order within “six months” from the “date of order passed” and not the “date of receipt of order”

The assessee filed a Miscellaneous Application against the order passed by the Hon’ble ITAT on 21-6-2016 and received by the assessee on 5-7-2017.

In MA recalling proceedings, the Hon’ble ITAT has observed that, order pronounced on 21-6-2016 in open court and the time limit starts from the month in which the order was passed. Further highlighted as amendment in section 254(2) by Finance Act, 2016, states the ITAT *suo motu* rectify its mistake or enable parties to the order to seek rectification within the period of limitation i.e. “six months from the end of the month in which the order was passed”. As

in this case the order was pronounced and passed on 21-6-2016 and from the end of the month, period of limitation expired on 31-12-2016. The legislature referred to order “passed” and therefore the assessee is not eligible to have benefit of period of limitation, reckoned from the “date of receipt of the order”. Further held that the date of uploading the order, anything which is uploaded in public domain can be accessed by the public at large and even assessee have access to the order and such date is always be treated as “service of the order”. Therefore, the Miscellaneous Application filed by the assessee is beyond the period of limitation.

Srinivas Sashidhar Changanty v. ITO, M.A. No.5/ Hyd./2017 dt. 12-7-2017 (Hyd.)(Trib.) Source : itatonline.org.

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**Book Review of
IN AND AROUND TAX TRACK
written by
S. RAJARATNAM**

(Published by Universal Law publications)

Hearty congratulations to Mr. S Rajaratnam for having come out with this book. It is really remarkable how he has conquered the world of taxes and attained high proficiency in his journey so far. Through this book of his, the author has unravelled his life’s history and has penned down his autobiography with his experiences, vast and varied.

This book is really helpful to people who are willing to learn about the fewer known facts of life in the legal arena. The author himself has learnt a lot from the experience of others and here he is sharing his, which will help others learn a lot. The author has seen life from different perspectives i.e. before and after independence and also in different parts of the country. Hence, he has a lot to share about his life, about his journey, where he came from a small family living in a village, about success, about hope and hard work. His book leaves a great impact on people, apart from sharing his experience and spreading knowledge, his words are extremely inspirational. When people are inspired by something, it keeps them going for a long time. It builds up the confidence in an individual as one has something or someone to look up to and the desire to achieve great things in life.

This book will stand as an inspiration for many tax professionals and others in the years to come.

Editorial Board

Hearty Congratulations

Hearty Congratulations to the newly elected office bearers of WIRC of ICAI for the period 2017-18.

Chairman	CA Vishnu Agarwal
Vice-Chairman	CA Sarvesh Joshi
Secretary	CA Aniket Talati
Treasurer	CA Pradeep Agrawal

We wish them all the success.

IMPORTANT CASE LAWS IN SERVICE TAX, CENTRAL EXCISE

S. S. Satyanarayana, *Tax Practitioner*, Hyderabad.

Central Excise

The appellants are engaged in the manufacture of excisable goods like Aluminium metal, etc. They were also registered with the Service Tax Department. The dispute in the present case relates to the transaction between the appellant and a Chinese Institute – Chinese Engineering Institute (GAMI). In terms of the agreement with the GAMI, the appellant is to receive technology transfer and engineering services with reference to aluminium smelter and anode plant of the appellant. The contract consisted of supply of basic engineering design, engineering services and training for the plant of the appellant. The Department has proposed to levy service tax on import of engineering designs, drawings. Held : Drawings and designs are tangible movable articles and they are liable to be treated as goods under provisions of the Customs Act, 1962. Designs and drawings which were imported and assessed as “goods”, cannot be subjected to Service Tax.

[Bharat Aluminium Company Ltd. v. CCE, Raipur – TOG-971-CESTAT-DEL-2017].

The appellants are manufacturers of Paper based decorative laminates, Formaldehyde, Post form particle Board, Post form MDF Board, Synthetic resin adhesive, BOPP in lump form, impregnated paper and furniture. It appeared to Revenue that installation charges collected by the appellant either through separate invoices or by raising debit notes are eligible to be included in the assessable value for computation of Central Excise Duty on goods manufactured by the appellant. Held : After manufacturing of goods, charges collected for installation at the customer’s premises is not includible in the assessable value.

[Merino Industries Ltd. v. CCE, Meerut-II – 2017(6) TMI 466 – CESTAT, Allahabad]

The Superintendent (Anti Evasion) conducted search upon assessee and seized some of documents and thereafter collected five undated cheques from it towards differential duty liability. Whether in absence of any provision of law in Central Excise Act or Rules made thereunder or any notification or circular that permitted officers who visited assessee’s business premises to collect undated cheques? Held : Collection of cheques was undoubtedly prejudicial to assessee and was harmful to public interest and it was anarchy unleashed by holders of public office.

[Digipro Import & Export (P.) Ltd. v. Union of India - [2017] 82 taxmann.com 206 (Delhi)]

Service Tax

The petitioner is a charitable trust registered under section 12AA of the Income-tax Act, 1961. A show cause notice was issued to the petitioner, demanding service tax on various services, such as, steam bath, sauna/infrared bath, foot and arm bath, whirlpool bath, circular jet, mud packs, vibro massages, physiotherapy, exercises, yoga, meditation, colon therapy, etc. provided by the petitioner. Held: An institution claiming the benefit of exemption under Serial No. 4 of the exemption notification should establish two things, viz., (a) that it is an entity registered under section 12AA of the Income-tax Act, 1961; and (b) that their activities fall within one or more of the activities indicated in Para-2(k) of the exemption notification. Naturopathy services for various types of ailments fall under purview of exemption Notification No. 25/2012 under section 66B of the Finance Act, 1994.

[Manthena Satyanarana Raju Charitable Trust v. Union of India – [2017] 82 taxmann.com 128 (Andhra Pradesh)].

□

Advertisement Tariff for AIFTP Journal (W.e.f. 15th July, 2013)

	Particulars	Per Insertion
1.	Quarter page	₹ 1,500/-
2.	Ordinary half page	₹ 2,500/-
3.	Ordinary full page	₹ 5,000/-
4.	Third cover page	₹ 7,500/-
5.	Fourth cover page	₹ 10,000/-
There shall be Discounts on bulk advertisements.		

Membership of AIFTP as on 31-7-2017 Life Members

	Associate	Individual	Association	Corporate	Total
Central	0	928	24	3	955
Eastern	4	1332	36	3	1375
Northern	0	1062	17	0	1079
Southern	1	1147	19	8	1175
Western	4	2245	37	18	2304
Total	9	6714	133	32	6888

◀ AIFTP Times • August, 2017 ▶

Publications for sale

Sr. No.	Name of Publication	Edition	Rate (₹)		
			Members	Non-Members	Courier Charges
1.	AIFTP – Of Milestone and Beyond – History Book	Nov., 2016	400.00	450.00	80.00
2.	“212 Frequently Asked Questions on Survey – Direct Taxes”	Dec., 2015	240.00	270.00	60.00

- Notes: 1. The above publications are available for sale; those who desire to buy may contact the office of the Federation.
2. Local/Outstation members not collecting from office are requested to add courier charges, as mentioned above.
3. Please draw Cheque/Draft in favour of “All India Federation of Tax Practitioners” payable at Mumbai.

Publications from AIFTP Western Zone for sale

Sr. No.	Name of Publication	Edition	Rates (₹)		
			Members	Non-Members	Courier Charges
1.	Limited Liability Partnership simplified through – Frequently Asked Questions	Nov., 2016	200.00	225.00	60.00
2.	Levy of Penalty u/s. 271(1)(c) – Some Important Issues	Nov., 2016	200.00	225.00	60.00

- Notes: 1. The above publications are available for sale; those who desire to buy may contact the office of the Federation.
2. Local/Outstation members not collecting from office are requested to add courier charges, as mentioned above.
3. Please draw Cheque/Draft in favour of “All India Federation of Tax Practitioners – Western Zone” payable at Mumbai.

DISCLAIMER

The opinions and views expressed in this Times are those of the contributors. The Federation does not necessarily concur with the opinions/views expressed in this journal.

Non-receipt of the Times must be notified within one month from the date of publication, which is 4th of every month.

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

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