

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

ESTD. 11th NOVEMBER 1976

Volume 9 – No. 8 • August 2018

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
11-8-2018	National Executive Committee Meeting (NZ)	Amritsar
11, 12-8-2018	National Tax Conference (NZ)	Amritsar
8, 9-9-2018	Justice Dr. B. P. Saraf National Moot Court Competition (EZ)	Kolkata
8, 9-9-2018	Two Day Conference (NZ)	Haridwar
6-10-2018	National Executive Committee Meeting (WZ)	Thane
6, 7-10-2018	National Tax Conference (WZ)	Thane
24, 25-11-2018	Two Day Conference (NZ)	Allahabad
21-12-2018	National Executive Committee Meeting (EZ)	Guwahati
22, 23-12-2018	21st National Tax Convention, 2018 (EZ)	Guwahati

Comments from Members

- ☞ So nice to hear, I am member of so many association, but first time I have received message and phone call from your association. Good!. – CA. Hemant N. Patel, Mumbai
- ☞ Good initiative started from AIFTP. – CA. Deepakkumar A. Joshi, Mumbai
- ☞ Thanks for personal call. Appreciated. – CA. Shailesh K. Monani, Mumbai
- ☞ Thank you very much for your greeting. Its wonderful. – Shri Somu Krishna Murthy, Adv., Vijaywada
- ☞ Very very happy to receive call from Federation and was shocked to receive sms from AIFTP and remembering every single members. Thank you so much. – Shri Deoki Nandan Saha, TP, Jamshedpur.
- ☞ Thank you, so kind of you for your wishes. – CA. Hardik P. Shah, Surat.

Announcements**SAARTHI****21st NATIONAL CONVENTION 2018***Organized by***All India Federation of Tax Practitioners (EZ)**

on 22nd & 23rd December, 2018 at GMCH Auditorium, Guwahati

Theme**Globalisation and Changes in Tax Laws – Role and Responsibilities of Tax Professionals in Nation Building**For further details, please visit website i.e. www.aiftpgyconvention2018.com**FOR ANY QUERIES MEMBERS MAY CONTACT ANY OF THE FOLLOWING OFFICE BEARERS**

Name	Mobile	Tel. (O)	Fax	E-mail
National President – Shri Ganesh Purohit, Sr. Adv.	9425154914	0761-2660402	4003074	purohitganesh@gmail.com
Deputy President – Dr. Ashok Saraf, Sr. Adv.	9864020679	0361-2529532	2460041	drashoksaraf@gmail.com
Secretary General – Shri Pankaj Ghiya, Adv.	9829013626	0141-2621679	2621679	pankajghiyajipur@gmail.com
Treasurer – Shri Vipul B. Joshi, Adv.	9820045569	022-66333736	22080951	vipulbjoshi@gmail.com

Activity Report of AIFTP (CZ) for the month of July 2018

S. No.	Event	Details	Date	Place	No. of Participants	Other Remarks
1.	Seminar					
2.	Felicitation					<ol style="list-style-type: none"> 1. Welcome of Mr. R. C. Sharma, Accountant Member on Touring Bench at Jodhpur on 16th July. 2. On the superannuation of Mr. G. K. Vyas and Mr. R. S. Jhala, Judge, Rajasthan High Court, felicitation function was attended by Shri P. M. Chopra, Shri Prahalad Singh Bhati, Mr. D. C. Mali, Mr. K. K. Bissa, Mr. Ashok Jangid, Mr. S. K. Asopa and Mr. Hari Shankar Tak on behalf of All India Federation (Central Zone). and It was joint function by Rajasthan High Court Advocates' Association and Rajasthan High Court Lawyers' Association. 3. We have felicitated newly elected members of Bar Council of Rajasthan with garlanding. On this occasion Mr. P. M. Chopra, Mr. D. C. Mali, Mr. K. K. Bissa, Mr. Ranjit Joshi, Mr. Kuldeep Mathur and Mr. H. S. Tak and Advocates of various Associations were present.
3.	Representation					<ol style="list-style-type: none"> 1. Representation submitted for Mismatch to the State GST Commissioner of Rajasthan and same has been extended up to 30th September. 2. Representation has been submitted for extension of June quarterly VAT Return to the State Commissioner, which has been extended upto 31st August. 3. Representation was also sent to the Finance Minister of Government of Madhya Pradesh, Chhattisgarh and Rajasthan for introducing the Amnesty Scheme. 4. Representation was also submitted to Chairman, Central Board of Direct Taxes and Finance Minister for extending date of TDS return up to 7th August and date of unaudited Income Tax Return up to 31st August, 2018. 5. Representation also submitted to GST Council as well as Alok Gupta, Commissioner for the problems of Secondary Migration. Same has been considered by the GST Council on 21st July. 6. We have also submitted a representation for waiving the late fees and also requested for reducing late fees maximum ₹ 1000/- for the small dealers whose tax liability comes NIL. We have also sent representation for exemption of labour contract from GST. We are very thankful to GST council.
4.	New Members					4 New Members from Rajasthan, Chhattisgarh and Madhya Pradesh were added.
5.	Future Programme					In the months of August and September, we are organizing as follows:- <ol style="list-style-type: none"> 1. Bikaner:- Half day seminar on GST, Income Tax and new form of 3CD 2. Jaisalmer & Barmer:
6.	Others					For Amritsar 15 Registration and Thane Conference 10 Registration has been sent from Central Zone. For Guwahati convention more than 15 persons have sent their registration. We are also expecting more registration.
7.	Visit					
8.	Obituary				Expired on 25th July 18	Young CA Pramod Agarwal from Jaipur has expired. We have sent Obituary message on behalf of All India Federation.

(P. M. Chopra)
Vice President

(Devendra Kansara)
Secretary

(Rajesh Mehta)
Chairman

(Ashok Jangid)
Treasurer

(Sudheer Bhansali)
Vice Chairman

National Tax Conference

Organised by

ALL INDIA FEDERATION OF TAX PRACTITIONERS (WZ)

Jointly with

TAX PRACTITIONERS' ASSOCIATION, THANE

GOODS AND SERVICES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA, MUMBAI

TAX FRIENDS, THANE

on Saturday, 6th October, 2018 and Sunday, 7th October, 2018

at Hotel Satkar Residency, Pokhran Road No. 1, Next to Cadbury, Opp. Singhania School, Thane (West) – 400 606

Theme : DISHA – The Way Forward

PROGRAMME

Day 1 : 6th October, 2018 (9.00 a.m. to 5.30 p.m.)

Registration & Breakfast
Inaugural Session Hon'ble Mr. Justice A. S. Oka, Judge, Bombay High Court
First Technical Session – Income Tax – Issues in Section 56(2) - Recent Developments in Taxation of specified Receipt u/s. 56(2) including Gifts, Share Capital, Forefeiture and Termination and S. Valuation u/s. 50CA Speaker : CA. Pradip Kapasi, Mumbai
Second Technical Session – GST – Intricate Issues of Valuation (Other than relating to Real Estate) Chairman : Shri Vikram Nankani, Sr. Advocate, Mumbai Speaker : CA. S. Venkataramani, Bengaluru
Third Technical Session – GST – Audit of Accounts and Reconciliation with Books Chairman : CA. Ashok Chandak, Nagpur Speaker : CA. Rajat Talati, Mumbai
NEC Meeting to be held from 6.00 p.m. to 7.30 p.m. (same venue)
Day 2 : 7th October, 2018 (8.30 a.m. to 6.00 p.m.)
Registration & Breakfast
Fourth Technical Session – Impact of GST and Issues under GST on Real Estate Transactions Chairman : Dr. Ashok Saraf, Sr. Advocate, Guwahati Speaker : Shri Kuntal Parekh, Advocate, Ahmedabad
Fifth Technical Session – Penalties and Prosecutions under the Income-tax Act, 1961 Chairman : Shri N. M. Ranka, Sr. Advocate, Jaipur Speaker : Shri V. P. Gupta, Advocate, New Delhi
Sixth Technical Session – RERA – Transformation and Balancing of Rights and Obligations Chairman : Shri K. K. Ramani, Advocate, Mumbai Speaker : CA. Ashwin Shah, Thane
Panel Discussion – GST Moderator : To be finalised Panellists : Shri P. C. Joshi, Advocate, Mumbai; CA. Parind Mehta, Mumbai
Panel Discussion – Income Tax Moderator : To be finalised Panellists : CA. Pinakin Desai, Mumbai; Dr. K. Shivaram, Sr. Advocate, Mumbai
Valedictory and Vote of Thanks

Registration fee:

	Up to 4th August, 2018	Up to 31st August, 2018	After 31st August, 2018
Members	₹ 3,250/- per head	₹ 3,750/- per head	₹ 4,500/- per head
Spouse	₹ 3,000/- per head	₹ 3,500/- per head	₹ 4,250/- per head
Non members	₹ 4,000/-	₹ 4,500/-	₹ 5,250/-

There will be 2 lucky draws in every session

For registration please contact
 ntcthane2018@gmail.com / +91 22 25372532
 AIFTP Office : +91 22 22006342

Bank details for sending registration is :

TAX PRACTITIONERS ASSOCIATION, THANE
 TJSB BANK, Panch Pakhadi, Thane
 Savings Account
 A/C NO. 008110100007709
 IFSC CODE NO. TJSB0000008

***Hotel Room* charges at Hotel Satkar Residency excluding GST
 (50% Advance to be remitted directly to hotel with intimation to NTC email)**

Double Occupancy ₹ 5,200/- + GST 18%
 Single Occupancy ₹ 4,250/- + GST 18%
 Suite ₹ 11,200/- + GST 28%

NEFT details are as under:

NAME OF BANK ACCOUNT:	HOTEL SATKAR RESIDENCY
CORPORATE ADDRESS:	Pokhran Road No.1, Next to Cadbury Co., Opp. J. K. Singhanian High School, Thane (W).
BANK NAME:	HDFC Bank Ltd.
BANK ADDRESS:	Shop No. 1-6, Devdaya Park, Opp. Raymonds Ltd. Gate, Pokhran Rd. No.1, Vartak Nagar, Mumbai – 400 606
BANK BRANCH:	Vartak Nagar, Thane
BANK A/C NO.	04882560000360
ACCOUNT TYPE:	Current Account
NEFT / IFSC CODE.	HDFC0000488
SWIFT CODE:	HDFCINBB
MICR CODE	400240069
BRANCH CODE	0488

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

Hotel Satkar Residency
 +91 22 25985858
 banquet@satkarresidency.in

For any further enquiries relating to NTC, please contact

ntcthane2018@gmail.com

Mr. Ganesh Purohit, National President, AIFTP, 9425154914
 Mr. Pankaj Ghiya, Secretary General, AIFTP, 9829013626
 Mr. Deepak R. Shah, Chairman, AIFTP (WZ), 9820148536
 Mr. Salil Lodha, Hon. Secretary, AIFTP (WZ), 9820149302
 Mr. Pranav Kapadia, GSTPAM, 9821332460
 Mr. Pradip Kapadia, GSTPAM, 9821029082
 AIFTP Office Mr. Ravi 022 22006342 / 49706343

Mr. Bharat Sachdev, Conference Secretary, 9820232910
 Mr. C.L. Bhanushali, TPA, Thane, 9821296400
 Mr. Kamlesh Saboo, TPA, Thane, 9819195333
 Mr. Parag Chitnis, TPA, Thane, 9987032650
 Mr. Girish Rathi, TPA, Thane, 9867617989
 Mr. Hari Dudani, Hon. Secretary, Tax Friends, 8007777257

Mr. Vijay Kewalramani, Conference Chairman, 9820073165

Haridwar Tax Conference

Organised by

ALL INDIA FEDERATION OF TAX PRACTITIONERS – NORTH ZONE

In Association With

HARIDWAR TAX BAR ASSOCIATION, HARIDWAR

at

Gardenia Hotel Spa & Resorts, Plot No. 1, Sec. 11, SIDCUL Haridwar, (Uttarakhand)

on

8th September, 2018

THEME: Role of Tax Fraternity under G.S.T. & Income Tax in 2018

PROGRAMME

Saturday, 8th September 2018

8.30 am to 10.00 am	Registration
10.00 am to 10.30 am	Inaugural Session Chief Guest : Hon'ble Mr. Justice J. K. Ranka (Retd.), Rajasthan High Court
10:30 am to 01:30 pm	1st Technical Session – Panel Discussion on a) Search & Seizure under GST Law b) ITC – Restriction including Cautions c) Penalties Under G.S.T. Guest of Honour : Hon'ble Mr. Justice J. K. Ranka (Retd.), Rajasthan High Court Chairman : Mr. Narendra Sharma, Advocate, Kanpur Panelists : Mr. Vikram Chawla, Advocate, Saharanpur Mr. Jyoti Raj, Advocate, Roorkee Mr. D. K. Gandhi, Advocate, Ghaziabad Mr. V. K. Shukla, Former Member, Tribunal Commercial Tax, Noida (Questions & Answers by the panellists during discussion)
01.30 pm to 02.30 pm	Lunch Break
2.30 pm to 4.30 pm	2nd Technical Session – Panel Discussion on a) E-Filing of Returns – Notice u/s. 139(9) & Assessment u/s. 143(1)(a) b) Restrictions on Cash Transactions under various provisions of The Income-tax Act 1961 c) Disallowances of Expenses Chairperson : Mrs. Prem Lata Bansal Advocate, New Delhi Panellists : CA. Rajesh Mehta, Indore : CA. A. K. Srivastava New Delhi : Mr. Manoj Singh Advocate, Saharanpur (Questions & Answers by the panellists during discussion)
04.30 pm to 05.00 pm	High Tea
05.00 pm to 07.00 pm	GANGA AARTI
Delegate Fees For Delegates	: ₹ 1,200/- (Members & Non-Members)
Bank Details	: Bank Name : Canara Bank, Haridwar A/c Name: Haridwar Tax Conference A/c Number : 5494201000106 IFSC : CNRB0005494 Email ID: haridwartaxconference2018@gmail.com

For Further Details & Registration Please Contact :

Sanjay Kumar Advocate Chairman - AIFTP(NZ) 9415216798	Vikas Sharma Advocate Conference Chairman 9837100639	Pankaj Mani Sharma Advocate Conference Secretary 9719062405	Nitin Kumar Advocate Coordinator 9837828790	Raj Kumar Advocate Coordinator 7906782761	Jamuna Shukla FCA Secretary - AIFTP(NZ) 9450361366
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NOTE : We are also facilitating

- 1) GANGA AARTI on Saturday, 8th September 2018 and shall leave the venue of Conference at 5.00 pm for Har Ki Pauri.
- 2) Rishikesh visit and local sight seeing on Sunday, 9th September 2018.

National Tax Conference, Amritsar

AMRIT

Supported by

ALL INDIA FEDERATION OF TAX PRACTITIONERS - NORTH ZONE

In Association With

GST Practitioners Association, Amritsar District Tax Bar Association, Amritsar

at

Hotel MK, Ranjit Avenue, Amritsar

on 11th – 12th August, 2018

THEME: Better Policies for Better Taxation

Programme

Saturday, 11th August, 2018

- 08.30 am to 10.00 am Breakfast, Registration & Fellowship
- 10.00 am to 11.30 am **Inaugural Session**
- Chief Guest Hon'ble Mr. Justice A. K. Sikri, Judge, Supreme Court
- Guest of Honour Hon'ble Mr. Justice Krishna Murari, Chief Justice, Punjab and Haryana High Court
- Hon'ble Mr. Justice A. K. Mittal, Justice, Punjab and Haryana High Court
- Hon'ble Mr. Justice Surya Kant, Judge, Punjab and Haryana High Court
- 11.30 am to 12.00 Noon High Tea
- 12.00 Noon to 02.00 pm **1st Technical Session**
- Income Tax – Reassessment u/s. 148 / Benami Law & Section 115BBE**
- Chief Guest Hon'ble Mr. Justice A. K. Mittal, Justice, Punjab and Haryana High Court
- Chairman Shri Ganesh Purohit, Senior Advocate, Jabalpur and National President, AIFTP
- Expert Panel Shri Firoze B. Andhyarujina, Senior Advocate, Mumbai
- Shri Puneet Rai, Advocate, Delhi
- CA. Vipin Garg, Ghaziabad
- 02:00 pm to 03:00 pm Lunch Break
- 03:00 pm to 04:45 pm **2nd Technical Session**
- GST – E-WAY Bill : Provisions and Controversies**
- Chief Guest Hon'ble Mr. Justice Rajesh Bindal, Judge, Punjab & Haryana High Court
- Chairman Dr. Ashok Saraf, Senior Advocate, Guwahati and Deputy President, AIFTP
- Expert Panel CA. S. Venkatramani, Bangalore
- CA. H. L. Madan, New Delhi
- Shri Sandeep Goyal, Advocate, Chandigarh
- 04:45 pm to 05:30 pm High Tea
- 05.30 pm to 06.30 pm National Executive Committee Meeting (for NEC Members only)
- 08.00 pm onwards Musical Evening followed Dinner

Sunday, 12th August, 2018

- 08.00 am to 09.00 am Breakfast
- 09.00 am to 11.00 am **3rd Technical Session**
- GST – Input Tax Credit – Issues & Controversies**
- Chief Guest Hon'ble Mr. Justice Avneesh Jhingan, Judge, Punjab & Haryana High Court
- Chairperson Smt. Prem Lata Bansal, Senior Advocate, New Delhi and IPP, AIFTP
- Expert Panel Shri H. C. Bhatia, Advocate, Delhi
- Shri Pankaj Ghiya, Advocate, Jaipur
- Shri Jagmohan Bansal, Advocate, Chandigarh

11:00 am to 12:30 pm **4th Technical Session**

GST

Chairman Shri Mukul Gupta, Advocate, Ghaziabad

Works Contract under GST – A Perspective

Keynote Speaker: CA. Bimal Jain, New Delhi

Opportunities & Challenges for Tax Professionals in new regime

Panellists Shri Sanjay Sharma, Advocate, New Delhi

Shri Varinder Sharma, Advocate, Ludhiana

Moderator Shri Karan Rattan, Advocate, Chandigarh

12.30 pm to 01.30 pm **Valedictory Session**

Views and Visions – AIFTP

Chief Guest Hon'ble Justice A. N. Jindal (Retd.), Punjab and Haryana High Court

Distinguished Guests Shri P. C. Joshi, Advocate, Mumbai, Past President, AIFTP

Shri J. D. Nankani, Advocate, Mumbai, Past President, AIFTP

Shri Sanjay Kumar, Advocate, Allahabad, Chairman, AIFTP (NZ)

CA. Jamuna Shukla, Varanasi, Secretary, AIFTP (NZ)

01:30 pm to 02.30 pm Lunch

02.30 pm to 04.00 pm **Brains' Trust – Current Issues related to VAT and GST Acts**

Chairman Shri K. L. Goyal, Senior Advocate, Chandigarh

Co-Chairmen Shri P. N. Arora, Advocate, Amritsar

CA. Madan Bhasin, New Delhi

Panellist From Available Experts at the time of conference

(Questions & Answers by the panellists during discussion)

4:00 pm

Tea

For further details & registration, please contact

Shi Ganesh Purohit <i>National President</i>	Shri V. P. Gupta <i>Vice President (NZ)</i>	Shri Pankaj Ghiya <i>Secretary General</i>	Shri Sanjay Kumar <i>Chairman, AIFTP (NZ)</i>	Ms. Jamuna Shukla <i>Hon. Secretary, AIFTP (NZ)</i>
Dr. Naveen Rattan <i>Conference Chairman</i> 9417311987 rattanadvocates@gmail.com	Sandeep Goyal <i>Convenor</i> 9814208142 sandeepgoyal@sgalaw.in	Varinder Sharma <i>Convenor</i> 9814008080 varinder_adv@yahoo.com	Ranjit Sharma <i>Convenor</i> 9914089227 sharma.rkad724@gmail.com	Amrik Singh Malhotra <i>Convenor</i> 9814102513 advasbs_1313@hotmail.com

Delegate Fees : For Members & Non-Members: ₹ 3,300/-

Conference e-mail : ntcamritsar2018@gmail.com

Bank Name : Punjab National Bank

Bank Branch: Putlighar, Amritsar

A/c Name: National Tax Conference

A/c Number: 0026002145036232; IFSC: PUNB0002600

Hotel Details

Name of Hotel	Star Category	Location	Charges (Per Day)	Distance from venue of Conference
M. K. Hotels	****	Ranjit Avenue (Conference Venue)	Single : ₹ 3,000 Double: ₹ 4,000 Suite: ₹ 8,000	0 KM
Best Western	****	Ranjit Avenue, Amritsar	₹ 4,000 app.	0.2 KM
Country Inn	***	Mall Road, Amritsar	₹ 2,500 app.	2 KM
Comfort Inn Alstonia	****	Ranjit Avenue, Amritsar	₹ 2,500 app.	1 KM

Note: 1. Please book your hotel immediately so as to avoid inconvenience; 2. Hotel Booking and registration charges are non-refundable.

Direct Taxes

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

Tribunal

Unreported Decision

S.28 : Rent received by builder not house property income, same is allowed to be claimed in work-in-progress (r.w.s. 22)

The AO observed that the assessee had received rent income which was credited to the construction account. The AO observed that no construction / development activities were shown, therefore the rent income needs to be taxed under the head "Income from House Property". The CIT(A) also confirmed the view taken by the AO.

The Hon'ble Tribunal observed that the assessee's business is the development of the property and for the same property getting vacated the sums paid were being debited to the work-in-progress which was accepted by the AO. Pending vacation, the rent receipt from the tenants was not treated under the head work in progress. Rental income received was towards tenancy charges received from tenants in the course of business of the assessee, as a builder and developer, these incomes and expenses being incidental to the business, therefore transferred to in-progress. The rent received is inextricably linked with the business of the assessee, i.e., development of the property. "Hence, the rent received cannot be treated as income from house property and the assessee's treatment of crediting the same towards work-in-progress is correct".

M/s. Sun Enterprise v. ITO, ITA No.4987/Mum/2014 dt.16/07/2018 (Mum)(Trib.) Source : www.itat.nic.

S.36(1)(vii) : Loss of security deposit towards rented premises deductible as business loss

The assessee Company obtained land on lease for business purpose, against same the Company paid advance rent to the landlord. Due to a major fire break out in the rented premises, the assessee had to leave the same. As the company was not utilising the premises due to the fire and due to the dispute between the landlord regarding the payment of rent. The advance rent given to landlord could not be recovered from the landlord. Since the premises were destroyed in the fire and the assessee had to vacate the said premises, the assessee was left with no choice but to write off the said security deposit. The AO while taking support of the provisions of s. 36(2) of the Act, came to the conclusion that the assessee does not satisfy the mandate provided and, therefore, the claim of the assessee was denied.

The Hon'ble Tribunal observed that the assessee claimed to write off as bad debt but it is equally true that the assessee did explain the sequence of events which prompted it for the said write off, there is no denying that the assessee does not fulfil the conditions mandated in S.36(2) r.w.s 36(1) (vii) but it is equally true that the loss of security deposit is business loss in the revenue field because the said security deposit was given in the ordinary course of business of the assessee and since the assessee had to shift the business premises in the wake of the fire, the write off became imminent because the landlord declined to refund the security deposit. Therefore, the write off considered in the light of provisions of S. 28 r.w.s 37 of the Act. By observing the same, the Hon'ble ITAT held that the loss of security deposit paid to landlord towards rented premises is deductible as 'Business Loss' under the Income-tax Act, 1961.

M/s. Outworks Solutions [P] Ltd. v. JCIT, ITA No.4234/Mum/2015 dt.12/07/2018 (Del)(Trib.) Source : www.itat.nic

S.273B: Financial Crisis is a 'Reasonable Cause' for delayed deposit of TDS, entitled for immunity from the levy of penalty u/s. 272A(2)(k)

The assessee deducted tax at source by the assessee was not paid to the credit of the Central Government within the prescribed period. The department treated the assessee as an 'Assessee-in-default' on the ground that there was a delay of 543 days in depositing the TDS amount to the Government Exchequer. The CIT (A) also noted that had the assessee committed the default of only late filing, it could have been held to be a mere technical breach but since the tax was not also deposited within the prescribed period.

The Hon'ble ITAT observed that assessee was in severe financial crisis and, therefore, the TDS could not be deposited in time. Severe financial crisis is a reasonable cause which was prevented the assessee from depositing the TDS within the prescribed time period, the explanation offered by the assessee is constituted a 'reasonable cause' within the meaning of S.273B and therefore assessee entitled to immunity from the levy of penalty u/s. 272A(2)(k).

JCL Infra Ltd. v. Addl. CIT, ITA No. 784 -785/Del/2015 dt.28/06/2018 (Del)(Trib.) source : www.itat.nic.



Service Tax Case Laws

S. S. Satyanarayana, Tax Practitioner

1. Pre-deposit under Service Tax

The issue is requirement of Additional pre-deposit on second appeal u/s. 35F of the Central Excise Act, 1944. Whether as per Section 35F of the CEA 1944, the petitioner-assessee on filing of second appeal before the CESTAT is required to make an additional pre-deposit of 10% of the duty/penalty in dispute, over and above 7.5% pre-deposit made for filing of first appeal before the Commissioner (Appeals)? The petitioner contends that they are required to make pre-deposit of the balance 2.5%, of the duty and penalty, i.e., difference between 10% as mandated for filing of second appeal before the Tribunal and 7.5% as mandated for filing of first appeal before the Commissioner (Appeals). **Held :** It is directed that the petitioner on filing second appeal before the Tribunal are required to deposit 10% of the amount of duty/ penalty as confirmed by the first appellate authority inclusive of 7.5% pre-deposit made for the first appeal. 10% would not be in addition to and over and above 7.5% of pre deposit made for the first appeal.

[*Santani Sales Organisation v. CCE, Delhi - 2018 (6) TMI 249 – Delhi High Court*]

2. Transportation Charges

Assessee was involved in loading/unloading of timber logs into truck/trailer and transport of same to nearby location of importer. It was issuing consignment note for these transportations and discharging service tax liability under the category of 'goods transport agency services'. Adjudicating Authority held that services provided by assessee would fall under category of 'cargo handling service'. **Held :** Transportation of goods after their loading into trucks couldn't be classified as 'Cargo handling services'.

(CBEC Circular No. 104/7/2008-ST, dated 6-8-2008 and CBEC Clarification dated 5-10-2015)

[*Swayam Shipping Services (P) Ltd. v. CCE, Rajkot - [2018] 93 taxmann.com 259 (Ahmedabad – CESTAT)*]

3. Service or sale

The appellant is engaged in the business of providing food to various airlines along with the responsibility of packing and handling of food loading and transportation of food trolleys, storage and handling of dry stores, cleaning of equipment and laundry services. The appellant was handing over all food to the airlines staff and the appellant was paying Service Tax on the consideration of the said services. On sale of packed food to the airlines VAT was already discharged by the appellant. The invoice of the appellant is showing sale of food separately from the charges of other services rendered in addition to supply food. *Vide* show cause notice dated 16th December, 2008, the Revenue has asked the appellant to include the cost of food supplied by him to the airlines, in the value of the said services for the purpose of paying the tax. The said show cause notice had been adjudicated against the appellant. Apparently, appellant is not serving the said food on board hence as far as supply of food is concerned property therein stands transferred the moment it is loaded on the aircraft trolley. **Held :** Since the appellant was simply supplying the food and was not serving the same to the passengers on board, it was specifically a sale of goods, Appellant has already discharged the VAT liability thereof. The same cannot be the outdoor catering services. Demand set aside.

[*EIHA v. CST, Delhi - 2018 (6) TMI 1365 - CESTAT New Delhi*]



Indirect Taxes

CA Janak Vaghani

Interpretation- Exemption Clause – Strict Interpretation

Every taxing statute including, charging, computation and exemption clause (at the threshold stage) should be interpreted strictly. Further, in case of ambiguity in a charging provisions, the benefit must necessarily go in favour of subject/assessee, but the same is not true for an exemption notification wherein the benefit of ambiguity must be strictly interpreted in favour of the Revenue/State.

The question whether a subject falls in the notification or in the exemption clause, has to be strictly construed. When once the ambiguity or doubt is resolved by interpreting the applicability of exemption clause strictly, the Court may construe the notification by giving full play bestowing wider and liberal construction.

The burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification. When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject.

[*Source: Commissioner of Customs (Import), Mumbai. v. M/S. Dilip Kumar And Company, Civil Appeal No. 3327 of 2007, dated 30th July, 2018, (SC)*]

List of New Members admitted in National Executive Committee Meeting held on 5-5-2018 at Indore

Sr. No.	Name of Members	Profession	Zone
1	Bishwaraj Agarwal	Adv.	East
2	Shekhar Patra	Adv.	East
3	Sandeep Kumar Tandon	CA.	North
4	Sanjay Saxena	CA.	North
5	Ram Narayan Suthar	TC	Central
6	Rajasthan High Court Advocate's Association	Corp. Mem.	Central
7	Ketan Sheth	CA.	West
8	Deepak Joshi	CA	Central
9	Arun Joshi	Adv.	Central
10	Rohit Shah	CA	West
11	Ashok Sanchety	CA.	Central
12	Dinesh Boob	Adv.	Central
13	Deepak Arora	CA.	Central
14	Bhavin Parekh	CA	West
15	R. B. Virapannavar	TC	South
16	Jay Mathuria	CA	West
17	Nirav Sukhadia	CA	West
18	Vijay Kumar Joshi	Adv.	Central
19	Kunda Rama Narayana	CA.	South
20	Manoj Kumar Jain	CA.	Central
21	Jignesh Kansara	CA.	West
22	N. D. Baskaran	I.T.P.	South
23	Mradul Kumar Arya	Adv.	Central
24	Sanjay Kumar Jain	CA.	Central
25	Vijay Agarwal	CA.	East
26	Dinesh Gupta	Adv.	East
27	Gaurav Agarwal	CA.	East
28	Manoj Nahata	CA.	East
29	Bharat Purohit	Adv.	East
30	Pranati Mohanty	Adv.	East
31	Adarsh Agarwal	CA.	East
32	Amal Dey	Adv.	East
33	Shyam Sunder Singhvi	CA.	Central
34	Gagan Deep Singh	CA.	North
35	Subhash Kumar	Adv.	East
36	Hasmukh Kundalia	Adv.	East
37	Subhash Chandra Mishra	Adv.	Central
38	Bineet Sundriyal	CA.	North
39	Mayur Garg	CA.	Central
40	Mohammad Aslam	CA.	Central

Sr. No.	Name of Members	Profession	Zone
41	Sushil Yadav	Adv.	East
42	Tushar Sodani	Adv.	Central
43	Chetan Khandelwal	CA.	Central
44	Dinesh Bohra	Adv.	Central
45	Anuja Bhura	CA.	East
46	N. G. Brothers	Associate Mem.	East
47	Shrikant Kedia	T.P.	Central
48	Ghufran Majid	Adv.	North
49	Deepak Kumar Gupta	Adv.	North
50	Deepak Agarwal	Adv.	North
51	Ashish Kapoor	Adv.	North
52	Rajdeep Goyal	Adv.	North
53	Sanjay Kumar Verma	Adv.	North
54	Venugopal Heda	GSTP	South
55	Mahesh Pichuka	GSTP	South
56	A. S. Narayana Swami	CA.	South
57	V. V. Satyanarayana Murty Upadrasta	GSTP	South
58	Venkata Raman Madugula	GSTP	South
59	Sesetty Chanti Babu	S.T.P.	South
60	Debojit Senapati	Adv.	East
61	Venugopal C.	Adv.	South
62	Mayank Sahewalla	Adv.	East
63	Indranil Chandra	Adv.	East
64	Ajoy Kumar Chand	Adv.	East
65	Nagesh Bajaj	CA.	North
66	K. V. M. Nageswara Rao	S.T.P.	South
67	D. Rama Rao	Adv.	South
68	Pasupu Reddy Kasi Viswanadham	S.T.P.	South
69	Sujaya Putchala	GSTP	South
70	Arijit Chakrabarti	Adv.	East
71	Navin Agrawal	T.P.	Central
72	Chetan Patel	Adv.	East
73	Naveen Garg	CA.	East
74	Zeehan Islam	Adv.	East
75	Satish Gidwani	CA.	West
76	Aditya Gupta	CA.	West
77	Sachin Betharia	Adv.	West
78	Prateek Sahni	Adv.	North

Hearty Congratulations

Hearty Congratulations to the newly elected Office Bearers of Tax Practitioners Association, Thane for the term 2018-20

President	:	CA Vijay Narayan Kewalramani
Vice President	:	CA Bharat Sachdev
Hon. Secretary	:	Shri Parag Chitnis
Treasurer	:	Shri Kiran Savar
Joint Secretary	:	CA Arvind Jain
IPP	:	Adv C. L. Bhanushali

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 year 2018-19.

President	:	Mr. Pradip R. Kapadia
Vice President	:	Mr. Dinesh M. Tambde
Treasurer	:	Mr. Raj P. Shah
Hon. Jt. Secretaries	:	Mr. Aalok K. Mehta & Mr. Sunil Khushalani

We wish them all the success.

Hearty Congratulations to the newly elected Office Bearers of The Bombay Chartered Accountants Society for the year 2018-19.

President	:	CA Sunil Gabhawalla
Vice President	:	CA Manish Sampat
Hon. Jt. Secretaries	:	CA Abhay Mehta & CA Mihir Sheth
Treasurer	:	CA Suhas Paranjpe

We wish them all the success.

Hearty Congratulations to the newly elected Office Bearers of The Chamber of Tax Consultants for the year 2018-19.

President	:	CA Hinesh R. Doshi
Vice President	:	CA Vipul Choksi
Hon. Jt. Secretaries	:	Mr. Anish Thacker & Mrs. Parag Ved
Treasurer	:	Mr. Ketan Vajani

We wish them all the success.

Hearty Congratulations to the newly elected Office Bearers of The Malad Chamber of Tax Consultants for the year 2018-19.

President	:	Mr. Vaibhav D. Seth
Vice President	:	Mr. Viresh Shah
Hon. Jt. Secretaries	:	Mr. Jignesh Savla & Mr. Darshan Shah
Treasurer	:	Mr. Jaimin Trivedi

We wish them all the success.

Publications for sale

Sr. No.	Name of Publication	Edition	Rate (₹)		
			Members	Non-Members	Courier Charges
1.	"Income Tax Appellate Tribunal – A Fine Balance – Law, Practice, Procedure and Conventions – Frequently Asked Questions"	Dec., 2017	1,000.00	1,050.00	100.00
2.	AIFTP – Of Milestone and Beyond – History Book	Nov., 2016	400.00	450.00	80.00

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Northern	0	1129	17	0	1146
Southern	1	1225	19	7	1252
Western	4	2278	37	4	2323
Total	10	7044	134	17	7205

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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 of every month.

If undelivered, please return to :



ALL INDIA FEDERATION OF TAX PRACTITIONERS

215, Rewa Chambers, 31, New Marine Lines, Mumbai 400 020. • Tel.: 22006342/49706343
Telefax: 22006343 • E-mail: aiftp@vsnl.com • Website: www.aiftponline.org