

Date & Month	Programme	Place
7, 14-3-2018	Workshop on GST Laws	Mumbai
9-3-2018	Half Day Seminar on GST	Kishangarh
10-3-2018	Half Day Seminar on GST	Jaipur
17-3-2018	National Executive Committee Meeting	Vadodara
17, 18-3-2018	National Tax Conference	Vadodara
April 2018	International Study Tour, 2018	Hong Kong/Macau
5-5-2018	National Executive Committee Meeting	Indore
5, 6-5-2018	National Tax Conference	Indore

	AIFTP's International Study Tour - 2018						
We are happy to	We are happy to announce about International Study Tour - 2018 of AIFTP. The details are as under:-						
Country	:	Hong Kong – Macau (6 days / 5 nights)					
Tentative Dates	:	2nd Week of April, 2018					
Cost	:	₹ 75,000/- appox.					
		Further details will be informed by mail / forthcoming AIFTP Times. You may also contact : Mr. Ganesh Purohit, National President (M: 9425154914) and Mr. Pankaj Ghiya, Secretary General (M: 9829013626)					

Comments from Members

- 📽 It was great to receive sms of birthday greetings. Keep it up!! Pramod G. Agrawal, Adv., Hazaribaug
- 🝘 Good Initiative of sending birthday greetings by sms. Priyank D. Shah, ITP, Vadodara
- Thanks for wishing birthday by personal call from AIFTP's office and also sending sms having birthday greeting. Anupam Jain, Adv., Ghaziabad
- 📽 Happy to receive birthday greeting through sms and also by personal calling. Prakash Beli, STP, Gadag

FOR ANY QUERIES MEMBERS MAY CONTACT ANY OF THE FOLLOWING OFFICE BEARERS							
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Activity of Central Zone of February 2018

- 1. One day tax Seminar had been held under the leadership of Rajesh Mehta, Chairman (CZ), P. M. Chopra, National Vice-President and D. C. Mali, Ex-Chairman (CZ) & NEC Member on Sunday, 4-2-2018 at Jodhpur at 10.00 AM and seminar was inaugurated by Shri A. L. Gehlot, Ex-Member, ITAT and first by Saraswati Vandana. In inaugural session, Technical Session was chaired by Shri A. L. Gehlot, Ex-Member, ITAT. Chief guest of the function was Mr. Ranjeet Joshi, President, Rajasthan High Court Advocates' Association.
- 2. Speakers on the Union Budget was Dr. S. L. Jain, Advocate, Jaipur, CA Rajesh Mehta, Indore and CA Amit Kothari, Jodhpur and CA Sachin Jain, Jaipur.
- 3. Welcome address was given by Shri P. M. Chopra, Vice-President and he also given thanks to Madam Premlata Bansal for giving best Seminar award to Central Zone.
- 4. **Garlanding and Memento was given on this occasion to our speakers** Dr. S. L. Jain, Advocate, Jaipur, CA Rajesh Mehta, Indore, CA Amit Kothari, Jodhpur, CA Sachin Jain, Jaipur, Vinod Mehta-DC GST State Tax, Pali.
- 5. Appreciation Certificate and Memento was given to various participants, and delegates for contributing in making this Seminar a successful event. The memento was also given to the members of the Federation who in the last tenure of Central Zone 2016-17 contributed a lot in the activities of AIFTP (CZ) under the leadership of D. C. Mali, Ex-Chairman (CZ).
- 6. In this Conference oath was given to complete team of Shri Rajesh Mehta, by Ex-Chairman (CZ) Dr. S. L. Jain and Shri P. M. Chopra, Vice-President (CZ). In the meeting of Managing Committee, Shri P. M. Chopra has been appointed as Conference Chairman (CZ).
- 7. Awareness programme of the Income Tax Department on 22-2-2018 at Jodhpur, in which function was organised by Chief Commissioner, Jodhpur in which our members of Federation under the leadership of Shri D. C. Mali and Devendra Kansara more than 40 participants have taken part from Jodhpur and Bikaner Division on the occasion of compliance, awareness and suggestions under the Income Tax.
- 8. The member of Managing Committee of Central Zone Ms. Prerna Chopra presented a lecture on U.A.E. VAT law in Dubai on 21-2-2018.
- 9. New Members and Press:- We have enrolled nearabout 10 new members in this month. The Seminar was covered in all the renowned newspapers of Rajasthan. The Seminar was also covered in the local news channel.
- 10. On sudden demise of Shri Satish Boob in Nashik two minutes prayer was held for the peace of departed soul after Conference by Central Zone.

Tentative Programme

Half day Seminar on 9th and 10th March at Kishangarh and Jaipur on GST and Income Tax particularly on Union Budget, Capital Gains and Registration of the Charitable Trust and Society, Search and Survey.

In the month of April Seminar will held at various places, viz., Salasar Balaji Dham and Mandoli Jain Tirth Rajasthan and Gwalior (M.P.), Bhilai and Durg (Chhattisgarh)

CA (Rajesh Mehta), Indore Chairman Mob: 9827036956 E-mail: rajeshmehta_indore@yahoo.com (P. M. Chopra) Vice-President & Conference Chairman (CZ) Mob: 94135-23820,93144-20004 E-mail: chopraassoc@gmail.com

REPORT ON WORKSHOP ON GST LAWS (WZ)

"Workshop on GST Laws" jointly with BCAS, CTC, GSTPAM, MCTC, and WIRC of ICAI has commenced covering 18 sessions on all Wednesdays from 17th January, 2018 up to 14th March, 2018. As we have received an overwhelming response from members, registration for the same is now closed.

TWO-DAY NATIONAL TAX CONFERENCE AT VADODARA (WZ)

on Saturday & Sunday, 17-3-2018 and 18-3-2018 at Grand Mercure (Surya Palace), Sayajigunj, Vadodara, Gujarat

Organised by

All India Federation of Tax Practitioners (WZ)

Jointly with

Central Gujarat Chamber of Tax Consultants • The Gujarat Sales Tax Bar Association • Anand Branch of WIRC of ICAI

Theme : "Indian Economy in Tune With Global Trends"

We extend a warm welcome to fellow delegates from various parts of our country in the cultural city Vadodara and particularly one of the best destination, a Grand Mercure (Surya Palace) one of its kind in Gujarat in the two day National Conference organised by AIFTP (WZ) jointly with CGCTC and supported by GSTBA with a theme "Indian Economy in Tune With Global Trends" on Direct & Indirect Taxes. Knowledge and Enrichment with comfort is the criteria for selecting venue.

PROGRAMME

	Saturday, 17th March, 2018				
8.30 am to 10.00 am	Breakfast, Registration & Fellowship				
10.00 am to 11.30 am	Inaugural Session				
	Chief Guest : Shri Dr. P. D. Vaghela, IAS, Hon'ble Commissioner of State Tax, Gujarat State, Ahmedabad				
11.30 am to 11.45 am	Tea Break				
11.45 am to 1.00 pm	1st Technical Session				
	Subject : Analysis of Finance Bill, 2018 & Road Map for India's Tax Reforms				
	Chairman : Shri K. H. Kaji, Advocate, Ahmedabad				
	Speaker : Shri Mukesh M. Patel, Advocate, Ahmedabad				
	International Taxation & Member of the Task Force to Draft a New Direct Tax Code appointed by Government of India				
1.00 pm to 2.00 pm	2nd Technical Session				
	Subject : Assessment - Reassessment Post demonetisation, AIR Information & Survey				
	Chairman : Dr. M. V. K. Moorthy, Advocate, Hyderabad				
	Speaker : CA. Dr. Girish Ahuja, Delhi, Member of the Task Force to Draft a New Direct Tax Code appointed by Government of India				
2.00 pm to 3.00 pm	Lunch Break				
3.00 pm to 4.15 pm	3rd Technical Session				
	Subject : Notifications after Enactment of GST				
	Chairman : Shri P. C. Joshi, Advocate, Mumbai				
	Speaker : Shri Nayan A. Sheth, Advocate, Ahmedabad, Columnist (Chit Chat on GST), Member, GST Advisory Committee & GST Implementation Cell of Government of Gujarat				
4.15 pm to 4.30 pm	Tea Break				
4.30 pm to 5.45 pm	4th Technical Session				
	Subject : Intricacies of E-Way Bill – GST				
	Chairman : Shri Dr. Ashok Saraf, Sr. Advocate, Guwahati				
	Speaker : CA. S. Venkataramani, Bengaluru				
6.00 pm to 8.00 pm	National Executive Committee Meeting				
8.00 pm onwards	Dinner & Cultural Programme				

Sunday, 18th March, 2018				
8.30 am to 10.00 am	Breakfast			
10.00 am to 11.00 am	5th Technical Session			
	Subject : Penny Stock – S. 68, 115 BBE			
	Chairman : Dr. K. Shivaram, Sr. Advocate, Mumbai			
	Speaker : Shri Paras Savla, Advocate, Mumbai			
11.00 am to 1.30 pm	6th Technical Session			
	Subject : ITC & Classification under GST			
	Chairman : Shri M. L. Patodi, Advocate, Kota			
	Speaker : Shri Vinayak Patkar, Advocate, Mumbai			
1.30 pm to 2.30 pm	Lunch Break			
2.30 pm to 3.30 pm	7th Technical Session			
	Subject : Job Work, Works Contract & Refund – GST			
	Chairman : Shri S. K. Poddar, Advocate, Ranchi			
	Speaker : Smt. Nikita Badheka, Advocate, Mumbai			
3.30 pm to 6.00 pm	Brains' Trust – GST			
	Chairman : Shri Pankaj Ghiya, Advocate, Jaipur			
	Trustees : Shri Manubhai B. Vaghela, Advocate, Vadodara, CA. Janak Vaghani, Mumbai, CA. Abhay Y. Desai, Vadodara, Shri Kuntal A. Parikh, Advocate, Ahmedabad			
	Brains' Trust – Income Tax			
	Chairperson : Smt. Premlata Bansal, Sr. Advocate, Delhi			
	Trustees : Shri Upendra J. Bhatt, Advocate, Ahmedabad, Shri Vipul B. Joshi, Advocate, Mumbai Shri Tushar Hemani, Advocate, Ahmedabad, Shri Manish K. Kaji, Advocate, Ahmedabad			
6.00 pm to 7.00 pm	Hi-Tea			

For Hotel details and Enrolment form please log on to our website www.aiftponline.org

For further details contact

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Chairman (WZ)	Vice-Chairman (WZ)	Hon. Secretary (WZ)	Hon. Jt. Secretaries (WZ)	Treasurer (WZ)
M: 09820148536	M: 9821476817	M: 9820149302	M: 9825006479 / 9820310091	M: 9821118801

Publications from AIFTP Western Zone for sale

Sr.				Rates (₹)	
No.	Name of Publication	Edition	Members	Non-	Courier
				Members	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.

Unreported Decisions

Supreme Court

1. S. 143(2): A notice served on the authorised representative is valid if the assessee was not available to receive the notice sent by post on several occasions

The assessee is an individual. During the assessment the Revenue issued notice u/s. 143(2) to income tax return of the Assessee. The notice was issued by the Revenue on 16th October 2006 and the same was despatched on 18th October 2006 by registered post. The Revenue issued on two occasions notices by registered post to the assessee but same could not be served on the assessee because he was not available to receive the notice. Therefore, the same was served to the authorised representatives of the assessee and started proceedings u/s. 143(2) of the Act. Thereafter the assessee approached the High Court against the action of the Revenue as stated that he does not receive any notice by himself, and then it is not possible to start proceedings u/s. 143(2). Perusing the available materials the High Court accepted the plea of the assessee and quashed the notice u/s. 143(2) dated 16th October 2006 issued by the Revenue.

The revenue aggrieved by the order of High Court, approached the Supreme Court. On appeal, the Supreme Court observed that "non-availability of the assessee to receive the notice sent by registered post as many as on two occasions and service of notice on 19th October 2006 on the authorised representative of the assessee, who is now sufficient to draw an inference of deemed service of notice on the assessee and sufficient compliance of the requirement of section 143(2). The Supreme Court held that, "what is required to be satisfied by the Revenue is service of notice and not mere issuance thereof", and reversed the finding of High Court.

Income Tax Officer v. Dharam Narain, Civil Appeal No.2262 of 2018 dt. 19-2-2018 (SC) Source : www. supremecourtofindia.nic.in

Tribunal

1. S.36(1)(iii) : Finance charges shall not be deductible where the activity carried out by assessee was as investment activity

Assessee Company was engaged in business of investment in group companies for controlling interest, assessee filed return of income declaring Nil income under normal provisions and book profit u/s. 115JB. The AO made addition towards disallowance of finance charges and CIT(A) confirmed the same. The ITAT held that, the activity carried out by the assessee i.e., investment in shares of one of the group companies for holding controlling interest cannot be considered as main business activity of the assessee in the nature of trade or commerce. The assessee himself has admitted that it is in the activity of investment in group companies for acquiring controlling interest and such investment has been treated as long term investment in its financial statements. It is further stated that the statutory auditors have reported that the company is not engaged in carrying on any business or as part of its business activity of acquisition of shares except making long term investments. Therefore, the main objects clause in Memorandum of Association does not encompass any of the activities carried on by the assessee and even the objects incidental or ancillary for the attainment of main objects do not specifically encompass the activity of the acquisition of shares for controlling interest. Therefore, the activity carried out by the assessee as investment activity and accordingly finance charges is not deductible u/s. 36(1)(iii) of the Income-tax Act, 1961.

Asia Investments Private Limited & Ors. vs. ACIT ITA Nos. 7539/M/2013, 4779/M/2014, 62/M/2014 dated 23-2-2018 (Mum.) (Trib.) Source : www.itat.nic.in

2. S. 263 : Revisional assessment is void since it is merely a second opinion

The assessee is an individual filed return of income for the relevant assessment year and declared a total loss and the assessee claimed interest on loan. During the assessment proceedings, the AO also admitted the loss and allowed the claim of the assessee on interest on loan. Thereafter, CIT observed that interest so claimed and allowed by AO under assessment order passed u/s. 143(3) was not correct as excess interest has been allowed. Accordingly a show cause notice was issued u/s. 263.

Before the Tribunal, assessee submitted that as per provisions of s.24(b), the interest payable on capital borrowed for acquiring/ constructing/ repairing/renewal/reconstruction of property from which rental income was taxable and was allowable deduction and the loan borrowed was utilised to repay the loan and indirectly interest was claimed to have been paid on borrowed funds against said property.

The ITAT held that "the funds were totally explained by the assessee during the assessment, and the same fact was stated before the CIT as well as while objecting section 263 notice. Therefore, the order passed u/s. 263 is just a second opinion and does not fall in the category of prejudicial to the interest of Revenue".

Gowri Dhawan v. ITO, ITA No. 2632/Del/2014 dated 30-1-2018 (Delhi)(Trib.)(A.Y.2009-10) Source : www.itat.nic.in

INDIRECT TAX DECISIONS – VAT UPDATE

CA. Janak Vaghani

1) GST - Detaining Officer cannot determine rate of tax

The detaining officer has no power to determine the dispute for rate of tax, such power vests with the assessing officer. Release of goods permitted on the execution of simple bond without sureties.

[Source: M/s. Sameer Mat Industries and Ors. 2017-TIOL-33-HC(Ker)].

VAT - Discount given in subsequent 2) invoices deductible for computation of taxable turnover

Under Rule 3 of the Kerala Value Added Tax Rules, 2005, the deduction for discount is permitted for computation of taxable turnover and it cannot be denied when it is given in subsequent invoices for sales made in previous periods.

[Source: M/s. Maya Appliances Pvt. Ltd. v. Additional Commissioner of Commercial Taxes, [2018] 90 taxmann.com 317 (SC)].

3) Sale or Works Contract

Divisible contract for designing, engineering, supplying, erection, installation and commissioning of the Trombay-V Expansion Project is a contract for sale of goods and not a works contract. Considering the factual matrix and the law and after applying the tests in Kone Elevator case, it is evident that in the facts of the case, the contract was clearly one for supply and erection of equipment, supply of equipment being dominant purpose - FPDIL was required to carry out all preparation work, provide foundation, provide all civil works required, the equipment was merely supplied and installed. The transaction is one for sale and not for works contract.

[Source: M/s. Bharat Heavy Electricals Ltd. v. The State of Maharashtra, Sales Tax Reference (L) No. 10 of 2005, dated 20th December 2017, 2017 VIL 638 (Bom)].

Amendment to CST Registration Certificate from retrospective effect

Considering a provision of amendment in the certificate of registration under Section 25(4) of the Jharkhand Valued Added Tax Act, 2005 to be read with Rules 7 and 12 of the Central Sales (Registration & Turnover) Rules, 1957, the Jharkhand High Court directed the respondents to carry out that amendment to include capital goods in the certificate of registration with retrospective effect from 21-4-2011.

[Source: M/s. Express Infratech Pvt. Limited v. The State of Jharkhand and Ors., W.P. No. 2852 of 2014, dated 3rd May 2016 (Jhar)].

SERVICE TAX CASES S. S. Satyanarayana, Tax Practitioner

4)

Education Services

The appellant assessee is conducting educational course resulting in degree of B.Sc. (Hon.) in Business and Management Studies. This course is recognised and degree is awarded by the University of Bradford, UK. After conducting certain enquiry, the Revenue entertained a view that the consideration received by the appellant-assessee from the students for conducting the said course is liable to Service Tax under the category of Commercial Training or Coaching in terms of Section 65(26) read with Section 65(27) of the Finance Act, 1994. The view of the Revenue is that the course, B.Sc. (Hon.) in Business and Management Studies, conducted by the appellant assessee is not recognised by any statutory authority in India.

Held : In view of the Ministry of HRD vide Notification dated 13-3-1995 stated that the Govt. of India had decided that those foreign qualifications which are recognised/equated by the AIU are treated as recognised for the purpose of employment services under the Central Government. No separate orders for recognition of such foreign qualification is needed to be issued. The courses offered by appellants resulting in issuance of Degree or Diplomas issued by foreign universities are held to be falling outside the

scope of definition for "Commercial Training or Coaching Centre". Demand set aside.

[IILM Undergraduate Business School v. CCE, Delhi - 2017 (11) TMI 1271 - CESTAT, New Delhi].

Extended period of limitation

The information of sales policy and the sales agreement which form the main plank for the demand(s) raised, by disallowing the claims of deduction made by the assessee, were known to the department in the year 1997 itself. Yet the demands or substantial part thereof were not raised within the 'normal' period of limitation but were so raised within the 'extended' period of five years.

Held : Where material on the basis of which demand had been raised against assessee was before the Revenue at all material points of time, extended period of limitation provided under proviso to section 11A of the Central Excise Act, 1944 is not available. Revenue's appeal dismissed.

[CCE, Indore v. Raymond Limited – [2017] 88 taxmann.com 234 (SC)].

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1.	Life Membership of the AIFTP ID Card Fees Subscription of AIFTP Journal (for 1 year) Subscription of AIFTP Journal (for 3 years)				₹ 2,500/-* ₹ 100/-* ₹ 800/- ₹ 2,100/-	
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I AIFTP Times ● March, 2018 ►

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1.	"Income Tax Appellate Tribunal – A Fine Balance – Law, Practice,	Dec., 2017	1,000.00	1,050.00	100.00
	Procedure and Conventions – Frequently Asked Questions"				
2.	AIFTP - Of Milestone and Beyond - History Book	Nov., 2016	400.00	450.00	80.00

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2.	Ordinary half page	₹ 2,500/-			
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4.	Third cover page	₹ 7,500/-			
5.	5. Fourth cover page ₹ 10,000/-				
	There shall be Discounts on bulk adv	vertisements.			

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Central	0	967	24	3	994
Eastern	4	1375	36	3	1418
Northern	0	1081	17	0	1098
Southern	1	1208	19	7	1235
Western	4	2270	37	4	2315
Total	9	6901	133	17	7060

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