



AIFTP TIMES

Volume 9 – No. 10 • October 2018

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
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

- ☞ Shri Pankaj Ghiya Saheb appreciates the wonderful effort of yours with the team of Ravi & others for making AIFTP tech savvy. It is the need of the hour. Definitely it would be a good factor to unite the old and new members thereby increasing the fellowship. Glad what we had planned last year is being given a shape of reality. With esteemed regards — Sanjay Sharma, Advocate, New Delhi.
- ☞ Congratulations to Dear Pankaj Ghiya, CEO, AIFTP and his team working in Mumbai office under Ravi. — K. C. Kaushik, Advocate, New Delhi.
- ☞ Thanks for birthday wishes. — Sureshchandra Maniyar, Advocate, Jamnagar (Gujarat)

AIFTP's Newly Designed Website

AIFTP's website has been completely changed and it is now interactive with facilities of Online Membership, Journal Subscription, Online payments, Corrections of data for All Members' Directory, (to be published soon) etc.

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

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Treasurer – Shri Vipul B. Joshi, Adv.	9820045569	022-66333736	22080951	vipulbjoshi@gmail.com

Activity Report of AIFTP (NZ) for the month of August 2018

Sr. No.	Event	Details	Date	Place	No. of Participants	Other Remarks
1	Conference	“AMRIT” the Amritsar NTC; AIFTP, NZ in association with GST Practitioners’ Association and Direct Tax Bar Association Amritsar.	11th & 12th August 2018	M. K. Hotel, Ranjit Avenue, Amritsar.	More than 400	The conference was a grand success with deep appreciation to its minute-to-minute curriculum with grand inaugural by Honourable Mr. Justice A. K. Sikri. Technical sessions were loaded with Leadership summit for tax professionals on emerging topics of direct and indirect tax. Members also explored the Darshan of Golden Temple, Jaliyan Bala Bagh, Wagah Border and many other tourist places all organised by the organising team under the leadership of Dr. Navin Mittal ji. The members were overwhelmed by superb hospitality and arrangements at every corner and termed the conference as ‘best one’.
2	Seminar	–	–	–	–	–
3	Felicitation	–	–	–	–	–
4	Representation	–	–	–	–	–
5	Visits	–	–	–	–	Visit to Kolkata by Chairman NZ, Shri Sanjay Kumar to attend moot court as well as to encourage participation in NTC Allahabad to be held on 24th and 25th November 2018.

Others

New Members – There have been 29 more new members registered for life time membership in last two months in North Zone. And there are constant efforts for this by all of us.

Upcoming Programmes

Two Day Conference on 24th and 25th November at Allahabad.

Apart from above, one day seminars in Sultanpur, Meerut, Saharanpur have been proposed by members.

Sd/-

Shri Sanjay Kumar
Chairman, AIFTP (NZ)

Sd/-

CA Jamuna Shukla
Secretary, AIFTP NZ
Mob. No.: 9450361366

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

S. No.	Event	Details	Date	Place	No. of Participants	Other Remarks
1.	Seminar		25.8.18	(Nokha), Bikaner	150	In the month of August, one half day Seminar at Nokha on GST was organized, which was conducted by Trade Association, Nokha Tax Bar and Commercial Taxes Department of Bikaner jointly with All India Federation. Programme was conducted by Shri Deen Dayal Chhipa, Advocate of Nokha Tax Bar and Officers of Department from Bikaner Mr. Ravindra Negi, CTO with their team present there.
			16.9.18	Bhopal	75	A seminar was conducted by Income Tax Payer's Association, Bhopal Jointly by AIFTP (CZ) in Bhopal where Vice-Chairman Central Zone Ajay K. Chhajed welcomed the speaker C.A. Pradeep Kapasi Ji from Mumbai, who delivered his speech on the subjects; Survey and Surrender, Penny Stocks and related matters and Benami Transactions.
2.	Felicitation		15.9.18	Jodhpur	–	1. Felicitation of Mr. Prakash Vadera Joint Secretary of Central Zone for becoming Trustee of Jain Swetambar Nakoda Parshwnath Tirth, Mewanagar.
			25.9.18	Jodhpur	–	2. Welcome of Mr. S. K. Upadhyay, Appellate Authority, Jodhpur for joining as Appellate Authority, Jodhpur Division.
			27.9.18	Jaipur	–	3. Welcome of Mr. C. S. Duggar, Additional Commissioner (Tax) on elevation as Additional Commissioner, Jaipur
			27.9.18	Jaipur	–	4. Welcome of Mr. Panna Lal Meghwal on being posted as Joint Commissioner (Tax) at Jodhpur.
3.	Representa- tion		16.9.18 22.9.18	–	–	1. Representation was submitted on 16th and 22nd September to Chairman, CBDT and Finance Minister for extension of date of filing of audited income tax return from 30th September to 30th October, which is extended till 15th October. 2. We have submitted representation to GST Council on 21st September, due to which they have waived the penalty for all GST returns except GSTR-3B. 3. We have submitted representation on 23-9-2018 for appointing of appellate authority for Jodhpur and Bikaner Division for CGST and same has been appointed. 4. We have representation for extension of declaration form and Introducing Amnesty Scheme to Alok Gupta State GST Jaipur
4.	New Members			–	–	4 new members from Rajasthan, Chhatisgarh and Madhya Pradesh were added.
5.	Future Programme		15.10.18	–	–	One day seminar with Rotary Club of Jodhpur on 15.10.2018 jointly with AIFTP (CZ) and Marudhara Tax Bar Association (Western Rajasthan) Half day seminar one at Barmer and one at Jaisalmer.
6.	Others:		17.9.18	–	–	1. All the representations were properly published in all the local newspapers along with Patrika, Dainik Navjyoti and Dainik Bhaskar. 2. All the advocates on request of Bar Council of India boycotted the Court in Jodhpur and Jaipur on 17-9-2018 against the order of Hon'ble Supreme Court that advocates cannot go for strike.

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Prayagraj Tax Conference 2018

Organised by

ALL INDIA FEDERATION OF TAX PRACTITIONERS – NORTH ZONE

In Association With

**THE INCOME TAX BAR ASSOCIATION, ALLAHABAD & THE U.P. TAX BAR ASSOCIATION,
SCHOOL OF MANAGEMENT STUDIES, MNNIT, ALLAHABAD**

at

Bishop Johnson School, M. G. Marg, Civil Lines Allahabad

on

Saturday 24th & Sunday 25th November 2018

THEME : Role of Tax Professionals in Fiscal Laws

PROGRAMME

Saturday, 24th November 2018

08.30 AM to 9.30 AM	Registration
09.30 AM to 11.30 AM	Inaugural Session Chief Guest : Hon'ble Mr. Justice Ashok Bhushan, Judge, Supreme Court of India Guests of Honour : Hon'ble Mr. Justice Vineet Saran, Judge, Supreme Court of India : Hon'ble The Chief Justice of Allahabad High Court : Hon'ble Senior Judge of Allahabad High Court MOC : CA. Jamuna Shukla, & Mr. Arvind Shukla, Advocate, Varanasi
11.45 AM to 01.45 PM	1st Technical Session : a) Restrictions on Cash Transactions under various provisions of the Income-tax Act 1961 b) Taxation of Capital Gains in case of Securities & Real Estate Transactions c) Recovery of Taxes under the Income-tax Act 1961 Chief Guest : Hon'ble Judge of Allahabad High Court Chairman : Dr. K. Shivaram, Senior Advocate, Mumbai Panellists : Mr Ashok Kumar Tripathi, CIT (Appeals), Allahabad : Mr. Rahul Agrawal, Advocate, Allahabad : CA. Rajesh Mehta Chairman (Central Zone), Indore : Mr. Anand Kumar Pandey, Advocate, Varanasi : Mr Anand Godbole, Advocate, Allahabad MOC & Introduction of Subjects : Mrs. Sakshi Khanna, ACA, Allahabad
01.45 PM to 02.45 PM	Lunch Break
02.45 PM to 05.00 PM	2nd Technical Session : a) Admissibility of ITC Under GST Laws. b) Implications of GST in case of e-Commerce Chief Guest : Hon'ble Justice Rajesh Bindal, Judge, Punjab & Haryana High Court Chairman : Mr. M. L. Patodi, Advocate, Kota Panellists : Mr. Vikram Chawla, Advocate, Saharanpur : CA. Venkatramani, Bengaluru : Mr. D. K. Gandhi, Advocate, Ghaziabad : Mr. Sanjay Pathak, Jt. Commissioner, GST MOC & Introduction of the Subject : Mrs. Stuti Saggi, Advocate, Allahabad
05.00 PM onwards	High Tea

Note: All Technical Session are Interactive Sessions

Sunday, 25th November 2018

- 09.00 AM to 10.30 AM Breakfast
10.30 AM to 12.30 Noon **3rd Technical Session :**
a) Assessment of Charitable Trusts, Educational Institutions and Medical Hospitals
b) Money Laundering and Taxation after Demonetisation
Chief Guest : Hon'ble Miss Justice Bharti Saprum Judge, Allahabad High Court, Allahabad.
Chairperson : Mrs. Prem Lata Bansal, Senior Advocate, Delhi
Panellists : CA. Rano Jain, (Mrs.), New Delhi
: Mrs. Shilpi Satyapriya Satyam, Advocate, Delhi
: Mr. V. P. Gupta, Advocate, Delhi
: CA. A. K. Srivastava, Delhi
: Mr. Subachan Ram, PCIT, Allahabad
MOC & Introduction of Subjects: Mr. Siddharth Pathak, Advocate, Allahabad
12.30 Noon to 01.45 PM **4th Technical Session**
Subject : Unbiasing Genders at work places – An ethical – Legal perspective
Chairperson : Mrs. Rekha Sharma, National Council for Women, New Delhi
Panellists : Prof. Geetika, Chairperson, Women Grievance Cell, MNNIT, Allahabad.
: Mrs. Sumitra Chowdhry, Advocate, Delhi
: Mrs. Anjo Jain, Advocate, New Delhi.
: Mrs. Shilpi Mitchell, Educationist, Allahabad
MOC & Introduction of the Subject : Mrs. Pooja Talwar, Advocate, Allahabad
01.45 PM to 02.30 PM Lunch Break
02.30 PM to 04.30 PM **5th Technical Session**
Sub: a) Inspection, Search, Seizure & Arrest under GST
b) Penalties under GST
Chief Guest : Hon'ble Justice S. D. Singh Judge of Allahabad High Court, Allahabad
Chairman : Dr. M. V. K. Moorthy Advocate, Hyderabad
Panellists : CA. Siddheshwar Yellamali, Bengaluru
: CA. Dharmendra Srivastava, Kanpur
: Mr. Rakesh Agrawal, Advocate, Ghaziabad
: Dr. Naveen Rattan, Advocate, Amritsar
: Mr. Tarun Gulati, Advocate, New Delhi
MOC & Introduction of the Subjects: Mr. Harsh Vardhan Gupta, Advocate, Allahabad
4.30 PM to 5.00 PM Valedictory Session
Delegate Registration Fees : ₹ 2,000/- up to 15-10-2018; ₹ 2,500/- from 16-10-2018 up to 31-10-2018 and
₹ 3,000/- from 01-11-2018

Bank Details : Indian Overseas Bank, Civil Lines, Allahabad

Name of Account : PRAYAGRAJ TAX CONFERENCE – 2018; A/C No. : 035001000062798; IFSC : IOB0000350

- 1. For Delegate Registration Please Contact: Mr. Arvind Mishra – 9839503498 Mr. Arvind Gupta – 9415207624**
- 2. We are arranging for SANGAM SNAN early morning on Sunday, 25th November 2018 All the delegates interested in taking a holy dip in Sangam may give their names to: Mr. K.K. Mishra, 9415214681 / Mr. Pawan Kumar Mishra, 9389468193**
- 3. For Hotel Details and Accommodation please contact: Mr. Sanjay Kumar - 9415216798; Mr. Himanshu Misra - 7905952125; Mr. Vimal R. Ralph - 9451789367**

CONFERENCE COMMITTEE

Mr. Ganesh Purohit National President, AIFTP, Jabalpur, 9425154914
Mr. Sanjay Kumar, Chairman, AIFTP (NZ), Allahabad, 9415216798
Mr. Ajit Dhawan, Conference Chairman, ITBA, Allahabad, 9415218681
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Mr. Jamuna Shukla, Secretary, AIFTP (NZ), Varanasi, 9450361366
Mr. Sourabh Singh Gahlaut, Secretary, UPTBA, Lucknow, 9415002138

Direct Taxes

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

High Court

Unreported Decisions

1. S.147 / 148 : ACIT and JCIT both can sanction Notice for Re-Opening of Assessment [r.w.s. 2(28C)]

The appellant, while filing return, claimed that the income is exempted from income tax on the ground that sale of agricultural land was not covered by provisions of S.2(14). While completing the reassessment proceedings, the AO treated income as Long Term Capital Gains and made addition in respect of the same. Before the Tribunal, the appellant contended that the notice u/s. 148 was not issued after taking approval from the Jt. CIT and therefore, the assessment was without jurisdiction. The Tribunal rejected the contention and confirmed the order.

The High Court observed that, the notice u/s. 148 was issued to the appellant with prior sanction of the Addl. CIT, as per s. 2(28C) the word "Joint Commissioner" means a person appointed to be a Joint Commissioner of Income Tax or an Additional Commissioner of Income Tax under sub-section (1) of S. 117, "Thus, the Joint Commissioner includes an Additional Commissioner as well. Therefore, both the ACIT and Jt. CIT are competent officers for sanctioning issue of reopening assessment notice u/s. 147/148 of the Income-tax Act, 1961.

Vikram Singh v. CIT, ITA No. 264 of 2017 dt. 3-8-2018 (All)(HC)
source : www.allahabadhighcourt.in

Tribunal

2. S.45 : Capital Gains taxable at the time of giving actual possession of land to developer

The assessee and his other family members entered into an agreement with developer for development of the property for construction of a multi-storied commercial complex. The AO observed that the capital gains has arisen to the assessee on the signing of the development agreement and therefore, the capital gains should be brought to tax during the relevant assessment year.

The ITAT held that the land owner is liable to pay capital gain in the year in which the actual possession of the land was transferred to the developer under the Joint Development Agreement for development of said property and not on the date of development agreement signed.

M/s. Telukunta Chandra Mohan Rao (HUF) v. ITO ITA No. 731/ Hyd./2018 dt. 12-9-2018 (Hyd.)(Trib.) source : www.itat.nic

3. S.234E: Late Fee can't be imposed without passing of Speaking Order

The AO levied late fee u/s. 234E by processing TDS statement u/s. 200A, without issuing show cause notice. The ITAT observed that the period of delay is prior to 1st June 2015, i.e. prior to the period in which the relevant amendment in s.200A was made. Further observed that levy of late fees under s. 234E could not be effected in the course of intimation u/s. 200A. "As intimation u/s. 200A, raising a demand or directing a refund to the tax deductor, can only be passed within one year from the end of the financial year within which the related TDS statement is filed, and as the related TDS statement was filed on 19th February 2014, such a levy of fees could only have been made within 31st March 2015, that the time has already elapsed and the defect is thus not curable. Therefore late fees u/s. 234E cannot be imposed without passing a speaking order.

Origins Build-Tech Pvt. Ltd. v. ACIT, ITA No. 644/Ahd/2018 dt.17/09/2018 (Ahd.)(Trib.) source : www.itat.nic

4. S.253(3) : Condone delay of 387 days in filing Appeal, since assessee was fighting with Chartered Accountant who filed false Returns

The assessee claimed that the delay has occurred since the assessee was facing very turbulent time in the family as well as earlier Chartered Accountant, who had mischievously prepared the accounts and also filed the return of income by his own signatures without bringing the facts. The complaint had been lodged against the Chartered Accountant in the Court of Magistrate. Further assessee fighting for getting the relevant papers from the C.A. and in this process, the assessee could not take steps to file the appeal within the stipulated period of limitation.

Held that, fighting with Chartered Accountant regarding manipulation of the accounts and filing the false/wrong return of income without the knowledge and signature of the assessee. The said allegations is the subject matter of the proceedings pending before the court. Therefore, reasons explained, found to be true and this is a *bona fide* explanation and not *mala fide*. Therefore, the reasonable cause for such a delay was valid.

Shri Nitesh Agarwal, v. ACIT, ITA No, 825/JP/2018 dt. 19-9-2018 (JP)
(Trib.) Source : www.itat.nic.in

5

Indirect Taxes

Tanmay Mody, *GST Practitioner*

1. GST – Transitional Provisions

Transitional credit on goods lying in stock as on 30th June, 2017 is available only for purchases made within 12 months before the appointed day.

Held – The benefit of credit of eligible duties on the purchases made by the first stage dealer as per the then existing CENVAT credit rules was a vested right. The clause (iv) of sub-section (3) of section 140 is unconstitutional and struck down.

(Source: *M/s. Filco Trade Center v. Union of India, Special Civil Application No. 18433 of 2017 with Special Civil Application No. 20185 of 2017 dated 29-8-2018 – 5-9-2018*)

2. GST – National Anti-Profitteering Authority

The Respondent was also fully aware of the provisions of the Act whereby he was bound to pass on the benefit of reduction in the rate of tax by commensurate reduction in the price of the product. He has acted in conscious disregard of the obligation which was cast upon him by the law, by issuing incorrect invoices in which the base price was deliberately enhanced exactly equal to the amount of reduced tax and thus he had denied the benefit of reduction in the rate of tax to his customers.

(Source: *Shri Pawan Sharma v. M/s. Sharma Trading Company, Case No. 6/2018 dated 3-7-2018*)

3. GST – National Anti-Profitteering Authority

The Respondent has denied benefit of Input Tax Credit to the buyers of the flats in contravention of the provisions of Section 171(1) of the CGST Act, 2017 and has thus realised more price from them than he was entitled to collect and has also compelled them to pay more GST than that they were required to pay by issuing incorrect tax invoice(1)(i) of the CGST Act, 2017 and therefore, he is liable for imposition of penalty.

(Source: *Shri Sukhbir Rohilla & Ors. v. M/s. Pyramid Infratech P. Ltd., Case No. 7/2018 dated 18-9-2018*)

4. Central Excise – Payment of duty on CIF value instead of FOB value

The respondents do not dispute the petitioner's stand that in this, case the additional amount paid by the petitioner would

be in the nature of deposit with the Government which the Government cannot withhold without the authority of law. The respondents are directed to recredit the excess amount paid by the petitioner categorising as excise duty of CIF value of the goods to the CENVAT credit account.

(Source: *M/s. Garden Silk Mills Ltd. v Union of India and Ors., Special Civil Application No. 9659 of 2016 dated 9-1-2018*)

5. Service Tax – CENVAT Credit on CSR Activities

CSR can be considered as input service and be included within the definition of "activities relating to business" as the company's image before corporate world is enhanced so as to increase its credit rating. Consequently, CSR activity is held as input service. The impugned order demanding duty, interest and penalty against input service availed towards fulfilment of CSR activity is set aside.

(Source: *M/s. Essel Propack Ltd. v. Commissioner of CGST, Bhiwandi, Appeal No. E/85322/2018 dated 31-8-2018*).

6. GST – Karnataka Authority for Advance Ruling

As the services provided by the applicant are covered under a specific heading and the Notification carves out a specific rate of tax for that heading, the same shall be applicable to the applicant. The Applicant is not entitled to pay the GST @ 18% with input tax credit as the services being offered by the Applicant are (specifically) classified under a heading attracting GST @ 5%, without input tax credit.

(Source: *Karnataka AAR Order in case of M/s. Coffee Day Global Ltd., Advance Ruling No. KAR ADRG 21/2018 dated 21-8-2018*).



Service Tax – Important Case Laws

S. S. Satyanarayana, Tax Practitioner

1. **Refund of service tax paid :** The Assessee claimed refund of Service Tax paid on the ground that construction services provided by them do not constitute a residential complex chargeable to service tax. The question before CESTAT was, whether the construction activity relating to villas undertaken by the appellants comes under the construction of residential complex service?

It is clear that construction of residential complex having not more than 12 residential units is not to be taxed. For the levy to be applicable it should be residential complex comprising of more than 12 residential units. In the instant case, the appellants constructed individual residential house, each being a residential unit. It is also brought on record that the plan of each of the building has been approved by the municipal authorities separately. The residential units constructed by them were individual independent houses not covered by the definition of residential complex.

(Alliance Infrastructure Projects P. Ltd. v. CCE, Bangalore-I – 2018 (8) TMI 1223 - CESTAT BANGALORE).

2. **Renting of Immovable Property Service :** As per the investigations made by the Revenue, it was found that the appellant, who is an owner of properties at Mumbai as also at Agra had rented the same to the tenants under agreement and was receiving the rent on monthly basis from them. The appellant was neither registered with the Service Tax Department nor was discharging its obligation under the "Renting of Immovable Property", by paying the appropriate service tax. The Revenue has gone by the terms of the agreement entered into between the appellant and their tenants as also by the value reflected in Form 26 AS and demanded Service Tax on the amount. **Held :** The amounts reflected in Form 26 AS represent the correct value of the services which has to be adopted as the assessable value, unless evidence to the contrary is produced by the appellant.

(Anuradha Sharma v. CCE, Lucknow - 2018 (8) TMI 26 - CESTAT ALLAHABAD).



Announcements

SAARTHI

21st NATIONAL CONVENTION 2018

Organised 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.aiftpphyconvention2018.com

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	Particulars	Per Insertion
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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 29-9-2018 Life Members

	Associate	Individual	Association	Corporate	Total
Central	0	1016	25	3	1044
Eastern	6	1472	36	3	1517
Northern	0	1142	17	0	1159
Southern	1	1249	19	7	1276
Western	4	2292	37	4	2337
Total	11	7171	134	17	7333

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