

## All India Federation of Tax Practitioners



# AIFTP TIMES

Volume 10 – No. 9 • September 2019

## FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
27-9-2019	Notice of Annual General Meeting of AIFTP	Mumbai
11-11-2019	National Executive Committee Meeting	Varanasi
11, 12-11-2019	Dev-Deepawali – National Tax Conference	Varanasi
13, 14 & 15-12-2019	OGM, Election & 22nd National Convention	Mumbai

## Report of the Central Zone Elections and New Managing Committee for the year 2020 and 2021

by Vinay Kumar Jolly, Chairman Elect-2020

The Elections for the Central Zone Managing Committee for the year 2020 and 2021 was scheduled for 18th August, 2019 at TCA Hall, Mangal Marg, Babu Nagar, Jaipur. Elections notices etc. was issued by the Election Officer CA Vijay Kewalramani. The Election was scheduled along with the AGM. The AGM started at the scheduled time and thereafter the Election Officer started the Election proceedings. Before the start of the Election voting there were withdrawals and finally there was no need of voting as there was 22 candidates in fray and 22 candidates were to be elected. Accordingly the Election officer Mr. Vijay Kewalramani declared the 22 persons as elected to the Central Zone Managing Committee for the term 2020 and 2021. The names of the Members elected are as under:-

S. No.	Name	Place
1.	Sh. Mahendra Gargieya	Jaipur
2.	Sh. Vikram Gogra	Jaipur
3.	Sh. Sanjay Ghiya	Jaipur
4.	Sh. Gangaprasad Gupta	Gangapur
5.	Sh. Murarilal Gupta	Alwar
6.	Sh. Neeraj Jain	Kota
7.	Sh. Raj Kumar Jain	Jodhpur
8.	Sh. Ashok Jangid	Jodhpur
9.	Sh. Vijay Kumar Jolly	Jaipur
10.	Sh. Chandra Prakash Ladda	Pali
11.	Sh. Anil Mathur	Jaipur

S. No.	Name	Place
12.	Sh. Arvind Mittal	Bilaspur
13.	Sh. Naresh Motwani	Jaipur
14.	Sh. Vinod Patni	Jaipur
15.	Sh. Praveen Rathi	Jodhpur
16.	Sh. Sanjay Kumar Shah	Jaipur
17.	Sh. Ajay Soni	Jodhpur
18.	Sh. Madan Mohan Sharma	Kota
19.	Sh. Raj Thakur	Kota
20.	Sh. Milind Vijayvargiya	Kota
21.	Sh. Dinesh Vijay	Jaipur
22.	Sh. Rambabu Vijay	Jaipur

Following were co-opted.

S. No.	Name	Place
1.	Sh. Sunil Agarwal	Udaipur
2.	Sh. Balvant Rao	Jalore
3.	Sh. Azizudin	Jaipur
4.	Sh. Deepak Garg	Jaipur
5.	Sh. Sandeep Agarwal	Jaipur

S. No.	Name	Place
6.	Sh. Deepak Khandelwal	Jaipur
7.	Sh. Anubhav Chandel	Jaipur
8.	Sh. Jitendra Mishra	Rewa
9.	Sh. Neeraj Agarwal	Jabalpur

Thereafter, the first meeting of the New Managing Committee was held along with all special invitees. Mr. Vinay Jolly, Advocate, Jaipur was unanimously elected as the Chairman for the year 2020. The following other office bearers were also elected unanimously.

Mr. Vinay Jolly	Zone Chairman	Mr. Anil Mathur	Vice Chairman (Rajasthan)
Mr. Arvind Mittal	Vice Chairman (Chattisgarh)	Mr. Sandeep Agarwal	Zone Secretary
Mr. Deepak Khandelwal	Zone Treasurer	Mr. Neeraj Agarwal Jabalpur	Joint Secretary

**Special Thanks to the Election Officer CA Vijay Kewalramani and the complete team.**

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

Name	Mobile	Tel. (O)	Fax	E-mail
<b>National President</b> – Dr. Ashok Saraf, Sr. Adv.	9864020679	0361-2529532	2460041	drashoksaraf@gmail.com
<b>Deputy President</b> – Smt. Nikita Badheka, Adv.	9821037885	022-22030011	—	nikita.badheka@gmail.com
<b>Secretary General</b> – Shri Anand Kumar Pasari, Adv.	9431125350	0651-2209612	—	anandpasari17@gmail.com
<b>Treasurer</b> – Shri Chirag S. Parekh, Adv.	9821634128	022-26705006	26705006	chiragnp7@gmail.com

## DEV-DEEPAWALI – National Tax Conference At Varanasi

**Organised By All India Federation of Tax Practitioners (NZ)  
In Association with Income Tax Bar Association Varanasi**

**Theme : “A Bright Sail Towards Tax Proficiency”**

**Venue: Kanhaiya Vilas, Akatha Balue Road, Sarnath, Varanasi**

**Date : 11th & 12th November 2019**

All India Federation of Tax Practitioners (NZ) is hosting a two days Tax Conference at Varanasi on 11th and 12th November 2019 (Monday and Tuesday), in association with the Income Tax Bar Association, Varanasi on the occasion of Dev Deepavali. The Dev Deepavali (“the Diwali of the Gods” or “Festival of Lights of the Gods”) is the festival of Kartik Poornima celebrated in Varanasi, Uttar Pradesh, India. It falls on the full moon of the Hindu month of Kartika and takes place fifteen days after Diwali. The steps of all the ghats on the riverfront of the Ganges River, from Ravidas Ghat at the southern end to Rajghat, are lit with more than a million earthen lamps (diyas) in honor of Ganga, the Ganges, and its presiding goddess. The gods are believed to descend to Earth to bathe in the Ganges on this day. The festival is also observed as Tripura Purnima Snan. The tradition of lighting the lamps on the Dev Deepavali festival day was first started at the Panchganga Ghat in 1985. During Dev Deepavali, houses are decorated with oil lamps and colored designs on their front doors. Firecrackers are burnt at night, processions of decorated deities are taken out into the streets of Varanasi, and oil lamps are set afloat on the river.

### THE PROPOSED PROGRAMME

10th November, Sunday		
	4:00pm onwards	Swachh Bharat Abhiyan, <i>Ek kadam swachhata ki ore</i> Chief Guest - Dr. Ashok Sarraf (National president AIFTP)
11th November 2019, Monday		
	9.30 a.m. to 11.00 a.m.	<b>Inaugural Session</b> Chief Guest - Honourable Justice Sharad Arvind Bobde, (Judge Supreme Court of India) Guest of Honour - Honourable Justice Govind Mathur (Chief Justice Allahabad High Court)* Guest of Honour- Sri Pramod Chandra Mody (Chairman CBDT)*
1st Technical Session	11.30 a.m. to 1.30 p.m.	Current Issues and Critical Aspects of Goods and Service Tax <b>Key Note Speakers</b> 1. Shri. A. K. Batra, Advocate, New Delhi, 2. Shri. Sujeet Ghosh, Advocate, Supreme Court, New Delhi
	1.30 p.m. to 2.30 p.m.	<b>Lunch Break</b>
2nd Technical Session	2.30 p.m. to 4.00 p.m.	Crack Down on Black Money - <b>Key Note Speaker - Shri Rajendra Nrisinh, Mumbai (Retired member ITAT)</b>
3rd Technical Session	4.00 p.m. to 5.00 p.m.	<b>Mann ki Baat</b> - Panel discussion with High officials of Direct and Indirect Tax Departments with Tax Professionals and Tax payers.
<b>Cultural Evening to be followed by dinner (7p.m. onwards)</b>		
12th November 2019, Tuesday		
4th Technical Session	9.30 a.m. to 12.00 p.m.	Technical session (Recent changes and technical” problems under GST) <b>Key Note Speaker : CA Vimal Jain</b>
5th Technical Session	12.30 p.m. to 1.30 p.m.	<b>Valedictory Session : Chief Guest - Amlrag Thakur (Deputy Finance Minister)</b>
<b>Dev Deepawali Celebration on the bajra (big sized boat) 2:30 pm onwards followed by dinner.</b>		

(\*confirmation awaited)

REGISTRATION FEES		
<b>Conference Registration only for Delegates</b>	₹ 3500/-	Conference 11th & 12th up to lunch
Conference Registration for Spouses	₹ 3000/-	Conference 11th & 12th up to lunch
Dev Deepawali registration (Per person)	₹ 5500/-	Sail on Bajra (big sized boats) with snacks followed by dinner
Corporate registration	₹ 5000/-	Only for conference

### RTGS / NEFT Payment Details

Account Name : “DEV DIPAWALI TAX CONFERENCE”	Bank Account No. : 38538863089
Bank Type : Saving Bank A/c	Bank Name : State Bank of India
Branch : M. A. Road Varanasi	IFSC Code : SBIN0007233

Cheques and drafts should be in favour of : “DEV DIPAWALI TAX CONFERENCE”

### For further Enquiries Contact

Adv. Arvind Shukla 9415201059,	Adv. Om Prakash Shukla 9415204837	Adv. Prakash Gupta 9161492109
CA Surendra Kumar Dwivedi 9415203012	Adv. Ajay Kr. Singh 9415618150	Adv. Sanjay Verma 9839612290
Adv. Ashutosh Singh 9415269345	Adv. Sanjay Kumar (Allid) 9415216798	CA Jamuna Shukla 9450361366
CA Punit Kumar Singh 9935535185	For Hotel Booking Contact: Adv. Asim Zafar 9415203535	

## 22nd National Convention

at Mumbai

(Dedicated to Past Presidents of AIFTP, Late Dr. N. M. Ranka, Sr. Advocate & Late Shri S. K. Poddar, Advocate)

Organised by

**All India Federation of Tax Practitioners (WZ)**

in association with

**The Goods and Services Tax Practitioners' Association of Maharashtra**

**The Chamber of Tax Consultants**

**Bombay Chartered Accountants' Society**

on



<b>13th December, 2019</b> NEC, OGM, Elections 2 p.m. Onwards Khadayata Bhavan Vile Parle (E), Mumbai	<b>14th &amp; 15th December, 2019</b> National Convention <b>Sahara Star</b> , Opp. Domestic Airport, Vile Parle (E), Mumbai – 400099
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**Anand Pasari**  
Secretary-General, AIFTP

**(Dr.) Ashok Saraf**  
National President, AIFTP

Topics and Speakers are as under :—

Session	Time	Subject	Speaker/Panelist	Chairman/ Moderator
<b>Day 1 — Saturday, 14th December 2019</b>				
	8.00 a.m. to 9.30 a.m.	Breakfast, Registration & Fellowship		
	9.30 a.m. to 12.00 noon	Inaugural Function		
1st Technical Session	12.00 noon to 1.30 p.m.	Proposed Income Tax Laws – Chartered of India's Pioneering Tax Reforms	Shri Mukesh Patel, Advocate, Ahmedabad	Dr. K. Shivaram Sr. Advocate, Mumbai
	1.30 p.m. to 2.30 p.m.	Lunch Break		
2nd Technical Session	2.30 p.m. to 4.00 p.m.	Issues and Controversies in New GST Returns	CA. Umang Talati, Mumbai	Shri M. L. Patodi Advocate, Kota
3rd Technical Session	4:00 p.m. to 6.00 p.m.	Panel Discussions – 1) Shifting of Burden of Proof 2) Developing Opportunities for Tax Professionals	Panelists: Shri V. Sridharan, Sr. Advocate, Mumbai and Shri Saurabh Soparkar, Sr. Advocate, Ahmedabad	Moderator: CA. Pradip Kapasi, Mumbai
<b>Day 2 — Sunday, 15th December 2019</b>				
	8.00 a.m. to 9.30 a.m.	Breakfast and Fellowship		
4th Technical Session	9.30 a.m. to 11.00 a.m.	Valuation under GST law with reference to treatment of discounts, price variations, incentives and its implications on Input Tax Credit	CA. Sujata Rangnekar, Mumbai	Shri P. C. Joshi, Advocate, Mumbai
	11.00 a.m. to 11.15 a.m.	Tea Break		
5th Technical Session / Panel Discussion	11.15 a.m. to 12.45 p.m.	Direct Taxes: Dilution of Fundamental Taxation Principles (or deeming provisions)	Shri Hiro Rai, Advocate, Mumbai	Eminent Faculty
6th Technical Session / Panel Discussion	12.45 p.m. to 2.15 p.m.	Power of Arrest and Prosecution under Tax laws	Shri Rahul Agarwal, Advocate, Allahabad	Shri Vikram Nankani, Sr. Advocate, Mumbai
	2.15 p.m. onward	Lunch		

### REGISTRATION FEES

Early Bird

Fees up to 7th September 2019

Fees After 7th September 2019

Members

(₹ 4,200+756) = ₹ 4,956/-\*

(₹ 5,200+936) = ₹ 6,136/-\*

Outstation Delegate's Spouse

(₹ 2,500+450) = ₹ 2,950/-\*

(₹ 3,000+540) = ₹ 3,540/-\*

Non-Members

(₹ 5,200+936) = ₹ 6,136/-\*

(₹ 6,000+1,316) = ₹ 7,316/-\*

\*Including 18% GST

(Registration form can be Downloaded, filled up online & Submitted @ [aiftpwz@gmail.com](mailto:aiftpwz@gmail.com) along with details of payment)

### RTGS / NEFT Payment Details

Account Name : "AIFTP MUMBAI CONVENTION 2019"	Bank Account No. : 919010038002874
Bank Type : Saving Bank A/c	Bank Name : Axis Bank Ltd.
Branch : New Marine Lines, Mumbai 400 020	RTGS / NEFT Code : UTIB0000233

For further enquiries contact :

Mrs. Nikita R. Badheka, Conference Chairperson and Dy. President, AIFTP – **9821037885**

Mr. Deepak Shah, Conference Co-Chairman & Chairman (WZ)– **9820148536**

Mr. Chirag Parekh, Treasurer (WZ) – **9821634128**

Mr. Bhaskar B. Patel, Vice President (WZ) – **9979733033**

Mr. Santosh Gupta, Joint Secretary (WZ) – **9890033480**

Mr. Pravin Shah, Vice Chairman (WZ) – **9821476817**

Mr. Vipul Joshi, NEC Member – **9820045569**

or E-mail to [aiftpwz@gmail.com](mailto:aiftpwz@gmail.com)

### Southern Zone Activity Report for The Month of July & August, 2019

S. No	Event	Details	Date	Place	No of Participants	Other Remarks
1	10.8.2019	One day seminar on Direct and Indirect Taxes at Vijayawada	10.08.2019	Vijayawada	75 members are presented	<p>i) One day seminar on direct and Indirect taxes. 1st technical session on GST Input Tax Credit under GST” Chairman Hon’be Sri. Justice U. Durga Prasada Ra, Judge of High Court of A. P. and speaker Sri. CA. Sateesh Sharaf, Hyderabad. Mr. MVJK Kumar is a Mentor.</p> <p>ii) 2nd Technical Session Sri. CA. CH. Amar Sudheer on “Recent Amendment in Income Tax for the Asst. Year 2019-20. Chairman Sri. CA. Gaddam Satyanarayana, Vijayawada.</p> <p>iii) 3rd Technical Session on “ Annual Returns GSTR-9/9A/9C for the year 2017-18 under GST Law, Chairman. Sri. Kota Suneel Kumar, Speaker: Sri. CA. A. Siva Prasad, Vijayawada.</p>
2.	10.8.2019	Organized AGM for the year 2019 & Election Process at 05:00 p.m. in at Senate-1, The Metropolitan Hotel, N.H. 16, Benz Circle, Opp: Stella Maris College, (Bypass Road), Vijayawada-520001.	10.8.2019	Vijayawada	49 G. C., NEC and E. C members were presented.	Organized AGM for the year 2019 & Election Process at 05:00 p.m. in at Senate-1, The Metropolitan Hotel, N.H. 16, Benz Circle, Opp: Stella Maris College, (Bypass Road), Vijayawada - 520001. Sri. Advocate. D. K. Gandhi, Election Officer conducted election process for the year 2020&2021 smoothly and announced 26 nomination were received and all are elected unanimously. New EC members are elected Sri. S. N. Prasad, Karnataka is a chairman (Elected) for the year 2020 unanimously.
3.	24.8.2019 & 25.8.2019	AIFTP (Southern Zone) is going to be organizing 2 days work shop on Annual Return GSTR-9/9A/9C with theory and Practical on 100 computers at Rajive Gandhi MBA Collage, Atchampeta, Kakinada.	24.8.2019 & 25.8.2019	Kakinada	100 members are registered their names for 1st Batch	AIFTP (Southern Zone) is going to be organizing 2 days work shop on Annual Return GSTR-9/9A/9C with theory and Practical on 100 computers at Rajive Gandhi MBA Collage, Atchampeta, Kakinada. Speakers (i) Sri. CA. A. Siva Prasad, Vijayawada, (ii) Sri. CA. B. Brahmananda Rao, Rajahmundry. For the above work shop organizers are fixed fee ₹ 1,000/- per member (the above fee including 2 days lunch, High Tea with Snacks, Study Material and KIT and Certificate of Participation).

**B. S. Seethapathi Rao**  
Chairman

**C. Sanjeeva Rao**  
Secretary

## Direct Taxes

Ms. Neelam Jadhav, Advocate, KSA Legal Chambers

### High Court

**1. S. 14A : Mere existence of mixed fund do not automatically attract disallowance u/s. 14A**

During the relevant year, the assessee made disallowance u/s. 14A on a suo motu basis and filed its return. The AO even then made the disallowance u/s. 14A r/w 8D, holding that the disallowance u/s 14A can be made on expenditure incurred for earning exempt income even when there was no claim of exempt income. The CIT(A) and later the ITAT set aside the addition.

The Honorable High Court while deciding the issue held that, the mere existence of mixed funds will not lead to automatic disallowance under Rule 8D by the AO without recording the requisite satisfaction requisite u/s. 14A. "The language of S. 14A is plain and clear. Before invoking Rule 8D, the AO is obliged to indicate that having regard to the accounts of the assessee, he is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to the income which does not form part of the total income under the Act. In other words, the condition precedent of recording the requisite satisfaction which is a safeguard provided in s. 14A should not be overlooked before going to Rule 8. And therefore once there are mixed funds, Rule 8 would not be attracted automatically.

*Pr. CIT vs. Gujarat State Petronet Limited. Tax Appeal No. 208 of 2019, dt. 09/07/2019 (Guj)(HC) source : www.gujarathighcourt.in*

### Tribunal :

**2. S. 37 : Share in goodwill paid to legal heirs of deceased partners allowable as deduction**

During the assessment proceedings, the AO observed that the assessee-Firm has claimed a deduction towards payment made to legal heirs of deceased partners. The assessee claimed that as per the terms of the partnership deed, the assessee has to pay 5% of the net profit to the retired partners or the legal heirs of the deceased partners on account of the goodwill of the partners. Since the payment made was for the purpose of business, it has to be allowed as expenditure. However, the AO did not find merit and disallowed the deduction claimed by the Assessee.

The Tribunal while deciding the issue held that since the partnership deed specifically provided for payment to legal heirs of the deceased partners, a charge is created to that extent and the income to the extent of goodwill falling to the share of legal heirs of deceased

partners is diverted at source by overriding title, hence, does not form part of the income of the assessee. Therefore, share in Goodwill paid to Legal Heirs of Deceased Partners is allowable as deduction u/s. 37.

*ACIT vs. Wadia Ghandy & Co. ITA No. 6183/Mum/2016, dt.7/08/2019 (Mum)(Trib.) Source : www.itat.nic.in*

**3. S. 234E : Fees for default in furnishing statement - Purchase of Multiple Flats can't be treated as a Single Transaction in TDS Statement**

The assessee company is engaged in the business of real estate construction and development. During the year under consideration, the assessee entered into an agreement with another Construction Co. for purchase of ninety-six flats in three buildings. On the date of the allotment letter itself, out of the total sale consideration, the assessee paid part amount through cheque and while making such payment the assessee simultaneously deducted tax @ 1% under section 194IA. The TDS amount was deposited in Government account and upon such payment challan – cum – statements as required u/s. 200(3) of the Act was generated on the very same day in Form no. 26QB. While processing the TDS statement u/s. 200A, the AO found that TDS statements were not filed within the time prescribed under the statute and he levied fee u/s. 234E in respect of each TDS statement filed by the assessee.

The honorable Tribunal while deciding the issue observed that, all the transactions relating to purchase of flats should be taken as a single transaction for the purpose of filing the TDS statement and computing fee under section 234E of the Act is not correct. The levy of fee prescribed under section 234E of the Act is to be restricted to one challan–cum–statement filed in Form no. 26QB, is unacceptable. When the assessee itself has filed separate TDS statements in respect of the tax deducted at source relating to the respective flats, while processing such statements u/s. 200A, further observed that clause (c) of sub-section (1) of section 200A contemplates that while processing the TDS return, fee under section 234E of the Act shall be computed. Since, the assessee has filed separate TDS statements u/s. 200(3) r.w. rule 26QB, therefore, builder cannot treat the purchase of multiple flats as a single transaction for the purpose of filing of TDS Statement.

*Cornerview Construction & Developers Pvt. Ltd. vs. ACIT, ITA No. 3285 – 3361/Mum/2018 dt. 28/06/2019 Source : www.itat.nic.in*



## Complaints regarding non-receipt of AIFTP Journal/Times

Now you can make an online complaint by clicking "Non-Receipt of Times / Journal", if you have not received the copy of Times or Journal and we will send you soft copy of the Times/Journal by email.

## Indirect Taxes

Tanmay Mody, GST Practitioner

### 1) GST – Mere reflection of ITC in ledger not enough for penal provisions

Whether mere reflection of transitional input tax credit of VAT and/or Entry Tax in the electronic credit ledger of the dealer amounts to availment or utilization of the credit? Petitioner arguments that mere reflection of the transitional credit on the application filed by the petitioner under section 140 of the BGST Act would not amount to either availing or utilizing the credit nor would be sufficient to invite a proceeding under section 73 of the Act.

**Held:** The legislative intent present in Section 73 is that be it a charge of wrong availment or utilization, each is a positive act and it is only when such act is substantiated that it makes the dealer liable for recovery of such amount of tax as availed from the input tax credit or utilized by him but in each of the two circumstances, the tax available at the credit of the dealer must have been brought into use to reduce the credit balance. The Respondent has got confused to treat the transitional credit claimed by the dealer as an availment of the said credit when in fact an availment of a credit is a positive act and unless carried out for reducing any tax liability by its reflection in the return filed for any financial year, it cannot be a case of either availment or utilization. Even if the respondent was of the opinion that the petitioner was not entitled to such transitional credit at best, the claim could be rejected but such rejection of the claim for transitional credit does not bestow any statutory jurisdiction upon the assessing authority to correspondingly create a tax liability especially when neither any such outstanding liability exists nor such credit has been put to use - it would be stretching the term 'availment' beyond prudence to treat the mere reflection of the transitional credit in the electronic credit ledger as an act of availment, for drawing a proceeding under section 73(1) of the BGST Act - The legislative intent reflected from a purposeful reading of the provisions underlying section 140 alongside the provisions of section 73 and Rules 117 and 121 is that even a wrongly reflected transitional credit in an electronic ledger on its own is not sufficient to draw penal proceedings until the same or any portion thereof, is put to use so as to become recoverable

*(Source: Order in Writ Jurisdiction Case No. 2125 of 2019 by the Patna High Court in the case of M/s. Commercial Steel Engg. Corp. vs The State of Bihar & Ors., dated 27th June, 2019)*

### 2) GST – Lapse of ITC for inverted duty refund

Petitioner contended that the notification to the extent providing for the lapsing of input tax credit are discriminatory and that the input tax credit is as good as tax paid by the assessee and a valid claim of input tax credit under the GST Act creates an indefeasible right in favour of the taxable person.

**Held:** Where the legislature wanted the Input Tax Credit to lapse, it has been expressly provided for in the Act itself. No such express provision has been made in Section 54(3) of the CGST Act. No inherent power can be inferred from the provision of Section 54(3) of the CGST Act empowering the Central Government to provide for the lapsing of the unutilised ITC accumulated on account of inverted rate structure. It is a well settled principle that the delegated legislation has to be in conformity with the provisions of the parent statute. By prescribing for lapsing of ITC, the Notification No. 05/2017-CT (Rate) dated 28.06.2017, as amended by Notification No. 20/2018-CT (Rate) dated 26.07.2018, has exceeded the power delegated under Section 54(3)(ii) of the CGST Act. The impugned Notification No. 20/2018 dated 26.07.2018 and Circular No. 56/30/2018-GST dated 24.08.2018, to the extent it provides that the input tax credit lying unutilized in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received upto the 31st day of July, 2018, shall lapse, are quashed and set aside and are hereby declared as ultra vires and beyond the scope of section 54(3)(ii) of the CGST Act, as section 54(3)(ii) of the CGST Act does not empower to issue such notifications and consequently the petitioners are entitled for the credit and it be granted to them.

*(Source: Order in Special Leave Application No. 20626 of 2018 by Gujarat High Court in the case of M/s. Shabnam Petrofils P. Ltd. vs. Union of India & Ors., dated 17th July, 2019)*

### 3) MGST Related Laws Act, 2017 – Investigation under Section 64 of MVAT Act

According to the petitioner, to extent the State GST Act saves the operation of the VAT Act after its repeal, the Section 78 is ultra-vires and cannot form a valid source for taking action against the Petitioner and its director under Section 64 of the VAT Act. Petitioner argument that subordinate legislation, in order to survive the repeal of the parent statute, must be specifically referred in the saving provision.

**Held:** There is no inconsistency between the provisions of Section 78 of the State GST Savings Act and the Constitution as amended. The Constitution Amendment Act provides for concurrent power of the State legislature to make laws with respect to any tax on supply of goods, or services or both. The State GST Act has been enacted by the State legislature under this power. The VAT Act is one such law, which it had the power to amend or repeal or save. Section 78 of the State GST Savings Act saves the provisions of the VAT Act so far as they relate to any payment or recovery of tax under the VAT Act and any purpose connected or incidental thereto relating to any

period prior to the commencement of the State GST Act - It cannot possibly be suggested that the sub-ordinate legislation under the VAT Act, such as rules, regulations, notifications, etc. issued thereunder, has not been expressly saved by Section 78 of the State GST Savings Act. The wordings of the Section leave no manner of doubt that all these are expressly referred to and saved. The saving provision is both explicit and expansive - The challenge to the vires of Section 78 has no merit.

*(Source: Order in WP No. 14650 of 2018 by Bombay High Court in the case of Magma Fincorp Ltd. vs. State of Maharashtra & Another dated 19th July, 2019)*

#### 4) GST – Tamil Nadu AAR

Will the Profit Sharing Agreement between the applicant as an employee and the shareholders, attract GST in his hands?

**Held:** It is clear that the Profit Sharing Agreement is between the shareholders and the applicant but not between the company and the applicant. Hence, this transaction will not be covered under SI no 1 of Schedule III as that SI No pertains to services by an employee to employer and not to the shareholders of the employer as is the case here.

It is clear that this transaction between the applicant and the shareholders is an actionable claim under Section 2(1) of CGST read with Section 3 of the Transfer of Property Act, 1882. The Profit Sharing

Agreement between the applicant and various shareholders is an actionable claim and is not relating to lottery, betting

and gambling and hence, is covered under Schedule III to CGST Act and SGST Act as neither a supply of goods nor a supply of services and hence is not taxable to GGST or SGST.

*(Source: Tamil Nadu AAR Order No. 19/AAR/2019 in the case of Mr. Venkatasamy Jagannathan, dated 21st May, 2019)*

#### 5) GST – Tamil Nadu AAR

Whether the member of Residential Welfare Association ('RWA') liable to pay GST only on the amount in excess of ₹ 7,500 or on the entire amount?

**Held:** There is no option to the taxpayer to pick and choose from the description of the services to make any service partly applicable to the exemption notification and partly chargeable. Any service either falls within the scope of the description in exemption notification or it does not. If a service by the applicant, a registered housing society/RWA to its members by way of reimbursement of charges or share of contribution, for sourcing of goods or services from a third person for the common use of its members, is such that it is above 7500 rupees per month effective from 25.01.2018, it is not eligible SI. No 77 (c) of Notification No. 12/2017-CT(Rate) dated 28.06.2017 as amended and GST at appropriate rates are to be paid by the members on the full amount of reimbursement of charges or share of contribution

*(Source: Tamil Nadu AAR Order No. 25/AAR/2019 in the case of M/s. TVH Lumbini Square Owners' Association, dated 21st June, 2019)*



### NOTICE OF ANNUAL GENERAL MEETING OF AIFTP

Notice is hereby given that the Annual General Meeting of the All India Federation of Tax Practitioners will be held on Friday, the September 27, 2019 at 5.00 p.m. at AIFTP's Office at 215, Rewa Chambers, 31, New Marine Lines, Mumbai – 400 020 to transact the following business:—

#### AGENDA

1. To read and approve the minutes of last Annual General Meeting held on September 28, 2018 held at Jaipur.
2. To receive and adopt the Annual Report of the National Executive Committee of AIFTP for the year 2019.
3. To consider and adopt the Audited Accounts of AIFTP for the year ended 31st March, 2019.
4. To appoint Auditors for the year 2019 - 20 and to fix their honorarium.
5. To transact any other business with the permission of the Chair.

Yours Faithfully,  
For ALL INDIA FEDERATION OF TAX PRACTITIONERS

**Sd/-**  
**Anand Kumar Pasari**  
Secretary General

Place : Mumbai  
Date : August 23, 2019

**Note:**

1. The Annual Report and the Audited Profit and Loss Account and Balance Sheet will be circulated to the National Executive Committee Members by e-mail.
2. Accounts for the year ended 31st March, 2019 and the report of the National Executive Committee can be collected from the office of the Federation from September 20, 2019 onwards between 11.30 a.m. to 5.00 p.m. The accounts and reports can be made available to the members through e-mail on request to the office.
3. If there is no quorum by 5.00 p.m., the meeting will be adjourned by half an hour and the members present at such adjourned meeting shall form the quorum.

### Publications for sale

Sr. No.	Name of Publication	Edition	Rate (₹)		
			Members	Non-Members	Courier Charges
1.	311 – Frequently Asked Questions on Survey – Direct Taxes	Dec., 2018	600.00	675.00	100.00
2.	Handbook on FEMA – Taxation – Frequently Asked Questions	Oct., 2018	600.00	675.00	100.00
3.	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

- 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.

Advertisement Tariff for AIFTP Journal		
	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 30th August, 2019					
Life Members					
	Associate	Individual	Association	Corporate	Total
Central	0	1059	25	0	<b>1084</b>
Eastern	6	1620	36	0	<b>1662</b>
Northern	0	1218	18	1	<b>1237</b>
Southern	1	1312	19	4	<b>1336</b>
Western	5	2393	37	6	<b>2441</b>
<b>Total</b>	<b>12</b>	<b>7602</b>	<b>135</b>	<b>11</b>	<b>7760</b>

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