

All India Federation of Tax Practitioners



AIFTP TIMES

Volume 10 – No. 3 • March 2019

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
9-3-2019	Gnana Sangamam	Kanyakumari
9-3-2019	One Day Tax Conference	Karnal
24-3-2019	Tax Seminar	Siliguri
6-4-2019	National Executive Committee Meeting	Ranchi
6, 7-4-2019	National Tax Conference	Ranchi
22-6-2019	National Executive Committee Meeting	Tirupathi
22, 23-6-2019	National Tax Conference	Tirupathi
4-8-2019	One Day Seminar	Patna
6 to 8-9-2019	National Tax Conference	Shimla
12-10-2019	National Executive Committee Meeting	Udaipur
12, 13-10-2019	National Tax Conference	Udaipur
11, 12-11-2019	One Day Seminar & Darshan of Lord Viswanath, Ganga Arti and Dev Deepavali	Varanasi

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The world is slowly becoming more environment conscious and working towards making a more positive impact on the environment through different initiatives. Your Federation is also thinking, planning and implementing this process in a phased manner.

In fact, AIFTP is working towards saving paper and to move in that direction. To achieve the said objective, we propose to move from **printed AIFTP Times to an e-Times**.

Members who desire to get only the e-Times as against a physical copy should send an e-mail to aiftpimes@gmail.com with the following details – Membership Number, Name, Subject stating that **"I SUPPORT & OPT TO GET ONLY E-TIMES"**. Let's start moving forward, in working towards making a green impact. As we know, one of the best decisions organisations can make towards being environment friendly is by slowly implementing a paperless office. This step has a twofold benefit of helping organisations become more environmentally friendly while encouraging efficiency through streamlined corporate processes.

We are sure you must be taking various steps to save environment in your offices/home, so why not help your Federation too, and join hands in making a huge positive impact on the environment.

Remember, all it takes to go green is to Reduce, Reuse, Recycle and Repair.

Green Initiative for a better tomorrow :

Go Green Today-By sending E-mail to aiftpimes@gmail.com "I SUPPORT & OPT TO GET ONLY E-TIMES".

Kishor Vanjara
Chairman/Editor, AIFTP Times

Anand Pasari
Secretary General

**New Launch of AIFTP Indirect Tax & Corporate Laws Journal.
Detailed inside on Page No. 2**

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

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Report of National Tax Conference held on 16th & 17th February, 2019 at Aurangabad

By **CA. Deepak R. Shah**, *Chairman*, AIFTP (WZ)

The two day National Tax Conference was organised by Western Zone of All India Federation of Tax Practitioners, jointly with GSTPAM Mumbai, Aurangabad Branch of WIRC of ICAI, and TPA Aurangabad, at ICAI Bhavan, Aurangabad on 16th & 17th February, 2019.

The Conference was inaugurated by the Hon'ble Mr. Justice S. V. Gangapurwala, Judge, Bombay High Court. The Hon'ble Justice in his speech emphasised on code of conduct and ethics. In his speech he stated that tax professionals are most admired portion of society as they are dealing with critical tax issues. Tax professionals are channel between tax payers and Government for tax collections. His words of wisdom were truly inspiring for all legal fraternities present.

At the inaugural session National President of AIFTP Dr. Ashok Saraf, Chairman of AIFTP (WZ) CA. Deepak Shah, CA. Sachin Lathi, Chairman of Aurangabad Branch of WIRC of ICAI, and President of TPA Association Mr. Shankarrao Ambilkar and President of GSTPAM Mr. Pradip Kapadia gave their welcome address. The conference was organised with common motive to spread education amongst its members and keep them abreast of important recent issues of Direct Tax and GST. There were 4 Technical Sessions, and a Brains' Trust Session on Direct Tax & Indirect Tax. The delegates had come from all over the country, and also there was very good participation from Aurangabad and nearby places like Pune, Parbhani etc.

The topics selected were of day-to-day importance and found very useful by all the delegates in each and every aspect. The highlight of the Conference was that Paper Writers for all the 4 Technical Sessions namely Mr. Dinesh Tambde, Mr. Sagar Shah, Mr. Rahul Hakani, and Mr. Dharan Gandhi were young budding professionals below 40 years of age who had put in lot of hard work, and the presentation was par excellence. The Chairmen for each Technical Sessions namely Dr. N. M. Ranka, Smt. Prem Lata Bansal, Smt. Nikita Badheka, Mr. C. B. Thakar and all the 5 Brains' Trustees namely Mr. Harish Motiwalla, Mr. Vipul Joshi for Direct Tax, and Mr. Vinayak Patkar, Mr. Janak Vaghani and Mr. Umesh Sharma for Indirect Tax, shared their wisdom and expertise. The other important aspect was that time discipline was maintained for all the sessions. There was wide coverage in the local media of the Conference. There was a great support from all the joint organizers and the Core Committee members of all Associations. In all, the members who attended found the conference highly educative and enjoyed the brotherhood.



AIFTP Indirect Tax & Corporate Laws Journal

AIFTP on demand of Tax Professionals practising on Indirect Tax & Corporate Law side has launched a new Journal exclusively for GST, Corporate Laws & Other Allied Laws.

This Journal would cover latest Judicial Decisions, Notifications, Amendments & Articles on relevant topics by leading Tax Professionals throughout the country.

This Journal is the brain child of Dr. Ashok Saraf, National President, AIFTP and the 1st issue has been launched on 23rd February, 2019 at Ghaziabad. Mr. Pankaj Ghiya is the Chief Editor of the said Journal. It would be circulated to all Life Members in hard copy, if they opt for hard copy by clicking on the link given at website of AIFTP i.e. www.aiftponline.org. Soft copy of the Journal, has also been circulated through whatsapp and e-mail.

We also request the members that if they want to contribute in the journal by way of articles, judgements, other materials, the same may be sent to Chief Editor at pankajghiyajapur@gmail.com



AIFTP's Members' Directory

AIFTP Members Directory is available for members free of cost at Mumbai Office. If required it can be couriered at a nominal cost of ₹ 100/- to be paid in advance. Contact Ravi at Mobile 8169472814 for getting the latest updated directory.

Activity Report of AIFTP (CZ) for the month of February 2019

S. No.	Event	Details	Date	Place	No. of Participants	Other Remarks
1.	Seminar		3.2.2019	Jodhpur	90	<p>One half day Tax conference on Central Budget and Problem under GST at K.N. Wanchoo Rotary Bhawan, Gaurav Path, Jodhpur. Conference is jointly held by All India Federation of Tax Practitioners (CZ), Rotary Club of Jodhpur, Rajasthan High Court Advocates Association, ITAT Bar and Marudhara Tax Bar Association of Western Rajasthan. This conference was on Central Budget and last GST amendment and practical problems. Welcome address was given by Rotary Club President Mr. Suresh Mehta and President, Rajasthan High Court Advocates Association Mr. Ranjeet Joshi. Seminar was mainly on provision of TDS, Capital Gains and latest decisions of High Court and Supreme Court. Speaker on Income Tax were Dr. S. L. Jain, Jaipur (Ex-Chairman- CZ) and CA Amit Kothari, Jodhpur and on GST Vinod Mehta, D. C They highlighted the practical problem with the latest amendment dated 29-1-2019 and practical difficulties faced in the issue of refund along with export refund. Dr. S. L. Jain and Vinod Mehta, D.C.(GST) also replied queries of audience. On this occasion members of Rotary Club of Jodhpur, All India Federation of Tax Practitioners (CZ), Rajasthan High Court Advocates Association, ITAT Bar and Marudhara Tax Bar Association of Western Rajasthan were present. Seminar was jointly sponsored by Rotary Club of Jodhpur and Marudhara Tax Bar Association of Western Rajasthan. 90 delegates took participation. On this occasion memento was given to Rtn. Suresh Mehta, President Rotary Club and Rtn. Ashok Rathi, Secretary, Rotary Club of Jodhpur. News was properly published in All the TV Channels and newspapers of Rajasthan. It was the first seminar on Central Budget and GST in not only in State of Rajasthan but also complete Central Zone. On this occasion special felicitation of Dr. S. L. Jain Advocate Jaipur for giving his best services in Central Zone in last decade. Special felicitation of Mr. Prahalad Singh Bhati Secretary and Mr. Ranjeet Joshi President of Rajasthan High Court Advocate Association, which is one of the biggest association in India. On this occasion Senior Member Mr. Sumer Patwa, CA Suresh Rathi, Rtn. S. K. Sharma, CA Anand Agarwal, Rtn. Prakash Sancheti, Rtn. Nirmal Singhvi, Mr. D. C. Mali, Mr. Prakash Vadera, CA Deverndra Kansara, Mr. Ashok Jangid, CA Bhanwar Bissa and Adv. K. K. Gehlot, Mr. R. K. Arya, Mr. R. S. Jain were present. Vote of thanks was given by Rtn. Sandeep Bhandawat. Near about 40 members of Federation including CAs and advocates attended the seminar.</p>

S. No.	Event	Details	Date	Place	No. of Participants	Other Remarks
				Jodhpur		In Aurangabad NEC from our zone, Rajesh Mehta Chairman attended conference but due to sudden illness of Mr. P.M. Chopra and Mrs. D.C. Mali, they could not attend the NEC.
				Mumbai		We have received 40 directories from Mumbai Head Office which we have collected personally and distributed them.
2.	Felicitation		30.1.2019	Jodhpur		Welcome of Chief Minister during his visit to Jodhpur. On this occasion Vijay Sharma, Sh. D.C. Mali, Sh. K.K. Gehlot, Sh. R.S. Jain welcomed him.
			1.2.2019	Jodhpur	7	Welcome of Commissioner, Jaipur Pritam B Yashwant on behalf of A.I.F.T.P. (CZ) and Marudhara Tax Bar Association by Sh. P.M. Chopra, Sh. Sudhir Bhansali, Sh. Pankaj Jhanwar, CA R.P. Sharma, Adv. Ashok Jain, Dr. SL Jain, Adv., Jaipur and Adv. Parmanant Sharma . We requested him to introduce amenesty scheme and extension of 'C' and 'D' forms and waiver of GST penalty for honest tax payers.
			1.2.2019	Jodhpur		Welcome of CA Prakash Sharma, winning election in the Central India Regional Council and also of Mr. Satish Gupta.
				Jodhpur Jaipur Pali		Welcome of Mr. Rajkumar becoming DCIT, Rajasthan, Mr. C.S. Duggar becoming Appellate Authority, Fairwell to Mr. V.K. Rawal and Mr. Surendra Singh Rathore, Welcome of Mr. Harish Choudhary on becoming Revenue Minister of Govt. of Rajasthan for electing as Member of Central India Regional Council.
			12.2.2019	Jodhpur		Felicitation of CA Sidhhant Bhandari by ITAT Bar, Marudhara Tax Bar Association, AIFTP (CZ) for giving him special momento. He is proud of our zone.
			16.2.2019	Jodhpur		Congratulation letter to Sh. Pramod Chandra Modi on becoming Chairman of Central Board of Direct Taxes. Govt. of India.
			18.2.2019	Jodhpur		Welcome of CA Rajesh Mehta DC (Business Audit), DC (GST) Vinod Ji Mehta on posting at Jodhpur, Mr. M. R. Sencha, Mr. Mahendra Chhangani A. C., Mr. Harendra Choudhary, Mr. D. K. Rao CTO(C), Mr. Girish Khatri Barmer, Mr. Hanuman Ram, CTO, Barmer, Mr. A. R. Solanki D. C. (Adm) Pali, Mr. Prafull Chhajer President Institue of chartered Account of India and Vice President ICAI Mr. Atul Gupta President, Mr. R. S. Midha, CTO, Jodhpur.
				Jodhpur		Farewell to Shri V. P. Singh by garlanding.
				Jodhpur		Congratulation to Shri Chiranji Lal Saini for electing as Chairman of Bar Council of Rajasthan.
				Jodhpur		Congratulation to CA Balveer Gehlot and CA Dhawal Kothari for elected in Managing Committee of Jodhpur Branch of Chartered Accountant.
3.	Representation		12.2.2019	Jodhpur		There was full day strike on 12.2.2019 by Rajasthan High Court Advocate Association. All India Federation of Tax Practitioners (CZ), Marudhara Tax Bar Association of

S. No.	Event	Details	Date	Place	No. of Participants	Other Remarks
						Western Rajasthan and ITAT Bar Association supported this strike. Therefore all the members of above association are requested to support this strike and not to appear in the Court on 12.2.2019.
4.	New Members				4	
5.	Future Programme		12 & 13 October 2019			Two days conference and NEC in Udaipur on 12 and 13th October, details we will submit in the month of April. One day seminar will be held at M.P., Chhatisgarh and Rajasthan. Special arrangements will be made for Dharshan of Ranakpur Jain Temple, Shrinath Ji, Kumbhalgarh, Haldighati. Details will be positively sent in the next bulletin.
			10.3.2019			Seminar on Income Tax, GST and Charitable Trust will be held. Speaker will be Shri Vinod Mehta, DC GST, Dr. S.L. Jain, Jaipur, Ms. Prerna Chopra, CA Rajesh Mehta, Indore. venue will be Motor Merchant Association, Sardarpura, Jodhpur Jointly by Marudhara Tax Bar Association, AIFTP, ITAT Bar Association, Motor Merchant Association and High Court Bar Association.
6.	Visit					
7.	Obituary/ Reference		18.2.2019			Condolence meeting in the honour of Pulwama martyrs/ Soldiers. All India Federation of Tax Practitioners and Marudhara Tax Bar Association jointly sent Rs.11000/- to the Martyrs of Pulwama.
8.	Others:					

(P. M. Chopra)
Vice President

(D. C. Mali)
Jt. Secretary

(Rajesh Mehta)
Chairman

(Devendra Kansara)
Secretary (CZ)

(Ashok Jangid)
Treasurer

(Sudheer Bhansali)
Vice Chairman (Raj.)

(Paras Chhajjer)
Vice Chairman (Chat.)

(Ajay Chhajjer)
Vice Chairman (MP)

Tax Summit – 2019

Organised by:

**All India Federation of Tax Practitioners (EZ)
North Bengal Tax Advocates Association
Siliguri Tax Advocates Bar Association**

Date : 24-3-2019 (Sunday)

One Day Seminar on Income Tax, GST Laws & Recent Amendment on Union Finance Budget – 2019

at Hotel Tourist Inn, Sevoke Road, Siliguri

Speakers

Mr. J. K. Mittal, Senior Advocate, Delhi on GST
Mr. Firoze Andhyarujina, Senior Advocate, Mumbai on IT

Registration Fees: ₹ 1,000/- (Till 10th March); After 10th March : ₹ 1,200/-

Please Contact: 9474380665 / 9434187473 / 9832065666

Gnana Sangamam

Organised by
All India Federation of Tax Practitioners, Southern Zone
jointly with
Trivandrum Study Group

on 9th March, 2019 9.0 am
 at Gopi Nivas Grand Hotel, East Car Street, Kanyakumari

Programme Schedule

08.30 am – 09.30 am	Registration & Fellowship	
09.30 am – 10.00 am	Inaugural Session	
10.00 am – 11.30 am	Technical Session – 1	Direct Tax Proposals in Finance Act 2019 & Practical Issues in Return Filing, Assessment and Appeal Speaker: CA. G. Surendranath Rao. Partner, M/s. R. G. N. Price & Co.
11.30 am – 11.45 am	Tea Break	
11.45 am – 01.15 pm	Technical Session – 2	Practical Issues in Filing Returns and Refunds under GST Speaker: CA. Prasanna Krishnan, Chennai.
01.15 pm – 02.15 pm	Lunch Break	
02.15 pm – 03.45 pm	Technical Session – 3	Cash Transactions under Income Tax Regulations. Speaker: CA. R. Krishnan. Partner, M/s. Rangamani & Co.
03.45 pm – 04.00 pm	Tea Break	
04.00 pm – 05.30 pm	Technical Session – 4	Practical Issues in Input Tax Credit under GST Speaker: CA. Suresh S, Partner, M/s. Sankar & Moorthy CA's

REGISTRATION

Fee for Delegates : ₹ 1,200/-
 Cheque/DD in favour of "TSG Consulting Forum" payable at Trivandrum
 tsgconsultingforum@gmail.com

B. S. Seethapathi Rao
 Chairman (SZ)

C. Sanjeeva Rao
 Secretary (SZ)

M. Srinivasa Rao
 National Vice-President (SZ)

CA. S. B. Kabra
 National Joint Secretary (SZ)

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 (NEC Member – AIFTP) +91 9447153745

Velu
 (Accommodation) +91 7708426134

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
4.	AIFTP – Of Milestone and Beyond – History Book	Nov., 2016	400.00	450.00	80.00

- 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.

National Tax Conference, Ranchi

Organised by

ALL INDIA FEDERATION OF TAX PRACTITIONERS (EASTERN ZONE)

Jointly with

**JHARKHAND INCOME TAX BAR ASSOCIATION, &
JHARKHAND COMMERCIAL TAXES BAR ASSOCIATION, RANCHI**

On 6th & 7th April, 2019

Venue : Multipurpose Hall, Ranchi Club Ltd., Main Road, Ranchi

Theme : “New Tax Laws – Impact and Promotion”

Saturday, 6th April, 2019	
08:00 am to 09:15 am	Registration & Breakfast
09:30 am to 11:30 am	Inaugural Session
	Inauguration by Chief Guest : Hon’ble Mr. Justice Vineet Saran, Judge, Supreme Court of India
	Guest of Honour : Hon’ble Mr. Justice Aniruddha Bose, Chief Justice, Jharkhand High Court
	National President : Dr. Ashok Saraf, Sr. Advocate, Ex. Advocate General, Assam & Arunachal Pradesh
	Immediate Past President : Shri Ganesh Purohit, Sr. Advocate, Jabalpur
	Secretary General : Shri Anand Kumar Pasari, Advocate, Ranchi
	Chairman AIFTP (East Zone) : Shri N. D. Saha, Advocate, Kolkata
	Conference Chairman : Shri Sandeep Gadodia, Advocate, Ranchi
11:30 am to 11:45 am	Tea Break
11:45 am to 01:45 pm	1st TECHNICAL SESSION
	Subject : “GST on Real Estate and Works Contract”
	Chairman : Hon’ble Mr. Justice Dhirubhai Naranbhai Patel, Judge, Jharkhand High Court
	Speaker : CA. Bimal Jain, New Delhi
	Reference to Subject : Mr. Nitin Pasari, Advocate, Ranchi
	Vote of Thanks : Shri Suresh Saboo, Advocate, Ranchi
01:45 pm to 02:45 pm	LUNCH
02:45 pm to 04:45 pm	2nd TECHNICAL SESSION
	Subject : “Development Transactions in Real Estate & Deemed Income u/s 56 of the IT Act”
	Chairman : Hon’ble Mr. Justice P. P. Bhatt, President, Income-tax Appellate Tribunal
	Speakers : 1. CA. A. K. Srivastava, New Delhi 2. CA. Kapil Goel, New Delhi
	Reference to Subject : Shri Sumeet Gadodia, Advocate, Ranchi
	Vote of Thanks : Shri B. P. Sinha, Advocate, Ranchi
04.45 pm to 05.00 pm	High Tea
05:00 pm to 07:00 pm	AIFTP – NEC meeting (for NEC members only)
07.00 pm onwards	Cultural Program & Dinner at conference Site, Ranchi Club Ltd., Main Road, Ranchi

Sunday 7th April, 2019	
08.00 am to 09.30 am	Breakfast
09:30 am to 11.30 am	3rd TECHNICAL SESSION
	Subject : . “Prohibition of Benami Property Transaction Act under the IT Act,1961”
	Chairman : Hon’ble Mr. Justice Ujjal Bhuyan, Judge, Guwahati High Court
	Speaker : CA (Dr.) Girish Ahuja, New Delhi
	Reference to Subject : Shri S. D. Sanjay, Sr. Advocate, Patna
	Vote of Thanks : CA. K. K. Harodia, Dhanbad
11.30 am to 11.45 am	Tea Break
11.45 am to 01.45 pm	4th TECHNICAL SESSION
	Subject : “Audit & Annual returns and Coercive measures in GST”
	Chairman : Hon’ble Mrs. Justice Anubha Rawat Choudhary, Judge, Jharkhand High Court
	Speaker : CA. S. Venkataramani, Bengaluru
	Reference to Subject : Shri Rajiv Agarwal, Advocate, Jamshedpur
	Vote of Thanks : Shri R. K. Mishra, Advocate, Ranchi
01.45 pm to 02.45 pm	LUNCH
03.00 pm to 05.00 pm	VALEDICTORY SESSION
	Vote of Thanks : Shri Hari Lal Patel, Advocate, Ranchi
HIGH TEA & DISBURSEMENT	
Masters of Ceremony : Shri Mahendra Kr. Chowdhary, Advocate, Ranchi & Miss Amrita Sinha, Advocate, Ranchi	

Delegate Fees: Members : ₹ 3,500/-; Spouse : ₹ 3,500/-; Corporate Delegates : ₹ 4,000/-; Students : ₹ 2,000/-
Cheque in favour of **National Tax Conference, Ranchi**

For more details kindly visit website of aiftp, i.e., www.aiftponline.org

Subscription Rates

1.	Life Membership of the AIFTP		₹ 2,500/-*
	ID Card Fees		₹ 100/-*
	Subscription of AIFTP Journal (for 1 year)		₹ 1,000/-
	Subscription of AIFTP Journal (for 3 years)		₹ 2,600/-
2.	For Non-Members		
	Subscription of AIFTP Journal (for 1 year)		₹ 1,400/-
	Subscription of AIFTP Journal (for 3 years)		₹ 3,750/-
	Single copy of the AIFTP Journal		₹ 80/-
3.	Corporate Membership		
	Nature of fees	Type I (5 Yrs.)	Type II (10 Yrs.)
		Type III (15 Yrs.)	Type IV (20 Yrs.)
	Admission	500/-*	500/-*
	Subscription	5,000/-	7,500/-
	Total	5,500/-	8,000/-
		12,000/-	15,500/-

Note: Members may download the membership form from the website of AIFTP., i.e., www.aiftponline.org

* 18% GST as applicable.

AIFTP International Study Tour, 2019

Europe Itinerary

09 Days/08 Nights

Budapest, Bratislava, Prague, Vienna, Salzburg, Munich

Date of Departure – 26th/27th August 2019 – 03rd/04th September, 2019

TOUR COST :

INR 1,25,000/- Per Person on Twin Share Basis

* Tax as applicable

INCLUDES ::

Airfare Visa Fee

02 Nights stay at Budapest on Twin share Basis

02 Nights stay at Prague on Twin Share Basis

02 Nights stay at Vienna on Twin Share Basis

01 Night stay at Salzburg on Twin Share Basis

01 Night stay at Munich on Twin share Basis Daily

Breakfast at Hotel

8 Lunches and 8 Dinners (Indian).

All tours as per Itinerary.

LDC Services

Travel Insurance upto the age of 60 years.(Extra charges will apply for age 60 and above).

One 500 ML water bottle per person per day.

EXCLUDES ::

Tips and Porterages

Anything not mentioned in the inclusions.

Payment Terms :

1. Advance amount of INR 50,000/- Per Person on immediate basis i.e. upto 15-3-2019
2. Balance total payment by 30th June 2019.

Cancellation Terms:

1. 25% of the total booking amount upto 31th March 2019.
2. 50% of the total booking amount till 30th April 2019.
3. 100% cancellation after 15th May 2019.

*Verbal cancellation requests will not be entertained.

Note : Above is only a tentative itinerary and is subject to change.

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Direct Taxes

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

High Court

Unreported Decision

1. S.40(a)(ia) : Re-imbusement of Salary cannot be disallowed for Non-Deduction of Tax at Source

The Assessing Officer disallowed expenses u/s. 40(a)(ia) holding that the assessee filed the appeal against the order of the assessment and resisted such disallowance. According to the assessee, the expenditure related to salary and related expenses were paid to one ITD Cementation India Ltd., towards salary and related expenses in respect of employees deputed to work in the joint venture (assessee). Both the appellate authorities granted relief to the assessee finding that ITD Cementation India Ltd had provided employees and personnel for doing the work the assessee company.

The employees working for the joint venture were actually the employees of ITD Cementation India Ltd and therefore, on such payments, deduction of tax at source was not necessary. Further while deciding the case the court held that, the amount in question was paid by way of reimbursement of expenditure. The employees and personnel deputed by the company giving such workers on loan to the assessee company continued to be the employer, the assessee merely reimbursed the expenditure in terms of salary structure of the employees to the employer company. Therefore, there is no need to deducting tax at source while reimbursing such costs.

Pr.CIT v. M/s. ITD Cemindia JV, ITA No.1706 of 2016 dt.12/02/2019 (Bom)(HC) source : www.bombayhighcourt.nic.in

Tribunal

2. S.22 : Income from letting out of Terrace of the Society is taxable as House Property Income

The AO was of the view that for assessing an income earned in respect of a property as an income from house property, the property in question should be fit for habitation. He observed that an open plot/ terrace cannot be termed as house property as it is the common amenity for use of Members of society and cannot be used for habitation. According to him, the income from letting out the terrace is not assessable under the head 'income from house property' and he taxed the same as 'income from other sources' and disallowed the claim for deduction u/s.24(a) of the Income Tax Act.

While deciding the issue, the Tribunal recalled its earlier order in a similar case wherein the Tribunal concluded that income from letting out of the terrace has to be assessed under the head 'income from house property' subject to

deduction u/s.24 as against income from other sources as assessed by the AO. Applying the aforesaid view, the Tribunal held that since the facts in dispute are identical and no difference facts pointed out, therefore held that income from letting out of the terrace assessed under the head 'income from house property' subject to deduction u/s. 24.

Citi Centre Premises Co-Op. Society Ltd. v. ITO, ITA No.3029 & 3030/ Mum/2018 dt.01/02/2019 (Mum)(Trib.) source : www.itat.nic.in

3. S.56 : Gift received from Brother-in-Law is exempted from Tax

The assessee received a gift from his brother-in-law. While completing the assessment proceedings, the Assessing Officer asked the assessee to prove the identity, creditworthiness, and genuineness of the above gift. Before the AO, the assessee mentioned that the gift received from brother-in-law being the founder of Ambuja Cements Ltd. His details of net worth and the credential were also mentioned in the said reply. However, during the hearing, the AO further directed to produce the donor before him to prove the genuineness of the transaction along with evidence of his identity, creditworthiness and genuineness of transaction. The assessee produced the relevant documents of the brother in law to prove his identity and creditworthiness. The AO made addition of the said gift received from brother in laws. Whereas the CIT(A) deleted the Addition.

The Tribunal found that the details of the donor starting from PAN number, capital gain statement, bank statement, and others is annexed and which was duly placed before the authorities below. It was further noted that when brother in law was not brought to the AO by the assessee no further enquiry was conducted by him, no record against the assessee was also brought. Apart from that, the creditworthiness and/or genuineness of the transaction though doubted by the AO, the same has not been proved by any cogent document in favor of the revenue.

Further, the AO acted beyond his jurisdiction by raising doubts regarding the relationship of the assessee and the donor ignoring the statutory provision as already was highlighted. Further the gift received by the assessee from his brother-in-law is exempted from tax u/s. 56 has been considered on a wrong notion. Instead of relative as provided by the statute "blood relative" has been considered by the AO and as a result whereof addition was made which is absolutely erroneous as rightly pointed out. Therefore, the view of the AO was wrong and gift received from Brother-in-Law is rightly exempted from Tax.

DCIT v. Shri Arvind N. Nopany, ITA No.128 & 129/Ahd/2016 dt.24/01/2019 (Ahd.)(Trib.) source : www.itat.nic.in



Indirect Taxes

Tanmay Mody, GST Practitioner

1. CST – High Seas sales – ‘crossing of customs frontiers’ of India

Whether the Tribunal is justified in holding that the impugned bonded sales effected to parties situated in Maharashtra are exempt from tax as sales in the course of import under the second limb of section 5(2) of the Central Sales Tax Act, 1956 for the reasons of the said sales having been effected by transfer of the documents of title to the goods before crossing the customs frontiers of India?

Held: Once the imported goods are unloaded in a customs area, they have to remain in the custody of the customs authorities until they are cleared for home consumption or are warehoused. Presenting a bill of entry for home consumption or warehousing denotes that such goods which are imported have been cleared. The importation in that sense and as understood by the Customs Act, 1962 is complete. The goods themselves cease to be imported goods when they have been cleared for home consumption. The clearance of goods for home consumption is dealt with by section 47 of the Customs Act, 1962, but storage of imported goods in warehouse only because they are not cleared after unloading having been dealt with by the Customs Act, 1962 and particularly section 48 thereof, does not mean that for the purposes of the CST Act the goods have not crossed the customs frontiers of India. This is not a case where the deeming fiction in sub-section (2) of section 5 of the CST Act operates. Admittedly, this is not a case of a sale of goods occasioning the import, but what is claimed is that the sale is effected by transfer of documents of title to the goods before the goods have crossed the customs frontiers of India. This is, therefore, a local sale.

(Source: Bombay High Court Order in the case of Commissioner of Sales Tax, Maharashtra v. M/s. Radhasons International, dated 8th February, 2019)

2. GST – Rectification of GST TRAN-2

Assessee seeking rectification of mistake in Form GST TRANS-2 subsequent to its uploading. Petition has been filed seeking direction to respondents to allow revision of Form GST TRANS 2 electronically or manually. Department has the stand that since the CGST Rule, 2017 does not contemplate revision of Form GST TRAN 2, the common GST portal does not provide for revision of Form GST TRANS-2 in the electronic manner.

Held: Taxing statutes are to be strictly construed, however, such interpretation should not lead to a reckless or a

mindless mechanical application of the statute. The Form GST TRANS-2, at best can be an admission allowing the authorities to inform the state of affairs of the petitioner in relation to the subject matter governed by such form. However, neither the CGST Act, 2017 nor the CGST Rules, 2017 can be read to mean that the same excludes the right of a person making an admission, to forfeit the opportunity to explain it. Neither the Act of 2017 nor the Rules of 2017 forfeits the right of a person making an admission to substantiate that, such admission was made by mistake or was untrue. Therefore, when an assessee is seeking to correct Form GST TRANS-2 on its own, an opportunity should be afforded to such assessee to correct the same. The authorities are directed to allow the petitioner to file a revised Form GST TRANS-2, either electronically or manually, in accordance with law. The issue is answered in the affirmative and in favour of the petitioners.

(Source: Order by the Calcutta High Court in the case of M/s. Optival Health Solutions P. Ltd. v. The Union of India & Ors., dated 7th February, 2019)

3. CST – Issue of C-Forms

Petitioner is aggrieved by non-issuance of outstanding C-Form declarations for the outstanding dues under the Valued Added Tax Act / Entry Tax Act and also on grounds that the registration certificate of the petitioner stands cancelled.

Held: If the first petitioner meets with the requirements of section 8 read with Rule 12 of the rules, it is entitled to be issued Form-C in respect of the inter-State purchases made by it. Besides, even if there were outstanding dues under the Central Sales Tax Act, it would not be permissible for the respondents to refuse to issue Form-Cs, if the requirements of section 8 of the Act are satisfied. If under the statute the petitioner is entitled to issuance of C-Form in respect of the purchases made by it in accordance with law while its registration was in force, it is incumbent upon the respondents to issue C-Forms to it. If it is not possible to issue C-Forms under the computerised system, such C-Form declarations may be issued manually, but the respondents cannot refuse to perform their obligation under the statute and deny C-Form declarations to the petitioner.

(Source: Order by the Gujarat High Court in the case of M/s. Dhru Automobiles v. State of Gujarat, dated 7th February, 2019)

4. GST – Maharashtra AAR

Whether Input Tax Credit is admissible in respect of GST paid for hotel stay in case of rent free hotel accommodation provided to General Manager and Managing Director of the company? Whether recovery of Parents Health Insurance expenses from employee in respect of the insurance provided by the Applicant amounts to “supply of service” under Section 7 of the Central Goods and Service Tax Act, 2017 (CGST Act, 2017)?

Held: 1. Providing of residential accommodation in a Hotel is not in furtherance of applicant’s business. The MD/GM could have been provided with any other residential accommodation and still would have performed their duties for the applicant. The hotel accommodation is being used by the applicant as a residential premises of their MD/GM which is for the personal comfort and therefore, in view of the provisions of section 17(5)(g) of the CGST Act, 2017, they are not eligible to claim the Input Tax Credit for the same.

2. The recovery of parents health insurance expenses from employee does not amount to “supply of service” under the GST Laws - applicant is creating this fiction of providing health insurance to their employees only to avail 100% ITC of payments made to the insurance companies. Since there is no supply of services there is no question of time and value of the supply. The applicant cannot claim Input Tax Credit of GST paid to the insurance company.

(Source: Maharashtra AAR Order No. GST-ARA-36/2018-19/B-110 in the case of M/s. Posco India-Pune Processing Center P. Ltd., dated 7th September, 2018)

5. GST – Haryana AAR

Whether the applicant is eligible to take Input Tax Credit on GST charged by the Contractor for hiring of buses and cars for transportation of employees and whether the above services are covered by restriction imposed on “Rent-a-Cab” service specified in Sec. 17(5)(b)(iii)?

Held: Where any commercial vehicle is hired for transportation of passengers, it would be squarely

covered by the phrase “Rent-a-Cab”. In other words, any person who provides motor vehicle designed to carry ‘passengers’, on rent, would be included. This also implies that it includes renting of motor cars, motor cabs, maxi cabs, mini buses, buses and all other motor vehicles which are designed to carry passengers, irrespective of their capacity to carry passengers. The applicant is not eligible to take input tax credit on GST charged by the Contractor for hiring of buses for transportation of employees; and on GST charged by the Contractor for hiring of cars for transportation of employees. The restriction on ‘Rent-a-Cab’ service specified in Section 17(5)(b)(iii) is applicable to Input Tax Credit on GST charged by the Contractor for hiring of buses and cars for transportation of employees.

(Source: Haryana AAR Order No. R/2018-19/04 in the case of M/s. YKK India P. Ltd., dated 11th July, 2018)

6. GST – National Anti-Profitteering Authority – Jubilant Foodworks Ltd. (Domino’s Pizza)

The provisions of anti-profitteering have to be applied at each and every Product/SKU level and the respondent has no unfettered discretion to allow them selectively or as per his own whims and fancies. The respondent is free to fix his prices and profit margin depending upon the factors which he finds fit to be considered. Any scrutiny of price increase made by the respondent which is not commensurate with the denial of Input Tax Credit certainly falls in the ambit of profiteering and it cannot be termed as price control or price regulation and hence it does not violate the provisions of Article 19(1)(g) of the Constitution. There is no restriction on the respondent to fix his prices keeping in view of the various factors but such an exercise should not violate the provisions of Section 171. Accordingly, the respondent is directed to reduce his prices by way of commensurate reduction keeping in view the reduced rate of tax and the benefit of ITC denied.

(Source: Director-General, Anti-Profitteering v. M/s. Jubilant Foodworks Ltd., Order in case No. 04/2019 dated 31st January, 2019)



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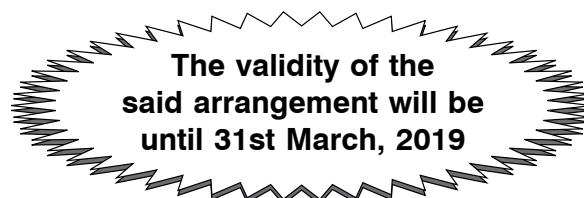
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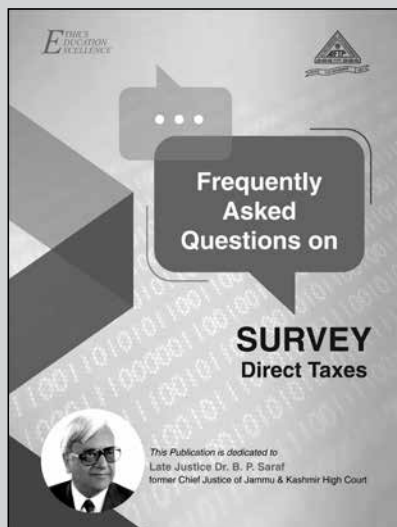
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