

President's Communique

Hello my dear members of AIFTP Family.

Normally, I am not required to pen down anything for AIFTP TIMES.

However, the present scenario is exceptional. There is Covid-19 threat all over world. Indian Government have taken immediate steps for the large population, which otherwise seemed impossible. My request is take care of yourself, your family and your near and dear ones and the entire Nation by staying indoors.

As professionals, we are more worried about clients' pilled up work as also impact of lock down on the economy. Be it may, we have to face the tough times.

I wish to make certain important announcements here.

1) Donation to PM CARES fund:-

The strength of AIFTP as on date is around 8500 members. The Central Government has declared certain relief packages for poor persons. Much more reliefs would be required. We as elite members of Society cannot sit idle. Lets contribute to the PM Cares fund. I have already sent link to all members by mass sms.

You need not go to Bank, payment can be made on your mobile by using your credit card, debit card or any other online payment facility. I am APPEALING EACH MEMBER TO PAY AT LEAST ₹ 1000/-, as minimum contribution, if you pay more, of course, it's for our own Nation. So do not hesitate but donate generously. Lets unite for this noble cause. The details to be filled in online is for getting the certificate from PM CARES fund.

We shall be remitting the money along with a proper list and we expect to get receipt in each ones name, so that appropriate deduction can be claimed by all.

Pay directly from below link

http://bit.ly/AIFTP

Receipt would be automatically sent on your email in your name.

Important Note --

As per amendments in I. T. Act in Section 10 & 80G effective from 1-4-2020, vide Government Gazette issued on 31-03-2020, read with earlier notification issued by MCA

- The donations are entitled for 100% deductible u/s 80G. a)
- The fund is included under section 10(23C)(i). b)
- The donations are allowed under CSR prescribed activities in Schedule-VII by MCA. c)

FOR ANY QUERIES MEMBERS MAY CONTACT ANY OF THE FOLLOWING OFFICE BEARERS						
Name	Mobile	Tel. (O)	Fax	E-mail		
National President - Smt. Nikita Badheka, Adv.	9821037885	022-22030011	_	aiftppresident.badheka@gmail.com		
Deputy President - Shri M. Srinivasa Rao, TP	9885796999	08812-238898	_	sai9malladi@yahoo.com		
Secretary General - Shri Samir S. Jani, Adv.	9825037365	0285-2623325	2653666	samirjani@yahoo.co.in		
Treasurer - Shri Chirag S. Parekh, Adv.	9821634128	022-26705006	26705006	chiragnp7@gmail.com		

2) Virtual meetings:-

Under present circumstances, we can only have virtual meetings on Zoom or have webinars. In my opinion, no Conference would be possible at least upto 30th June.

We are therefore, organising series of webinars for our members, under Direct as well as Indirect Taxation.

Please continue to participate in such virtual education programs by AIFTP and also by various zones on different live issues.

Two immediate are ones are by AIFTP HO on 6th April at 11.00 a.m. The subject is GST- Recent developments and E invoicing and other on section 68 and 69, addition on account of demonetization and 115BBE under Income tax Act by Western Zone on 7th April, 2020. You need to down load Zoom. Join as guest. Those interested may keep watching our website www.aiftponline.org where we will be uploading all future programs.

3) E-publication - Vivad se Vishwas

Mr. Vipul Joshi a leading Income Tax Advocate, Member from Mumbai, has prepared an exhaustive book on VSV, running into about 300 pages. This would be made available on our website in viewable format shortly. The access to this publication is free to all the members. The print version would be available, at concessional rate to members, once the printers are open for work. We have team of experts who would be giving reply to your queries on VSV posted on our HO email. The names of the expert team are Dr. K. Shivaram, Sr. Advocate, Mumbai; Smt. Prem Lata Bansal, Sr. Advocate, New Delhi; Shri Ganesh Purohit, Sr. Advocate, Jabalpur; Hon'ble Mr. Justice J. K. Ranka (Retd.), Jaipur; CA. Pradip Kapasi, Mumbai; Shri V. P. Gupta, Advocate, New Delhi; CA. Rajan Vora, Mumbai and the author Shri Vipul B. Joshi, Advocate, Mumbai. It's a golden opportunity to enrich yourself and sort out all your queries.

4) Telegram – A new group

The number of registered members in AIFTP has substantially increased. It is not possible to include all 8500 members in Whatsapp group. We are therefore, shortly making a Telegram group, which has substantial capacity as regards numbers of participants. We would be mentioning the link on our website. Please download the telegram messenger app from play store and then with the help of link, please join the group. Telegram is one of the most effective app for communication in big groups. The intimation to each program will be faster amongst all of us.

Be safe, Be in House, Be Healthy – strictly observe the restrictions and directions intimated by Authorities.

Nikita Badheka National President



AIFTP Online Registration

AIFTP Membership is now **ONLINE**. You can ask your professional friends to join the AIFTP by online filling the application forms, uploading documents. The membership fees can also be paid online. Please log on to www.aiftponline.org & click.

It is proposed by the National President to extend the benefit of existing reduced rate of Life Membership fee of ₹ 2500/- (excluding taxes) upto 30th September, 2020. The members are requested to take benefit of this by enrolling their professional friends as member of AIFTP up to 30th September, 2020 at the existing rate.

REPORT ON TAX CONFERENCE HELD ON 14-03-2020 AT MUZAFFARPUR BIHAR

Amidst the threat of Corona Virus, the One Day Tax Conference of AIFTP(EZ) in association with Tax Professionals Association, Muzaffarpur and Muzaffarpur Chartered Accountants Association held successfully. The Inaugural Session was presided by PCIT, Muzaffarpur Mr. D S Benupani and the dias was shared by President BITBA, Mr. S K Narayan, Mr. Vivek Agrawal, Secretary AIFTP(EZ), President of both the co-host Associations Mr. L. K. Kejriwal and the Secretary General Mr. Samir S. Jani . The Convenor of the Conference Mr. Sanjeev Kumar Anwar welcomed the Guests and delegates, followed by address of Mr. Jani and Mr. Benupani. The Souvenir was unveiled by the guests. The Delegates paid homageto Late Shivam Sarraf son of Dr. Ashok Sarraf Immediate Past President by observing one minute silence.

After a short break, the first session on new provisions of penalties under Income Tax Act and VSVS, 2020 started and ably deliberated by Mr. Subhash Agrawal from Kolkata. After Lunch, the second session on GST, Valuation of Supplies and ITC was taken by Mr. Arun Agrawal. It was a real interactive session and delegates requested Mr. Agrawal to express his opinion on the burning problems of disallowance of ITC in case of delay in filing of return u/s 16(4) and interest payable on gross tax liability u/s 50(1) of CGST Act. Delegates were enlightened after hearing his views.

Conference ended with Valedictory session and delegates from different districts of Bihar, Jharkhand and West Bengal expressed their views on the importance of AIFTP in their professional life and also expressed their happiness on such a Conference being organised in Bihar after such a long time.

Executive Committee meeting of EZ of AIFTP was also held and due resolutions were passed .

The Conference was attended by 217 delegates and the number would have crossed 350, if initial Corona Threat would not have been in air. Due press coverage and local electronic media coverage was given. At the end, the Conference was a great success and guest and delegates left the Venue with good memories and great learning. The organising team were on the toes and noticed by everyone.

Thanks!

Sanieev Kumar Anwar, Advocate

Convenor

ANNOUNCEMENT

Dear Members,

All India Federation of Tax Practitioners has requested the expert panel to answers the queries on the subject of Vivad Se Vishwas Scheme 2020. If you are having any query on the subject you may send the queries to aiftpho@gmail.com

The Panel of Experts are as under:-

Dr. K. Shivaram, Sr. Advocate, Mumbai

Smt. Prem Lata Bansal, Sr. Advocate, New Delhi

Shri Ganesh Purohit, Sr. Advocate, Jabalpur

Hon'ble Mr. Justice J. K. Ranka (Retd.), Jaipur

CA. Pradip Kapasi, Mumbai

Shri V. P. Gupta, Advocate, New Delhi

Shri Vipul B. Joshi, Advocate, Mumbai

CA. Rajan Vora, Mumbai

For All India Federation of Tax Practitioners

Samir Jani

Secretary General

AIFTP Journal Subscription 2020-21

Date: February 21, 2020

Dear Members,

The AIFTP Journal is the mouthpiece of the All India Federation of Tax Practitioners and is also a source of information for updating our subscribers with the latest developments on Direct and Indirect Taxes.

The unique feature of our Journal is that every quarter, we publish the gist of important case laws reported in more than 30 tax magazines. We publish opinions of eminent professionals, thought provoking speeches of Hon'ble Judges of Apex Court and High Courts, important articles on Direct and Indirect Taxes, articles on Wealth Management and answers by eminent professionals on various controversial issues. We are sure that in the era of information technology, our journal would definitely help you to update your knowledge on latest case laws and development of law.

Please note that AIFTP Journal subscription for the year 1st April, 2020 to 31st March, 2021 falls due for payment on 1st April, 2020.

Life Member

Members are requested to remit the amount of ₹ 1,000/- for one year or ₹ 2,600/- for three years by Cheque / Demand Draft by 15th April, 2020. You are also requested to fill in all the details in the Renewal Notice.

Non-Member

Non-members are requested to remit the amount of ₹ 1,400/- for one year or ₹ 3,750/- for three years by Cheque / Demand Draft by 15th April, 2020. You are also requested to fill in all the details in the Renewal Notice.

Thanking you,

Yours sincerely,

For ALL INDIA FEDERATION OF TAX PRACTITIONERS

CHIRAG S. PAREKH

Treasurer

Note:

- 1. You can make online payment through our website i.e., www.aiftponline.org
- 2. Alternatively payment can be made by Account Payee Cheque/Demand Draft in favour of "ALL INDIA FEDERATION OF TAX PRACTITIONERS".
- 3. OUTSTATION MEMBERS are requested to send payments only by either At Par Cheque or Demand Draft payable at Mumbai drawn in favour of "ALL INDIA FEDERATION OF TAX PRACTITIONERS".
- 4. An early payment of the subscription would be highly appreciated.
- 5. Members who require the AIFTP Journal to be couriered separately at their communication address, should add ₹ 300/- per year as courier charges.
- 6. Please download and send the subscription form from AIFTP's website duly filled in all respects along with the payment.
- 7. Please write your name on the reverse of Cheque/D.D.

ANNOUNCEMENT

Dear Members.

AIFTP is starting the Webinar's on current Direct & Indirect Tax topics from Monday.

The first webinar in the series will be under GST as under - "RECENT AMENDMENTS & E-INVOICING UNDER GST"

Time: 11.30a.m. Day & Date: MONDAY, 6th April 2020

*SPEAKER - Mr. PANKAJ GHIYA, JAIPUR

About Session: The session will be of about 30 minutes and thereafter questions will be allowed for 15 minutes.

No Participation Fee

Pl note that you have to download the Zoom App on your mobile or else you can join from your laptop also. The maximum number of participants can be 100 and hence try to join early. For any doubts contact

Mr. Ravi at 098697 22522

Later we shall upload on you tube

Regards,

Samir Jani

Secretary General

AIFTP

ANNOUNCEMENT

Dear Members,

AIFTP WZ have arranged the Webinar on current topic of Direct Tax.

The topic under Income Tax is as under :- Demonetisation Addition u/s 68 & 69 and tax u/s 115BBE.

Time: 11.30 AM Day: Tuesday Date: 7th April 2020

SPEAKER: CA Palak Pawaghadi, Ahmedabad

About Session:

The session will be of about 30 minutes and thereafter questions will be allowed for 15 minutes.

No Participation Fee

PI note that you have to download the Zoom App on your mobile or else you can join from your laptop also.

The maximum number of participants can be 100 and hence try to join early.

For any help contact

Mr Nigan K. Shah, Co-opt Member AIFTP WZ MC (M) 09825024505

Webinar ID: **386 580 6556** Password: **307460** Later if possible we shall upload on "You Tube".

Regards,

Bhaskar B. PatelKuntal A. ParikhChairman AIFTP WZSecretary AIFTP WZ

ANNOUNCEMENT

Dear Members.

AIFTP WZ have arranged the Webinar on current topic of Indirect Tax.

The topic under GST is as under : Recent issues in GST dealing with ITC as well as recent amendments

Time: 11.30 AM Day: Thursday Date: 9th April 2020

SPEAKER: CA Abhay Desai, Baroda

About Session:

The session will be of about 30 minutes and thereafter questions will be allowed for 15 minutes.

No Participation Fee

PI note that you have to download the Zoom App on your mobile or else you can join from your laptop also.

The maximum number of participants can be 100 and hence try to join early.

For any help contact

Mr. Nigan K. Shah Co-opt Member AIFTP WZ MC

(M) 09825024505

Webinar ID: 386 580 6556

Later if possible we shall upload on "You Tube".

Regards,

Bhaskar B. Patel

Chairman AIFTP WZ

Kuntal A. Parikh
Secretary AIFTP WZ

Direct Taxes

Ms. Neelam Jadhav, Advocate, KSA Legal Chambers

High Court

1. S.12AA: Charitable or religious trust - Registration procedure (Cancellation of registration) - No findings recorded by Director that activities of assessee Trust were not genuine or that activities were not in accordance with objects of Trust, cancellation of registration on that ground was directly hit by proviso to s. 2(15) was not justified.

The Assessee was Mumbai Metropolitan Region Development Authority, was granted registration as a Trust u/s. 12AA(1). As per the proposal of DIT (Exemption) for cancellation of registration, wherein mentioned that Assessee was carrying on activities in the nature of trade, commerce or business etc. and gross receipts therefrom were in excess of ₹ 10 lakh. Therefore, proviso to s. 2(15) of the Act was attracted from the assessment year 2009-10.

While deciding the issue the Honorable High Court observed that, merely saying that activities of Trust are hit by proviso to s. 2(15), would not lead to automatic cancellation of registration as that is not a ground provided u/s. 12AA(3) for cancellation of registration. The DIT (Exemptions) cancelled registration granted to assessee Trust on ground that it was directly hit by proviso to s. 2(15), no findings had been recorded by Director that activities of assessee Trust were not genuine or that activities were not being carried out in accordance with objects of Trust. Held that, the view of the Director was wholly untenable being contrary to mandate of s. 12AA(3).

CIT vs. Mumbai Metropolitan Region Development Authority, ITA No. 2010 of 2017. dt. 24/01/2020.(Bom)(HC) Source: www.bombayhighcourt.nic.in

Tribunal

 S.37(1): Expenditure towards payment to daily newspaper for death news, birth day greetings and congratulating not allowable as Business Expenditure

The AO while completing the assessment disallowed the expenditure u/s 37(1) on finding that the said expenditure relates to some advertisements connected to demise / birthday greetings / congratulating some politicians, etc. On observing the same, CIT(A) was of the view that the said expenditure was incurred not for the purpose of business. Not even the Assessee has demonstrated how the said expenditure on print media is attracting more customers especially when these persons are not related to the banks. Further, during the assessment proceedings the appellant

could not prove business expediency of such expenditure. Hence, CIT(A) confirmed the view of the AO.

While dismissing the appeal of the Assessee, tribunal held that, the expenditure to daily newspaper for death news, birth day greetings and congratulating, victory day celebration qua the erection of Flexies of the politicians, is not an allowable expenditure u/s.37.

Sadhana Sahakari Bank Ltd. vs. ACIT, ITA No.1204 to 1206/ Pune/2017, dt.16/03/2020, (Pune)(Trib.) Source: www.itat.nic.in

3. S.153A: Assessment in search cases - once assessment attained finality, then AO while passing independent order u/s. 153A/143(3) could not disturb assessment order which has attained finality unless material gathered in course of search.

A search u/s. 132 was carried out on the premises of the assessee, the assessee filed its return of income originally for AY 2009-10 and assessment was completed u/s. 143 (3) on 30.11.2011 during which the assessee filed complete details in regard to share application money received from various parties during the financial year 2008-09 relevant to this AY 2009-10. On the date of the search on 27.02.2014, this assessment was unabated because no action was pending against this assessment. It is also a fact that during the course of search the shares certificates relating to these parties were not seized rather these are submitted by assessee before the investigation wing during inquiry proceedings carried out in lieu of search under section 132 of the Act vide letter dated 15.05.2014. The AO simply going by investigation carried out by DDIT (Inv.) made addition on account of unexplained cash credit u/s. 68. The CIT(A) confirmed the same.

While allowing the appeal of the Assessee, Tribunal held that, on initiation of proceedings u/s. 153A, it is only assessment/reassessment proceedings that are pending on date of search u/s. 132 stand abated and not assessments/reassessments already final for those assessment years which are covered u/s. 153A. The CBDT Circular No. 8 of 2003 clarified that on initiation of proceedings u/s. 153A proceedings pending in appeal, revision or rectification proceedings against final assessment shall not abate. Tribunal held that, once assessment has attained finality, then AO while passing independent assessment order u/s. 153A/143(3) could not disturb assessment order which has attained finality unless material gathered in course of search u/s. 132/153A established that finality attained in assessment were contrary to facts unearthed during course of search.

B & M Buildcon & Anr. vs. Dy. CIT, ITA No. 6673-74/Mum/2019 dt. 20/03/2020 (Mum) (Trib.) Source : www.itat.nic.in

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Indirect Taxes

Tanmay Mody, GST Practitioner

1) GST – Time Limit for Attachment of Bank Account

Whether an order passed under Section 83 of the CGST Act, 2017, remains valid after the expiry of one year from the date of the order? Whether the authorities can issue fresh order of provisional attachment/multiple orders under Section 83 of the CGST Act, 2017

Held: Section 83(2) is clear that the provisional attachment shall cease upon expiry of one year. The actions of the respondent authorities in continuing with the provisional attachment beyond the period of one year and without informing the bank that the provisional attachment seizes to operate after a period of one year is an act that is reprehensible and absolutely contrary to law. Such an arbitrary action has clearly resulted in violation of the petitioners' rights for carrying on business under Article 19(1) of the Constitution of India and under Article 300A of the Constitution of India. Accordingly, the issue is answered in favour of the petitioners and the respondent authorities are directed to pay costs of ₹ 5 lakhs to each of the three petitioners. Section 83 empowers the competent authority to issue an order for provisional attachment of property including bank accounts if it is of the opinion that such step is necessary for protecting the interest of the Revenue. It is palpably clear that Section 83(2) permits continuation of a provisional attachment order for a period of one year from the date of order after which it ceases to remain in effect. However, there is nothing in the section which indicates that upon completion of the prescribed period, a fresh order cannot be issued. To say this would amount to supplying such requirements into the section which would go against the well-established principles of interpretation of statutes. In the view point of the Court, after the expiry of the time period, the appropriate authority may be of the opinion that such an attachment is further required to protect the interest of Revenue, and may therefore, issue a fresh order upon compliance of the formalities in Section 83(1).

(Source: Order by the Calcutta High Court in Writ Petition No. 18429 (W) of 2019 & others in the case of M/s. Amazonite Steel P. Ltd. & Ors. vs Union of India and Ors.)

2) GST – Validity of Rule 117

Revenue case that time limit contained in provisions of Rule 117 of the CSGT Rules cannot be seen as merely technical in nature.

Held: The Court has followed the judgement in the case of Filco Trade Centre Pvt. Ltd., wherein, after relying on number of judgements of the Apex Court, the coordinate Bench of this Court had followed the consistent findings of the Apex Court and held that the right accrued to the assessee on the date when the paid tax on the raw materials or the inputs and that right would continue by way of CENVAT credit. The CENVAT credit is therefore indefeasible. Following the said principle, this Court had directed the Department to permit the respondents to allow filing declaration form in GST TRAN-1 and GST TRAN-2, so as to enable them to claim transitional credit of the eligible duties in respect of the inputs held in stock on the appointed day in terms of Section 140(3) of the GST Act. Thus, when the co-ordinate Bench had already declared clause (iv) of sub-section (3) of Section 140 as unconstitutional, we do not have any hesitation to declare Rule 117 of the CGST Rules, 2017 for

the purpose of claiming transitional credit as procedural in nature and should not be construed as mandatory provision. (Source: Order by the Gujarat High Court in Misc. Civil Application (for Review) No. 1 of 2019 in the case of The Nodal Officer vs. The GST Council dated 14th February, 2020)

3) GST - Uttarakhand AAR

In case where goods are supplied within India and billing is to be done in foreign currency, which exchange rate to be applied rate prescribed for export of goods or for import of goods?

Held: 'Transaction Value' is the basis for valuation for supply of goods and/or services under the GST Regime. When it is not possible to calculate value of supply as per section 15 of the Act, the value of taxable supply is to be calculated as per the relevant Rules of Chapter IV of CGST Rules, 2017 which deals with the determination of value of supply. Since the issue in hand is related to valuation of goods supplied within India and billing is being done in foreign currency, thus Rule 34 of the Rules is to be applied. In the present case rate of exchange of imported goods shall be applicable in as much as the foreign currency price in the contract is to cover imported content of the material used for intended purpose. The value of goods, supplied within India and billing done in foreign currency, shall be determine under Rule 34 of CGST Rules, 2017 and rate of exchange for imported goods as notified by the Board under section 14 of the Customs Act, 1962 shall be applicable.

(Source: Order by the Uttarakhand AAR in the case of M/s. Bharat Heavy Electricals Ltd. by order no. 09/2019-20 dt. 8th January, 2020)

4) GST – Appellate Authority

Whether mentioning of HSN Code is mandatory on the invoices if turnover is less than ₹ 1.5 Crores? Whether refund of ITC claimed on air ticket / travel is allowable?

Held: In terms of notification no. 12/2017-Central Tax dated 28.06.2017 issued in pursuance to the first proviso to rule 46 of the CGST Rules, 2017, the supplier whose turnover is less than one crore fifty lakhs is not required to show HSN in the invoice and therefore, if the HSN/SAC code are not mentioned on the invoices issued by these suppliers, the refund claims cannot be denied on this ground. The declaration of claimant is sufficient in the matter as it is not possible to verify the each and every invoice of the supplier to ascertain as to whether the said supplier was required to mention the HSN code or not in terms of notification no. 12/2017-Central Tax dated 28.06.2017.

The appellant has contested that the tour and travels are not for personal use, rather these are purely related to business. Directors of the company and key management personnel visit many places to meet suppliers, buyers, and various stakeholders to attend exhibition/fair hence, these are business expenditure and not personal expenditure. There is force in the contention of the appellant, therefore, the refund claim in respect of air ticket on tour and travels service are admissible to appellant.

(Source: Order-in-Appeal No. 01-04(JPM) CGST/JPR/2019 dt. 15th July, 2019 by the Addl. Commissioner (Appeals), CGST, Jaipur in the case of M/s. Baba Super Mineral P. Ltd. vs. The Asst. Commissioner, CGST, Jaipur)

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Publications for sale

Sr.			Rate (₹)		
No.	Name of Publication	Edition	Members	Non- Members	Courier Charges
1.	GAAR General Anti-Avoidance Rules	Dec., 2019	640.00	720.00	100.00
2.	311 - Frequently Asked Questions on Survey - Direct Taxes	Dec., 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 27th March, 2020 Life Members							
	Associate	Individual	Association	Corporate	Total		
Central	0	1137	25	0	1162		
Eastern	6	1839	36	0	1881		
Northern	0	1311	18	1	1330		
Southern	1	1503	20	5	1529		
Western	5	2617	37	6	2665		
Total	12	8407	136	12	8567		

DISCLAIMER

The opinions and views expressed in this Times are those of the contributors. The Federation does not necessarily concur with the opinions/views expressed in this journal.

Non-receipt of the Times must be notified within one month from the date of publication, which is 4th of every month.

No part of this Times may be reproduced or transmitted in any form or by any means without the permission in writing from All India Federation of Tax Practitioners.

Associate Editor of AIFTP Times: Mr. Deepak R. Shah

Printed by Kotecha Mitesh Ashwin Published by Kotecha Mitesh Ashwin on behalf of All India Federation of Tax Practitioners (name of owner) and Printed at Finesse Graphics & Prints Pvt. Ltd., 309, Parvati Industrial Premises, Sun Mill Compound, Lower Parel, Mumbai – 400 013. (name of the printing press with address) and published at All India Federation of Tax Practitioners, 215 Rewa Chambers, 31, New Marine Lines, Mumbai – 400 020 (full address of the place of publication). Editor: Vanjara Kishor Dwarkadas.

Posted at Mumbai Patrika Channel Sorting Office Mumbai – 400 001.

Date of Publishing : 1st of every month.

Date of Posting : 3rd & 4th of every month.

If undelivered, please return to:



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To