



AIFTPT

TIMES

Volume 11 – No. 6 • June 2020

## Subject – E-publication @ 50% discount to members

Dear Members,

We are pleased to announce that our first E-publication on '**Vivad se Vishwas**' Scheme is now available in PDF downloadable format at very nominal contribution as follows:

**Price – ₹ 590** (₹ 500/-+ GST at 18% ₹ 90)

**Special discount at 50% for members of AIFTPT – ₹ 295** (₹ 250/-+ GST at 18%-₹ 45)

It would be interesting to read the comments by Hon'ble Judge Bombay High Court and three Senior Advocates in preface of the book :

*Finally, I hope that this publication will help the stakeholders in modifying and changing their approach towards litigation. The stakeholders must realize that professionals have taken out time from their otherwise busy schedule in bringing out this publication.*

*A perusal of this publication as a whole demonstrates that very few doubts and questions will remain if this publication is perused and read carefully.*

— **Hon'ble Shri Justice S. C. Dharmadhikari**

*This publication will be a useful reference to all those practicing in direct taxes. ....I am confident that this book will provide great clarity and be a useful guide to the Tax Practitioners, assesses as well as tax officials for better understanding of the Scheme.*

*Looking through this magnificent book, I am amazed at Mr. Joshi's talent and what he has achieved during these difficult times of pandemic crisis.*

— **Dr. K. Shivaram, Sr. Advocate**

*.....the book shall be of immense help to all the stakeholders, be it an advocate or a chartered accountant or a tax practitioner or an assessee or the Tax Administration.*

— **Mrs. Prem Lata Bansal, Sr. Advocate**

*He has raised several issues vis-à-vis the scheme and has tried to find the answers of issues with the help of clarifications issued by the Central Board of Direct Taxes on VSV Scheme.*

— **Shri. Ganesh Purohit, Sr. Advocate**

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

Name	Mobile	Tel. (O)	Fax	E-mail
<b>National President</b> – Smt. Nikita Badheka, Adv.	9821037885	022-22030011	—	aiftppresident.badheka@gmail.com
<b>Deputy President</b> – Shri M. Srinivasa Rao, TP	9885796999	08812-238898	—	sai9malladi@yahoo.com
<b>Secretary General</b> – Shri Samir S. Jani, Adv.	9825037365	0285-2623325	2653666	samirjani@yahoo.co.in
<b>Treasurer</b> – Shri Chirag S. Parekh, Adv.	9821634128	022-26705006	26705006	chiragnp7@gmail.com

Needless to add, Mr. Vipul Joshi and his team has tirelessly worked during complete lockdown to make this E-publication a MUST for all the stake holders.

We are also happy to share the unique features of the E-Book:

1. Word by word analysis - spreading over more than 400 pages - of the limited 12 sections of the Act.
2. Various tables have been prepared along with illustrations, wherever required, for easy understanding.
3. Grey areas have been pointed out at various places which may help the necessary authorities to bring further clarifications or make necessary amendments.
4. In-depth comparative analysis with other previous similar schemes, both under direct and indirect enactments, has been provided to show the similarities / differences between the present Scheme and the earlier schemes.
5. Various judicial pronouncements rendered under similar schemes have been analysed, which may assist in interpreting the corresponding provisions of the Scheme. Also, table of cases has been provided for easy access of the commentary where such judicial pronouncements are referred.
6. Most importantly, this **E-Book is going to be constantly updated based upon the subsequent developments up to March 2021 at no extra cost for the members who subscribe.**
7. **The subscribers to this E-book will be able to raise query on the issues faced by them under VSV by a team of seniors headed by Dr. K. Shivaram, Sr. Advocate - Mumbai, Mrs. Prem Lata Bansal, Sr. Advocate-Delhi, Shri Ganesh Purohit, Sr. Advocate-Jabalpur, CA Pradip Kapasi-Mumbai, Shri Rajan Vora-Mumbai and of course the Author Shri Vipul Joshi, Advocate-Mumbai. The modalities are mentioned in the book.**

**Friends please hurry up and take benefit of this extraordinary offer by our Federation. The book is offered at 50% discount to our members.**

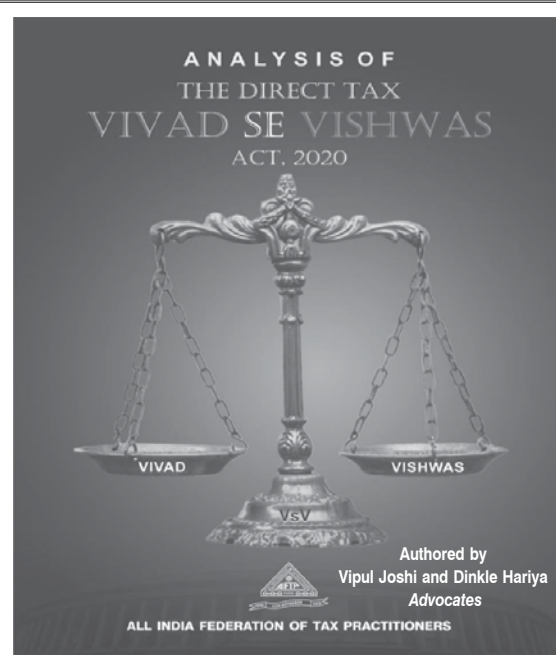
**You need to simply visit our website – [aiftponline.org](http://aiftponline.org) and you will be guided to payment gateway from the home page.**

**Mitesh Kotecha**

*Chairman, Publication Committee*

**Nikita R. Badheka**

*National President*

	<p style="text-align: center;"><b>1st E-Publication of All India Federation of Tax Practitioners Now available in Downloadable Format</b></p> <p style="text-align: center;"><b>Subject – Vivad Se Vishwas Act, 2020</b></p> <p style="text-align: center;"><i>Authored by</i> <b>Vipul Joshi &amp; Dinkle Hariya, Advocate</b></p> <p style="text-align: center;"><b>Price ₹ 500 + GST ₹ 90 = ₹ 590/-</b></p> <p style="text-align: center;"><b>Special 50% discount to members</b> <b>@ ₹ 250 + GST ₹ 45 = ₹ 295/-</b></p>
---	--

## List of Webinars held by AIFTP and its various zones from 10th May, 2020 to 4th June, 2020

Sr. No.	Date	Day	Zone	Topic	Speaker
47	10-05-2020	Sunday	Southern	Practical issues in Schedule I and II of GST Act	CA. Jatin Christopher A-Bangalore
48	11-05-2020	Monday	Southern	Critical analysis of 115 BBE with ref. to Demonitisation under Income Tax Act, followed by question answers	Sri. Kapil Goel, Advocate
49	16-05-2020	Saturday	Southern	Burden of Proof in Income Tax Proceedings – Law and Practise	Mrs. Muthu Abirami, Advocate, Chennai
50	16-05-2020	Saturday	Western	Levy of Penalty : New Turf – New Rules	Samir N. Divetia, Advocate Gujarat HC
51	17-05-2020	Sunday	Southern	Critical issues and resolutions – GST Refunds	CA V S Sudhir, Hyderabad
52	23-05-2020	Saturday	Southern	Analysis of applicability of GST on Joint Development Agreements	CA Venugopal G, Bengaluru
53	23-05-2020	Saturday	Western	Effect of lockdown & Aftermath of GST	CA Aditya Surte
54	25-05-2020	Monday	Western	Intricate issues in Place of Supply	Adv. Ishaan Patkar
55	25-05-2020	Monday	Southern	Interplay between Sections 56(2)(x), 50C, 54F and 43CA of Income-Tax Act, 1961	CA Suresh T G, Chennai
56	27-05-2020	Wednesday	Western	Intricate Issues Relating to ITC in relation to Rule 36(4), 42 & 43 under GST	Shri Parth Badheka, Adv.
57	28-05-2020	Thursday	Western	Important aspects of Refund in case of inverted Tax Structure under GST	CA. Abhay Desai, Vadodara
58	30-05-2020	Saturday	Southern	TDS – Practical Issues and Resolution under Income-Tax	CA D.R. Venkatesh, Bengaluru.
59	30-05-2020	Saturday	Western	Intricate issues in Classification and rate of tax under GST	Shri Uchit Sheth, Adv.
60	31-05-2020	Sunday	Central	Webinar with Gurudev Sri Sri Ravi Shanker	Gurudev Sri Sri Ravi Shanker
61	31-05-2020	Sunday	Southern	Demands and Recoveries Under GST	Sri. Raghava Ramabadran, Advocate, Chennai.
62	01-06-2020	Monday	Western	Critical aspects of Assessment, Demand & Recovery under GST	CA. Ashit Shah
63	02-06-2020	Tuesday	Western	Intricate Issues in Composition Scheme and RCM Under GST	CA. Pranav Kapadia
64	04-06-2020	Thursday	Western	Intricate Issues in Job works under GST	Shri Kuntal Parekh, Adv.

**Note:** Available YouTube links and PPTs are uploaded in our website i.e. [www.aiftponline.org](http://www.aiftponline.org)

### 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](http://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.

## Direct Taxes

Ms. Neelam Jadhav, Advocate, KSA Legal Chambers

### Tribunal :

1. **S. 12AA : Registration cannot reject merely on suspicion that, the cash from undisclosed sources is being introduced in the society in the form of school fees. Such suspicion without verification can't be a reason to deny registration for School.**

The assessee society is running a school and that society is also having recognition from the Department of Education, Government of Haryana. The CIT (E) refused the registration u/s. 12AA on grounds of suspicion that cash from undisclosed sources is being introduced in the society in the form of school fees. It has been observed by the Ld. CIT (E) that the school was being run from premises that consisted of one hall and eight rooms only and was actually situated in a Gali. The Ld. CIT (Exemptions) has observed that it was unbelievable that receipts to the tune of nearly ₹ 1 crore are generated from such small premises. Thus, apparently the CIT (Exemptions) was having doubts regarding the genuineness of the activities of the assessee society and hence he refused to grant the registration u/s. 12AA.

The Honorable Tribunal while deciding the issues observed that, CIT (Exemptions) was having doubts regarding the genuineness of the activities but instead of having the same verified, he chose to straightway refuse the grant of registration, same was not correct. If the CIT (Exemptions) was having any kind of doubts, he should have got the same verified. Therefore, held that merely on the suspicion that the cash from undisclosed sources is being introduced in the society in the form of school fees, can't be a reason to deny registration.

*Lady Floreance Education Society v. CIT (Exemption), ITA No. 3761/Del/2016, dt.19/05/2020, (Delhi)(Trib.)*  
Source : [www.itat.gov.in](http://www.itat.gov.in)

2. **S.32 : Depreciation on golf course is to be allowed as considering same as "plant and machinery".**

The assessee is a company engaged in the business of operation of golf course, construction

of hotels, housing complex and merchandising. The AO disallowed depreciation on golf course. The AO denied the depreciation for the reason that according to him golf course is developed on the land and whatever improvement is made on that land, it remain as a land. According to him, only the value of land is enhanced by constructing golf course thereon. Thus, according to him it is only land, which is not depreciable. Hence, it amounts to allowing depreciation on land, land being not a depreciable assets, he disallowed it. Whereas CIT held that the golf course is a 'building' and depreciation should be allowed considering the same as a 'building'. Before the Tribunal, the Assessee challenged that, the depreciation on the golf course should be allowed considering it as 'plant and machinery'.

While deciding the issue the tribunal observed that, the golf course owned and used by the assessee for the purpose of the business as a tool of the business of the assessee. It is functioning like a plant in case of the assessee. Further, it is not the case of the revenue that assessee has claimed any depreciation on the land. It is similar to the depreciation on pond allowed in the case of an aquaculture company by the Supreme Court in 379 ITR 335 and Gujarat High Court holding that mineral oil well also constitute a plant. Further observed that, CIT - A is not correct in saying that playing equipments, creating landscaping, holes, ponds and others are being done in the regular course to facilitate the game of golf and not into any production of goods and services. In fact, by creating these facilities, the assessee has created a service facility for its members and it produces revenue for the assessee. It is not always necessary that each plant should produce certain other tangible goods. Golf course is a plant looking to the nature of business of the assessee. Hence, Depreciation on cost of golf course developed is to be allowed on land by considering same as "plant and machinery".

*Landbase India Ltd. v. ACIT, ITA No.7269 to 7271 / Del / 2019 dt.14/05/2020 (Del)(Trib.)* Source : [www.itat.gov.in](http://www.itat.gov.in)

## Indirect Taxes

Tanmay Mody, GST Practitioner

### 1) GST – Rectification of GSTR-3B

Petitioner challenged the validity of Rule 61(5) of CGST Rules, GSTR-3B and Circular No. 26/26/2017 to the extent they do not provide for modification of the information. Petitioner grievance is that there is no rationale for not allowing rectification in the month for which the statutory return has been filed.

**Held:** The para 4 of Circular No. 26/26/2017-GST dated 29.12.2017 is not in consonance with the provisions of CGST Act, 2017. The impugned circular expressly states that the time period for filing of Form GSTR-2 and GSTR-3 for the months of July, 2017 to March, 2018 would be worked by a committee, as system-based reconciliation can only be operationalized after the relevant notification is issued. Thus, the impugned circular, in unequivocal terms, recognizes the concept of system-based reconciliation of Input Tax Credit and output liability for the same tax period as per the statutory provisions. There is no cogent reasoning behind the logic for restricting rectification only in the period in which the error is noticed and corrected, and not in the period to which it relates. There is no provision under the Act that has been brought to our notice which would restrict such rectification. The Respondents cannot defeat this statutory right of the Petitioner by putting in a fetter by way of the impugned circular. Since the Respondents could not operationalize the statutory forms envisaged under the Act, resulting in depriving the Petitioner to accurately reconcile its Input Tax Credit, the Respondents cannot today deprive the Petitioner of the benefits that would have accrued in favour of the Petitioner, if, such forms would have been enforced.

*(Source: Order by the Delhi High Court in Writ Petition No. 6345/2018 in the case of M/s. Bharti Airtel Ltd. vs Union of India & Ors.)*

### 2) GST – Karnataka AAAR

Whether the appellant is eligible for input tax credit on the detachable sliding and stacking glass partition which is movable in nature and capitalized as “furniture and fixture” and not as an immovable property?

**Held:** In the facts of the case, the glass partitions are not permanent and are not embedded to the earth. They can be dismantled and moved according

to the requirements of the clients of the Appellant. Although they are fixed to the earth with nuts and bolts, they can be dismantled without demolishing the civil structure. Therefore, the detachable sliding and stackable glass partitions do not qualify as immovable property. Further, the detachable sliding and stackable glass partitions are accounted in the Appellant’s books of account as fixed assets under the head “furniture and fixtures”. They are not capitalised as immovable property but rather as movable assets. The detachable sliding and stackable glass partitions are movable property and addition /fixing of glass partitions does not amount to construction of immovable property. Therefore, the procurement of detachable sliding and stackable glass partitions will be eligible for input tax credit and will not be hit by the provisions of Section 17(5) (d) of the CGST Act.

*(Source: Order no. KAR/AAAR/17/2019-20 dt. 6th March, 2020 by the Karnataka AAAR in the case of M/s. WeWork India Management P. Ltd.)*

### 3) GST – Karnataka AAR

Whether software supplied by the applicant qualifies to be treated as Computer software i.e. Canned (Packaged) Software, resulting in Supply of goods?

**Held:** The software sold by the applicant is a pre-developed or pre- designed software and made available through the use of encryption keys and hence it satisfies all the conditions that are required to be satisfied to cover them under the definition of “goods”. Further, the goods which are supplied by the applicant cannot be used without the aid of the computer and has to be loaded on a computer and then after activation, would become usable and hence the goods supplied is “computer software” and more specifically covered under “Application Software”. Hence the supply made by the applicant is covered under “supply of goods” and “supply of computer software as goods” and covered under the HSN 8523.

*(Source: Order no. KAR ADRG 25/2020 dt. 31st March, 2020 by the Karnataka AAR in the case of M/s. Solize India Technologies P. Ltd.)*



### Publications for sale

Sr. No.	Name of Publication	Edition	Rate (₹)		
			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 April, 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
<b>Total</b>	<b>12</b>	<b>8407</b>	<b>136</b>	<b>12</b>	<b>8567</b>

### 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.

To

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 :



**ALL INDIA FEDERATION OF TAX PRACTITIONERS**

215, Rewa Chambers, 31, New Marine Lines, Mumbai 400 020. • Tel.: 22006342/49706343  
Telefax: 22006343 • E-mail: aiftpho@gmail.com • Website: www.aiftponline.org