

All India Federation of Tax Practitioners**AIFTP TIMES**

Volume 11 – No. 10 • October 2020

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
02nd & 03rd October, 2020	Virtual National Tax Convention	Northern Zone
05th & 06th December, 2020	23rd National Convention	Hyderabad

President's Communique

Dear members,

Greetings to all. The month of September was full of activities by AIFTP

Virtual address by Chairman CBDT

On 12th and 13th September 2020 the members of the Federation with many other professional colleagues were enrolled for the first virtual NTC by AIFTP. Shri Bhaskar Patel, Chairman of WZ and his team worked extra miles to make this mega event a grand success. The star attraction was the key note address by Hon'ble Shri P. C. Mody, Chairman Central Board of Direct Taxes. The faceless assessment system and tax payers charter were explained in lucid terms. The Hon'ble Chairman was candid enough to say that they would be open to any suggestions for betterment of taxpayers and tax administrators. Many of the doubts generally raised were dispelled by him including the confirmation that accountability of the tax administrator would also be major harp to make this system successful. The panelist Shri Mukesh Patel along with Sr. Adv. Shri Ganesh Purohitji were ready with 30 pertinent questions to be answered by Dr. Pushpinder Puniha, Principal Chief Commissioner of Income Tax, National e-Assessment Centre and Shri Kamlesh Varshney, Joint Secretary, Tax Policy and Legislature Government of India.

The interesting discussion which continued for three hours thereafter has cleared majority of doubts about the faceless Assessment scheme. My compliments to Shri Mukesh Patel, international Tax expert and Renowned Advocate from Gujarat for planning, designing and executing the entire session and making it a history. Sr. Advocate Shri Ganesh Purohit, our Past President as usual was at his best. We were able to witness the brighter side of our Secretary General Shri Samir Jani, who raised queries. He has proved to be a valuable asset and left no stone unturned to perfect this occasion with minute details.

Not to miss, the quick, frank and to the point answers given by two top officials that showcased their sharp intellect and expertise on the subject.

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The speech and response by all the three Government dignitaries have created a higher level of confidence and faith amongst all the stake holders.

My hearty Congratulations to all connected with the program, including the Chairman of Virtual conference Shri Narendra Sonawane, and other co-organisers namely : Shri Raj Shah, (President GSTPAM), Shri Sharad Suryawanshi (President WMTA) and Shri Kaushik Vaidya (President CGCTC) and their respective teams. I am informed that around 2574 delegates registered and the program was seen live on Facebook by about 6000 persons.

The rest of the sessions were of great importance to the members practicing the Direct and Indirect Taxes. My sincere thanks to all the fantastic speakers. The Chairman of the respective session added value to their respective session. The YouTube link of each session is available on our website, the members who could not join can take benefit of the same. We have also made available PPT, wherever made available to us by speakers, on our website. I am happy to inform that for the first time e-souvenir was released in the inaugural session of this NTC. I read the detailed report in AIFTP times.

Second virtual NTC by Northern Zone

On 2nd and 3rd October, we would be witnessing one more historic event. It would be golden moment for each member as we would be having as Chief Guest and Guests of Honour, the Hon'ble Judges, who have been real Gems of the Federation. After being active in AIFTP, they are elevated as judges of Respective High Courts. Chief Guest Hon'ble Justice Shri Rajesh Bindalji, Jammu and Kashmir High Court was closely associated with the Federation for many years, before his elevation as Judge Punjab and Haryana high Court. The Guest of Honour Hon'ble Ms. Justice Anita Sumanth, Judge, Madras High Court had been an active Zone Chairman of South zone. Hon'ble Shri Justice Piyush Agarwal, Judge Allahabad High Court has been one of the active NEC member of North Zone. The rest three Hon'ble Guests of Honour are all from the East zone. Hon'ble Shri Justice Ujjal Bhuyanji. A Senior Judge of Bombay High Court is basically from Gauhati. Hon'ble Shri Justice Bhuyanji has participated in many programs Of AIFTP by now. Similarly, Hon'ble Shri Justice Kalyan Rai Surana, Judge Gauhati High Court and Hon'ble Shri Justice Soumitra Saikia, Judge Gauhati High Court have been members of our esteem Association. It would be great pleasure to have them all at one place in a virtual platform It would be an event of legal luminaries and judicial luminaries being present on the same platform. Shri Asim Zafar, North Zone Chairman and Shri Sanjay Kumar, Advocate from Allahabad, the Chairman of the Conference, are on their toes to make this event another historic event. I invite each and every member to participate in the virtual NTC and make it a Grand success.

Felicitations of Advocate Pankaj Ghiya of Central Zone

Shri Pankaj Ghiya, renowned Advocate from Jaipur is pioneer in bringing the webinar culture in AIFTP. I must admit, my first lessons of the webinar are learnt from Shri Pankaj Ghiya. In the first virtual National Tax Conference, the Federation was crossing the magic number 100 webinars, we thought it fit and proper to put on record our appreciation by felicitating him in the First Virtual Conference. But for him it would not have been possible for the Federation to reach out to the thousands of tax consultants in remotest areas of the Country. My Congratulations to him. I am sure he would take the federation to greater heights in the days to come.

Release of the second e-publication

The Federation has team of Seniors and enthusiastic contributors, who have decided to publish a second e-publication containing 151 landmark judgments of the Supreme Court under Direct, Indirect and Allied laws. This e-publication is in the final stage of completion under the able guidance of our past president Senior Advocate Dr. K. Shivaram. This e-publication would be released at the inauguration of the second Virtual National Tax Conference by North Zone. The publication is to celebrate completion of 150th birth Anniversary of Mahatma Gandhiji. I am sure, this publication is going to be of immense help to all the consultants of Income Tax and GST. On account of current pandemic situation,

we may be withholding the print publication. This publication is dedicated to late Justice Dr. B. P. Saraf former Chief Justice of Jammu and Kashmir High Court.

Expanding the horizon of tax Professionals

Having reached more than 102 webinars, its time to take a sabbatical. Members are now busy with the compliances under various laws. We have learned about the intricacies of direct and Indirect taxes. Each act refers to provisions and interpretation under different Acts. It therefore is incumbent on the part of the tax professionals to know in detail each of such laws. After checking the limitations under various Act, AIFTP(WZ) would be starting during Diwali series of workshops, on legal concepts and on allied laws. The six workshop series designed by the west Zone are on law of writs, principles of Interpretation of statutes as applicable to tax laws (two lecture), law of precedents, evidence Act and Information technology acts, law of affidavits and doctrine of natural Justice. The allied laws will follow thereafter, may continue post 2020 like one more workshop with four associations in Maharashtra.

Representation on Direct & Indirect Tax

The Federation has been persistently representing about the extension of time on account of pandemic. The major compliances under the Income Tax and GST Act involves audit of the accounts under the respective Acts. Although the Government has now been lenient in opening up the lockdown to a great extent, the end of the Covid-19 era is nowhere to be seen. Majority of the cities including the metropolitan cities are reeling under the ever-increasing number of corona infection. The public transport is scarcely available. The local trains and metros are open only for the officials of the government. Under such unprecedented circumstances, the Hon'ble Finance Minister ought to have extended the time for audits at least up to 31st December 2020. Unfortunately, although the Centre has been lenient in giving the relief to the MSME sector as also the common men in the lower strata of the society, I regret to say that there is no relief to the people of middle class and tax professionals. The assesseees are still fumbling to gather the data with the limited availability of staff, pressurizing timely compliance may result in incomplete compliance. The Hon'ble Finance Minister ought to have realized the stress under which assesses are trying to recover economically. It would not be wise to further suppress the oppressed. The Federation has been continuously making representation; unfortunately, there is no positive response from the Ministry. The extension of deadline for various compliances under GST Act is equally important. Unfortunately, the recent amendment does not show acceptance of our representation especially for due date of compliances.

An interesting issue which may arise on account of the Supreme Court judgment on suo moto application on 23rd March 2020. The Hon'ble SC has in this suo moto order extended the limitation for all legal compliances. This judgment should squarely apply to the compliances under the Direct Tax. Although the Income Tax Act and GST Act are governed by special law, the Hon'ble Finance Minister must consider the present exceptional circumstances and extend all the compliances dates at least up to 31st December, 2020. We look forward to having positive and timely response from the Government in this regard.

Kindly visit our website www.aiftponline.org for information about future activities. Please invite your professional friends to become member of AIFTP before the subscription increases.

More in next

Stay safe, Stay Healthy and Stay Connected

Nikita R. Badheka
National President



AIFTP JOURNAL SUBSCRIPTION 2020-2021

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.

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Thanking you,

Yours sincerely,

For ALL INDIA FEDERATION OF TAX PRACTITIONERS

Chirag S. Parekh

Treasurer

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6. Please write your name on the reverse of Cheque/D.D.

Report on Virtual 2 Day National Tax Conference

held on 12th & 13th September, 2020

Dnyan – Sangam 2020

by Shri Bhaskar B. Patel, Chairman, AIFTP-WZ

Report of Virtual National Tax Conference of AIFTP (WZ) which is First of its kind organized under the banner of AIFTP.

Covid-19 pandemic has changed the way we live. As professionals we have shifted to Webinars from Seminars. Likewise All India Federation of Tax Practitioners (WZ) headed by Adv. Bhaskar Patel, Chairman, Vadodara, Gujarat jointly with The Goods and Services Tax Practitioners Association of Maharashtra (GSTPAM) headed by T.P., Raj Pravin Shah, Mumbai. The Western Maharashtra Tax Practitioners Association (WMTPA) headed by T.P. Sharad Suryawanshi, Pune and Central Gujarat Chamber of Tax Consultants, headed by Adv. Kaushik Vaidya, Vadodara, Gujarat organised 1st Virtual 2 Day National Tax Conference first of its kind. T.P. Narendra Sonawane, Pune was convenor of this 2 Day NTC.

The Virtual National Tax Conference was organised on 12th & 13th September through Zoom Webinars platform. More than 2700 participants registered for the National Tax Conference and also viewed by more than 6500 viewers of Taxman and other through it's you tube and face book pages / links. The list of participants is submitted to the AIFTP-HO. The National Tax Conference was containing the subjects on Direct and Indirect Taxes.

Inaugural session was Chaired by the National President, Nikitaben Badheka as Chief Guest. Mr. Pankaj Ghiya was the Guest of Honour for the session. After virtual prayer, the delegates were fortunate to have words of wisdom from the Guest of Honour Mr. Pankaj Ghiya and National President Smt. Nikitaben Badheka being Chief Guest. The National President inaugurated the 1st Virtual National Tax Conference of AIFTP. The National Tax Conference consisted of 6 Technical Sessions.

The 1st Technical session was on the Faceless Assessment recently launched by Hon'ble Prime Minister, Mr. Narendra Modi. National Tax Conference was honoured to have Respected Shri P. C. Mody, Chairman, CBDT as keynote speaker of the First Session a Panel Discussion on Faceless assessment. The panellists were Mr. Kamlesh C. Varshney, Joint Secretary – GOI, Dr. Pushpinder Puniha, PCCIT, NeAC, Mr. Mukesh M. Patel Ahmedabad, Advocate (International Tax Expert), Mr. Ganesh Purohit, Sr. Adv. & Past President, AIFTP. Secretary General AIFTP Mr. Samir S. Jani, Junaghad Gujarat was the moderator of the session. This session was also made live by the Taxman on its Face book and you-tube pages. As per the details made available to us, more than 6500 people viewed the session. This is in turn historic.

The 2nd Technical session was on Critical issues on Inward Supply in form GSTR 9 and 9C. The session was Chaired by Past President of AIFTP, Mr. M. L. Patodi, Kota. Renowned CA. Bimal Jain, New Delhi was the speaker of the session.

The 3rd Technical session was on the subject Critical issue on Outward Supply in form GSTR 9 & 9C which was Chaired by Past President of AIFTP Adv. P. C. Joshi, Mumbai and Adv. Ashok Batra, Mumbai was the speaker of the technical session.

The 4th Technical session was on the subject of intricate issues under GST Act on accounts of Lockdown, Partial lockdown & Partial opening. Sr. Adv. V. Sridharan, Mumbai gave his presence as Chairman of the session. Adv. Pankaj Ghiya, Jaipur Past Secretary General of AIFTP was the speaker of the session.

The 5th Technical session was on the subject Taxability on sale of Land, Developed Plots & Joint Development Agreements under GST. Dr. M.V.K. Moorthy, Hyderabad Past President of AIFTP Chaired the session. CA. Abhay Desai, Vadodara was the speaker of the technical session.

The 6th Technical session was on the subject Admission and Retraction in I.T. Survey & Search cases & Relevance of Electronic evidence & Recent Changes in IT Returns and Audit. The session was Chaired by Sr. Adv. Dr. K. Shivaram. Mumbai Past President of AIFTP and Adv. Narayan Jain, Kolkata Past Secretary General of AIFTP was the speaker of the technical session.

It was a very successful programme with record 2700 + registration. The programme was also made live on the Face book pages and viewed by 6500 viewer of Taxman.

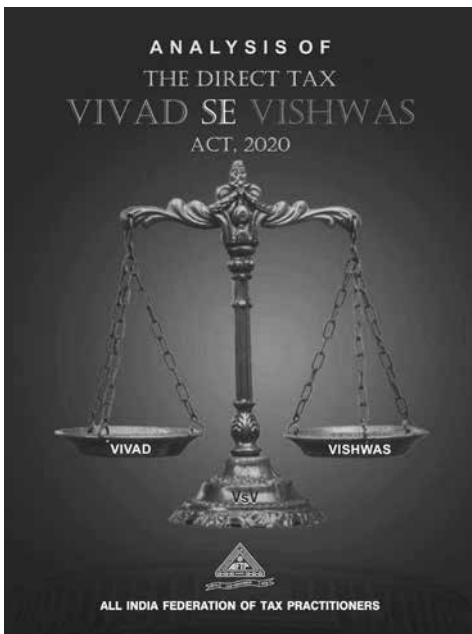
As this was virtual 2 Day NTC in this pandemic situation in our Nation and in entire world we were required to organize on ZOOM platform. It needless to say that all the sessions including inaugural session were perfectly hosted by Mr. Gnyaneswar Pune, Mr. Nigam Shah Ahmedabad, Smt. Sejal Shah, Mumbai and Mr. Bhavya Popat, Una Gujarat.

☐

List of Webinars held by AIFTP and its various zones from 5th September, 2020 to 20th September, 2020

Sr. No.	Date	Day	Zone	Topic	Speaker
97	05/09/2020	Saturday	Northern	<ul style="list-style-type: none"> Time of Supply – Its meaning and Importance Inter state and Intra state Supply Time of Issue of Invoices Change in Rates of Taxes 	CA Rajender Arora
98	06/09/2020	Sunday	Northern	<ul style="list-style-type: none"> Place of Supply of Goods Place of Supply of Services In respect of Domestic and International transactions 	Mr. Vineet Bhatia, Advocate
99	12 & 13/09/2020	Saturday & Sunday	Western	Virtual National Tax Conference – Dnyan-Sangam 2020	
100	14/09/2020	Monday	Northern	<ul style="list-style-type: none"> Input Tax Credit – Eligibility & Restrictions ITC on Job Work Transactions Distribution of Credit by ISD 	CA Puneet Aggarwal, Advocate
101	15/09/2020	Tuesday	Northern	Valuations: Aspects of Valuation of Supply, Debit & Credit Notes and Discounts	CA Dr. Gaurav Gupta, Co-chairman – PHD Chamber of Commerce
102	19/09/2020	Saturday	Northern	<ul style="list-style-type: none"> Refunds Law Practical Approach to claim Refunds 	Mr. Sandeep Goyal, Advocate
103	20/09/2020	Sunday	Northern	<ul style="list-style-type: none"> Returns, and Rectifications Claiming of ITC Provisions of TDS and TCS 	Mr. Suresh Agrawal, Advocate

Note: Available YouTube links and PPTs are uploaded on our website i.e. www.aiftponline.org



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Direct Taxes

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

High Court

1. S. 54 : Advance given for Purchase of Flat prior to Sale of Asset would be eligible for Capital Gain deduction

The assessee, is an individual, filed her return of income for the assessment year 2013-2014. The return of income was processed u/s. 143(1) of the Act. Subsequently, the case was selected for scrutiny and the assessment was completed u/s. 143(3) wherein the Assessing Officer disallowed the investments made by the assessee prior to the sale of assets. As against the order of assessment, the assessee filed an appeal before the CIT(A) as well as Tribunal, however, appeal of the Assessee was dismissed by both the appellate forum.

Before the High Court the Assessee filed an appeal raising issue that for the purpose of S. 54, the advance payment made by the assessee for the purchase of a residential flat would constitute a part of purchase or not, when such advance is made to the seller of flat prior to the date of sale of capital asset. The court while dealing with the issue noted that that there was no prohibition for the assessee for putting up construction out of the sale consideration received by such transfer of site, which was owned by him as it was clear from the language of the provision. The Honorable court held that the intention of the Legislature was to either purchase before or after the date of sale and the word 'purchased' or 'constructed' used in the Notes on Clauses amply makes the intention clear. Therefore, Advance payment for Purchase of Flat prior to Sale of Asset would be eligible for Capital Gain deduction. (AY 2013-2014)

Ms. Moturi Lakshmi v. ITO, TCA No.181 of 2019, dt.17/08/2020 (Mad)(HC), Source : www.hcmadras.tn.nic.in

Tribunal

2. S. 37(1) Business Expenditure - expenses incurred for the buy-back of shares by the Company would amount to "revenue expenditure".

The Assessing Officer observed that, the assessee had spent money on buy-back of shares and debited the same to Profit & Loss account and therefore Assessing Officer noted that, the expenditure was disallowed by the AO in his draft assessment order holding the same to be capital expenditure. During the proceedings, DRP upheld that the face value of shares bought back is reduced from the paid up capital and the surplus (premium) is debited to reserves such as securities premium account or other reserves (other than revaluation reserve). Before the Tribunal, the Assessee submitted that, the increase in the capital results in expansion of the capital base of the company and incidentally that would help in the business of the company and may also help in the profit - making. The expenses incurred in that connection still retain the character of a capital expenditure since the expenditure is directly related to the expansion of the capital base of the company.

While deciding the issue the Tribunal observed that, Issue of bonus shares does not result in the expansion of capital base of the company. It does not lead to any inflow of fresh funds into the company. The consequence of such buy-back of shares is the capital base of the company gets reduced and the capital structure will go down. It is not of an enduring effect so as to bring the expenditure incurred in this regard as capital expenditure. When there is no flow of funds or increase in the capital employed, the expenditure incurred would be revenue expenditure. Further Tribunal following the decision of *CIT v. Motor Industries Co. Ltd. ITA No.1064/2008 dt.31/10/2014 (Kar)(HC)* held that expenses incurred by the Company for the buy-back of shares would amount to "revenue expenditure" and allowed the same. (AY 2011-2012)

Ocwen Financial Solutions Pvt. Ltd. v. The Jt. CIT, ITA No. 686/Bang/2016 dt.25/09/2020 (Bang)(Trib.) Source : www.itat.nic.in



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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.	Vivad Se Vishwas Act, 2020	May, 2020	295.00*	590.00*	–

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3.	Ordinary full page	₹ 5,000/-
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5.	Fourth cover page	₹ 10,000/-
There shall be Discounts on bulk advertisements.		

Membership of AIFTP as on 30th September, 2020 Life Members					
	Associate	Individual	Association	Corporate	Total
Central	0	1151	25	0	1176
Eastern	6	1855	37	0	1898
Northern	0	1332	18	1	1351
Southern	1	1547	21	5	1574
Western	5	2654	37	6	2702
Total	12	8539	138	12	8701

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