



## President's Communique

Dear Members,

### Battle with Covid-19 is on - Please do not miss to take utmost care

Although we all are looking forward to being active again as opening ups are being announced by individual State Governments, I am afraid we can't afford to reduce the precautions which we must continue to follow strictly.

I say so because it deeply saddens me to inform my dear members that an active secretary of South Zone Adv. Shri M. A. Prakash succumbed to the Covid-19 on 23rd August 2020. One of the most active secretary of the Zone, whom many of you may have seen during the South Zone programmes.

I am informed there are two or three more members of our Association who have left us for heavenly abode fighting Covid-19 battle. Shri Madhusuden Soni from Hyderabad is one of them. He was secretary of south zone few years back. I am extremely sorry to inform that Mrs. Pratima, wife of our regular column writer and Associate editor Shri C. B. Thakar (Mumbai) left for heavenly abode after fighting the battle against Covid-19, for more than one and half month on 18th August 2020.

We pray Almighty to bestow eternal peace to the departed souls. Our deepest condolences to near and dear ones. We pray God to give their families strength to bear this irreparable loss.

It is therefore extremely important for each of us, not for our own self but also for our near and dear ones that we continue to strictly follow the Government guidelines of wearing three ply face mask, washing hands frequently, maintaining 6 feet distance (Even when you meet your friends) and avoiding public crowded places. Keep yourself fit.

The hearings with any authority including appellate authorities can now be held through virtual mode. We will have to accept virtual mode of hearing as a way of life for many more months to come. A new normal life.

I am happy to inform that AIFTA has formed a committee of past presidents to create a benevolent trust for the members. The modalities may take some time, meanwhile, if any of the member is in distress or if you are aware of any such member, pl inform us by writing an email to aiftpho@gmail.com. Please do not hesitate.

### Faceless Assessment – a new step forward

Recently the Hon'ble Prime Minister Shri Narendra Modi launched a platform for transparent taxation system and theme of honouring the honest.

The faceless assessment, faceless appeal and taxpayer charter are announced as a way forward. The Hon'ble Prime Minister also announced that there would be no intrusive and survey action by the field officer. Only investigation wing and TDS wing can carry on the investigation, that too, after approval by the officer of the level of Chief Commissioner or above. The selection would be through the system.

#### 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

Implementation of this system would mean abolition of territorial jurisdiction. There will be no physical interface with the jurisdiction officer. Gone would be the days of frequent visits to the Income Tax Office. A very welcome step. However, the Income Tax Department will have to ensure that the proceedings are not abruptly closed for want of time and the assessee are given more than one E-hearing if the situation so demand. The original system of target based assessment and applauding the officer who created heavy demand (especially the demands which cannot stand the test of law) should be stopped immediately.

We, as taxpayers and the tax consultants, are fully aware of the paper demand raised by some of the officers only to meet the target. The entire system formulated by this announcement appears to be very attractive. Especially the tax payer's charter has specifically declared the commitment by the Income Tax Department to the public at large, especially tax payers. They are directed to be fair, courteous and give reasonable treatment and professional assistance in all dealings to the tax payers. The tax payers are presumed to be honest unless there is reason to believe otherwise. For the first time, the Department is directed not to disclose any information provided by the taxpayer unless authorized by law and the officials are going to be held accountable for their action in implementing the citizen charter.

While the commitment to the taxpayers is declared, the charter also specifies what is expected from the taxpayer. The taxpayer is expected to be honest and compliant. The most important expectation is that taxpayers should know what information and submission are made by his authorized representative. The taxpayer is also expected to be aware of his compliance obligation under the tax law and seek the help of the Department if needed apart from making regular tax payment and maintaining accurate record.

Both faceless assessment and faceless appeal look attractive; however, as pointed out earlier, neither side should take advantage of the system. What is required is the change of mindset on both sides and an honest attempt by both sides, i.e. the authorities and the taxpayers, to implement and put in practice the system announced by the Prime Minister.

This is the first taxpayer charter conceptualized by the taxpayer-friendly Government. However, in the past we had a citizen charter which remained a decorative piece in paper. The benevolent scheme and the system announced by the Government are at times made complicated by inserting numerous rules and formalities. Let's hope we do not see the same fate of the scheme this time.

AIFTP(WZ) has keeping in mind this development invited the two topmost Officials in a virtual NEC planned on 12th and 13th September 2020. It would be worth understanding the vital details from the persons at the helm of the affairs.

In my personal opinion, the power of the officer passing hurried order at the fag end of the time-barring period should also be kept under rein. Such officers should be treated as erring officers. The power of rectification has remained untouchable for majority of the matters on account of the phrase "mistake apparent on record". This phrase and the power of rectification have been viewed and interpreted differently by different Courts under different circumstances. In my opinion, a liberal approach is required so that just and fair treatment is meted out to the taxpayers. Many a times the submissions made on record are either considered or summarily dismissed by the concerned authorities without any reason. The order without reason should also be subjected to the scope of rectification if the material, documents, evidence are already on record without detailed arguments. Non-consideration of the material on record should invite investigation of the officer. It is only when stern actions are taken against erring officers and dishonest taxpayers then the real object of the present scheme would be implemented.

The department has been honouring the honest taxpayers; however, the medium level and smaller taxpayers who are honest and paying regularly the tax liability, in my opinion, deserve to be appreciated.

The show cause notices issued so far at times had no base, nor they could prima facie stand the test of law, nonetheless the taxpayer has to go through rigmarole of filing appeal, second appeal etc. The Courts normally refuse to entertain writs at this juncture. This is creating a bad image and undue harassment to the genuine taxpayer.

I sincerely hope we see a golden era where the taxpayer community increases many fold and the administrators behave in just, fair professional manner.

While the taxpayer charter has taken care of the honest citizen, a very important suggestion, I would like to make is to give the social security pension to the taxpayer above 65 years of age, based on the amount of tax they have paid over years and may continue to pay. It would be a noble feature where the taxpayer would have greater incentive to pay due tax during their young age itself as they are assured of some return out of the said tax paid throughout their peak of their earning, in their old age. This would ensure due compliance by all citizens who are covered by the tax bracket.

### **Representation for Indirect Taxation**

The Indirect Tax Representation Committee headed by Shri H L Madan is preparing a pre-budget memorandum to be submitted to the Hon'ble Finance Minister and GST Council. I request all the members to give their valuable suggestions and inputs my e mail to our Head Office so that we can make a meaningful representation. (aiftpho@gmail.com )

### **Activities of the Federation**

#### **Renewal of AIFTP Journal subscription**

Our members have by now become used to reading the e AIFTP times. After opening up, we may continue to do so. On account of lockdown and partial opening up, the Post Office which has been taking delivery of AIFTP Times has not been able to accept our delivery. Meanwhile, may I request the members who have not paid the subscription for AIFTP Journal so far, to renew their subscription at the earliest. I also invite the new members to subscribe for the journal as the journal gives them opportunity to keep themselves updated on Direct and Indirect Taxes as also to read the articles of the members from all over India. This would obviously widen the horizon and the views of the tax consultants of different parts of the country can be appreciated and applied by a member. **You can make the payment by clicking the below link:-**

<http://aiftponline.org/subscription-form/?type=journal>

#### **Webinars - e education continues :**

Meanwhile, the Federation continues to hold free Webinars in the interest of the members. I am happy to inform that we would be soon crossing a century of webinars which have provided us the opportunity to make the presence of the Federation felt by the tax consultants in the remotest rural area of the Country. The zones have been able to reach to more than 500 members at a time, normally, to achieve our moto of spreading knowledge and education.

I must congratulate the Central Zone, Chairman Shri Vinay Jolly and his team, Vice President Shri Rajesh Mehta and ever enthusiastic senior member Shri Pankaj Ghiya to have maximum webinars with maximum participation. They have completed the certificate course of GST. The North Zone is started the certificate course on GST on 25th August 2020.

The West Zone Chairman Shri Bhaskar Patel has announced a Two-day National Conference. I request all the members to join for a unique experience as for the first time ever the Principal Chief Commissioner of Income Tax National e-Assessment Center, Dr. Pushpinder Puniha and the Joint Secretary, Government of India, Shri Kamlesh C. Varshney have agreed to be part of the active panellists for a session on 'Faceless Assessment" charting a road map for a painless tax regime, seamless tax regime and compliance" along with renowned international tax expert Shri Mukesh Patel and our Past President Sr. Adv. Shri Ganesh Purohit. The other subjects are also of prime importance for day-to-day practice of Direct and Indirect Tax.

The North Zone under the able leadership of Shri Asim Zafar is planning a two day NTC on 2nd and 3rd October 2020. The Central zone is planning a two-day National Tax Conference on 31st October and 1st November 2020.

Dear Members, kindly continue to attend all our programs to enrich your knowledge. It is possible to log in from your mobile too. Let me appreciate that the inputs and the queries raised by the participants also help in enhancing and enriching the deliveries by the faculties. In my opinion, active participation by the delegates is the most important aspect for success of any programme. For all our future programmes kindly visit our website [www.aiftponline.org](http://www.aiftponline.org).

Stay Safe, Stay Blessed.

**Nikita R. Badheka**  
National President

## **ANNOUNCEMENT**

Constitution Committee of AIFTP invites suggestions from the members of AIFTP with respect to the amendments in the 'Rules and Regulations of AIFTP'. A copy of the Rules and Regulations is available on the website of AIFTP. The suggestions, if any, should reach to office of the AIFTP on or before 24.09.2020.

**Shri P. C. Joshi, Past President**  
Chairman, Constitution Committee

## 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.**

### 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 at the earliest. 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 at the earliest. 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](http://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 write your name on the reverse of Cheque/D.D.

## NOTICE OF ANNUAL GENERAL MEETING AIFTP (EZ)

Notice is hereby given that the Annual General Meeting of the All India Federation of Tax Practitioners (Eastern Zone) will be held on Saturday, the 19th September, 2020 at 12.30 p.m. Virtually platform to be informed to transact the following business.

1. Call to order by Zone Chairman.
2. Opening remark by Chairman.
3. To read and approve of minutes of last Annual General Meeting held on 13th July, 2019.
4. To receive and adopt the Annual Report of Managerial Committee (Eastern Zone) for the year 2019 – 2020.
5. To consider and adopt the Audited Accounts of AIFTP (Eastern Zone) for the Financial Year ended 31st March, 2020.
6. To appoint Auditors for the Financial Year 2020 – 2021 and fix their honorarium.
7. To Transact any other business with the permission of the chair
8. To propose vote of thanks

For ALL INDIA FEDERATION OF TAX PRACTITIONERS (E. Z.)

S/d

Vivek Agarwal

Secretary (Eastern Zone)

**Note:** If there is no quorum by 4 pm the meeting will be adjourned by half an hour and the members present at such adjourned meeting shall form the quorum

## VIRTUAL NATIONAL TAX CONFERENCE

ALL INDIA FEDERATION OF TAX PRACTITIONERS (WZ)

Way Forward to Atmanirbhar Professional

12<sup>th</sup> & 13<sup>th</sup> September, 2020

Dnyan-Sangam 2020

Alongwith



THE WESTERN MAHARASHTRA TAX PRACTITIONERS ASSOCIATION, PUNE  
THE GOODS AND SERVICES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA  
CENTRAL GUJARAT CHAMBER OF TAX CONSULTANTS

### Conference Schedule

10.15 a.m. to 10.55 a.m. Inaugural Session

#### Day 1 Saturday, 12th September, 2020

<b>1st Technical Session 11:00 a.m. to 1:30 p.m.</b>	
Panel Discussion on "Faceless Assessment - Charting a Roadmap for a Painless Tax Regime & Seamless Tax Compliance."	
Keynote Address	Hon'ble Mr. P. C. Mody, <i>Chairman, CBDT</i>
Panelists	Dr. Pushpinder Puniha, <i>PCCIT, NeAC</i>
	Mr. Kamlesh Varshney, <i>Jt. Sec., TPL, CBDT</i>
	Mr. Mukesh Patel, <i>International Tax Expert</i>
	Sr. Adv. Ganesh Purohit, <i>Jabalpur</i>
Moderator	Mr. Samir S. Jani, <i>Junagadh</i>
<b>2nd Technical Session 02:00 p.m. to 3:45 p.m.</b>	
Critical Issues on Inward Supply in Form 9 & 9C under GST Act	
Faculty	CA Bimal Jain, <i>New Delhi</i>
Chairman	Adv. M. L. Patodi, <i>Kota</i>
<b>3rd Technical Session 04.15 p.m. to 6:00 p.m.</b>	
Critical Issues on Outward Supply in Form 9 & 9C under GST Act	
Faculty	Adv. Ashok Batra, <i>New Delhi</i>
Chairman	Adv. P. C. Joshi, <i>Mumbai</i>

#### Day 2 Sunday, 13th September, 2020

<b>4th Technical Session 10:00 a.m. to 11:45 a.m.</b>	
Intricate Issues under GST Act on account of Lockdown, Partial Lockdown & Partial Opening	
Faculty	Adv. Pankaj Ghiya, <i>Jaipur</i>
Chairman	Sr. Adv. V. Sridharan, <i>Mumbai</i>
<b>5th Technical Session 11:45 a.m. to 1.45 p.m.</b>	
Taxability of Sale of Land, Developed Plots & Joint Development of Agreement under GST	
Faculty	CA Abhay Desai, <i>Vadodara</i>
Chairman	Sr. Adv. Dr. Ashok Saraf, <i>Guwahati</i>
<b>6th Technical Session 02:30 p.m. to 04:30 p.m.</b>	
1. Admissions & Retraction in I.T. Survey & Search cases and Relevance of Electronic evidences 2. Recent Changes in IT Returns and Audit	
Faculty	Adv. Narayan Jain, <i>Kolkata</i>
Chairman	Sr. Adv. Dr. K. Shivaram, <i>Mumbai</i>

Note : Each session would end after Questions and Answers session.

**Adv. Nikita Badheka, National President, AIFTP**

**Vinayak Patkar, Vice President (WZ), AIFTP**

<b>Bhaskar Patel, Chairman, AIFTP (WZ)</b>	9979733033	<b>Samir Jani, Secretary General, AIFTP</b>	9825037365
<b>Raj P. Shah, President, GSTPAM</b>	9867368285	<b>Alok Mehta, Vice President, GSTPAM</b>	9892001645
<b>Sharad Suryawanshi, President, WMTPA</b>	9881361392	<b>Vilas Aherkar, Vice President, WMTPA</b>	9422034396
<b>Kaushik Vaidya, President, CGCTC</b>	9824251425	<b>Pravin Shah, Vice Chairman, AIFTP(WZ)</b>	9821476817
<b>Shripad Bedarkar, Secretary, WMTPA</b>	9890672049	<b>Kuntal Parikh, Secretary, AIFTP(WZ)</b>	9825136468
<b>Pravin Shinde, Secretary, GSTPAM</b>	9324671609	<b>Adv. Himanshu Vaghela, Secretary, CGCTC</b>	9825466056

• Shri Narendra Sonawane, *Chairman* - 9822601617 • CA Aditya Seema Pradeep, *Chief Co-ordinator* - 7507285285

## VIRTUAL NATIONAL TAX CONFERENCE



*Theme:*  
**CHALLENGES FOR TAX PROFESSIONALS POST COVID-19**

*Organized by:*  
**ALL INDIA FEDERATION OF TAX PRACTITIONERS NORTH ZONE**

<b>CHIEF GUEST</b> <b>Hon'ble Mr. Justice Rajesh Bindal</b> Judge, Jammu & Kashmir High Court	<b>GUEST OF HONOUR</b>	
	<b>Hon'ble Dr. Justice Anita Sumanth</b> Judge, Madras High Court	<b>Hon'ble Mr. Justice Piyush Agrawal</b> Judge, Allahabad High Court

On Friday, October 2, 2020 & Saturday, October 3, 2020

### CONFERENCE SCHEDULE

Day One   Friday, October 2, 2020	
10:00 am	<b>INAUGURAL SESSION</b> Chaired by Hon'ble Judges of various High Courts
11:45 am	COMFORT BREAK
12:00 am	<b>First Technical Session</b>
	<b>CHARITABLE TRUSTS-EDUCATIONAL INSTITUTIONS, HOSPITALS AND DISCRETIONARY TRUSTS UNDER IT ACT</b> Chairman - Dr. Ashok Saraf, Senior Advocate, Gauhati High Court Speaker - Dr. Girish Ahuja, FCA, New Delhi <i>Question &amp; Answer Session</i>
2:00 pm	LUNCH BREAK
3:00 pm	<b>Second Technical Session</b>
	<b>ALL ABOUT SCN, ADJUDICATION/ASSESSMENT &amp; APPEAL UNDER GST</b> Chairman - Mr. P. C. Joshi, Advocate, Bombay High Court Speaker - Mr. Tarun Gulati, Senior Advocate, Delhi High Court <i>Question &amp; Answer Session</i>
Day Two   Saturday, October 3, 2020	
10:30 am	<b>Third Technical Session</b>
	<b>RESTRICTIONS ON CASH TRANSACTIONS AND NEW PENALTIES REGIME</b> Chairperson - Mrs. Prem Lata Bansal, Senior Advocate, Delhi High Court Speaker - Mr. Ajay Vohra, Senior Advocate, Supreme Court Panelists - Dr. K. Shivaram, Senior Advocate, Bombay High Court • Mr. Ganesh Purohit, Senior Advocate, Jabalpur High Court <i>Question &amp; Answer Session</i>
1:30 pm	LUNCH BREAK
2:30 pm	<b>Fourth Technical Session</b>
	<b>GST IMPLICATION ON HEALTHCARE,, EDUCATION SECTOR, CHARITABLE INSTITUTIONS &amp; CSR RELATED ACTIVITIES</b> Chairman - Dr. M. V. K. Moorthy, Advocate, Supreme Court Speaker - CA S. Venkatramani Panelists - Mr. M. L. Patodi, Advocate, Rajasthan High Court • Mrs. Nikita R. Badheka, Advocate, Bombay High Court <i>Question &amp; Answer Session</i>
4:30 pm	<b>ASHIRWACHAN</b> • Shri. P. C. Joshi • Dr. K. Shivaram • Shri. Bharat Ji Agrawal • Shri. M. L. Patodi • Shri. J. D. Nankani • Dr. M. V. K. Moorthy • Smt. Prem Lata Bansal • Shri. Ganesh Purohit • Dr. Ashok Saraf • Shri. P. S. Sarin • Shri. R. D. Sharma • Shri. B. R. Sobti • Shri. Subhash C. Dutt

CONFERENCE COMMITTEE		
ADVISORS		
Mr. Bharat Ji Agrawal	Mrs. Prem Lata Bansal	Mr. S. R. Wadhwa
Mr. Arvind Shukla, <i>Convenor</i>	Mr. Sanjay Kumar, <i>Chairman</i>	Mr. Arvind Kumar Mishra, <i>Secretary</i>
Mr. D. K. Gandhi, <i>Co-Chairman</i>	Mr. Arvind Gupta, <i>Co-Chairman</i>	Mr. O. P. Shukla, <i>Co-Chairman</i>
Mr. Sanjay Sharma, <i>Co-ordinator</i>	Mr. Varindar Sharma, <i>Co-ordinator</i>	Mr. Sunil Sharma, <i>Co-ordinator</i>
OFFICE BEARERS		
Mrs. Nikita R. Badheka, <i>National President</i>	Mr. M. Srinivasa Rao, <i>Dy. President</i>	Mr. Asim Zafar, <i>Zone Chairman</i>
Mr. Samir S. Jani, <i>Vice-President</i>	Mr. A. K. Srivastava, <i>Vice-President</i>	Mr. Puneet Kumar Singh, <i>Zone Secretary</i>

ZOOM Link Will Be Shared on the Registered Email Few Days prior to the Conference  
Registration & Login will start at 9:00 am (on both days). Certificates will be provided to all



[>>To Register CLICK HERE<<](#)



Powered by: TAXSUTRA

Conference Secretariat : Arvind Kumar Mishra | 9839503498 / 9335103498 | vntc2020@gmail.com

## 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 AIFTP – ₹ 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**

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.

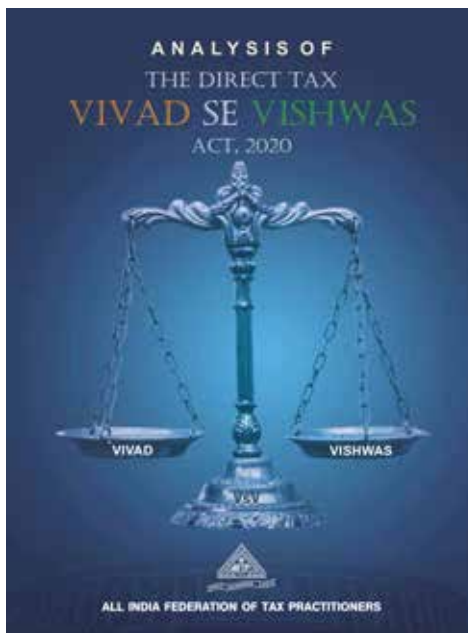
6. Most importantly, this E-Book is going to be constantly updated based upon the subsequent developments up to March 2021 at no extra cost for the members who subscribe.
7. The subscribers to this E-book will be able to raise query on the issues faced by them under VSV by a team of seniors headed by Dr. K. Shivaram, Sr. Advocate - Mumbai, Mrs. Prem Lata Bansal, Sr. Advocate-Delhi, Shri Ganesh Purohit, Sr. Advocate-Jabalpur, CA Pradip Kapasi-Mumbai, CA 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*



## 1st E-Publication of All India Federation of Tax Practitioners Now available in Downloadable Format

**Subject – Vivad Se Vishwas Act, 2020**

*Authored by*

**Vipul Joshi & Dinkle Hariya, Advocate**

**Price ₹ 500 + GST ₹ 90 = ₹ 590/-**

**Special 50% discount to members**

**@ ₹ 250 + GST ₹ 45 = ₹ 295/-**



## 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.



## List of Webinars held by AIFTP and its various zones from 31st July, 2020 to 30th August, 2020

Sr. No.	Date	Day	Zone	Topic	Speaker
81	31-7, 1/8/2020 & 2/8/2020	Friday Saturday Sunday	Eastern	Real Estate Virtual Summit 2020 on the theme "Real Estate- Footprints for Future"	–
82	8/8/2020	Saturday	Southern	Cash Transactions under Income Tax Act, 1961	CA Deepabali Das, Tumakuru
83	9/8/2020	Sunday	Southern	GST – Practical Questions and Answers	CA Unnikrishnan M, Trivandrum. CA Sriram K, Hyderabad.
84	16/8/2020	Sunday	Northern	Provisions of Clubbing / Set off and Carry Forward of Losses under Income Tax Act	Hon'ble CA (Dr.) Girish Ahuja
85	17/8/2020	Monday	Central	Recent Writs, Filing of Reply & Judicial Decisions	Sh Pankaj Ghiya
86	18/8/2020	Tuesday	Central	Practical Aspects of GST Returns & Audit	Mr. S. Venkatramni, CA, Bangalore
87	19/08/2020	Wednesday	Central	Practical Aspects of Input Tax Credit	Mr. Arpit Haldia, CA Jodhpur
88	20/08/2020	Thursday	Central	Recent AAR & Practical Aspect of AAR Decisions	Mrs. Nikita Badekha, Advocate, Mumbai., President AIFTP
89	21/08/2020	Friday	Central	Practical Aspects of Supply Including Time, Place & Valuation of Supply	Mr. Puneet Agrawal, Advocate, Delhi
90	22/08/2020	Saturday	Central	Practical Aspects of RCM, TDS, TCS	Ms. Shaifaly Girdharwal, CA, Delhi
91	23/08/2020	Sunday	Central	Queries and Panel Discussion	–
92	23/08/2020	Sunday	Central	FACELESS SCRUTINY & APPEAL	Mr. Rajesh Mehta, CA
93	25/08/2020	Tuesday	Northern	<ul style="list-style-type: none"> <li>• Introduction to GST with Constitutional Amendment</li> <li>• Constitution and Functioning of GST Council &amp; GSTN</li> </ul>	Mr. Sujit Ghosh, Advocate
94	29/08/2020	Saturday	Northern	<ul style="list-style-type: none"> <li>• Concept of Levy</li> <li>• Composition Scheme – for Trade, Manufacturing and Services – Its Benefits and Restrictions</li> <li>• Reverse Charge Mechanism</li> </ul>	CA Dharmendra Srivastava
95	29/08/2020	Saturday	Northern	Hazards and Remedies in Enforcement Proceedings under GST	Sh. Uchit Seth, Advocate, Sh. S Venkat Ramani, Sh. Pankaj Ghiya, Advocate, Sh. J .K . Mittal, Advocate
96	30/08/2020	Sunday	Northern	<ul style="list-style-type: none"> <li>• Scope of Supply with Schedule I, II &amp; III</li> <li>• Composite and Mixed Supply</li> </ul>	Mr. Mukul Gupta, Advocate

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## Direct Taxes

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

### High Court:

**S.10(23C) : Educational institutions (Availability of exemption) – Expenses for awareness on agriculture, medical camps etc., regarded as part of educational activity - exemption u/s. 10(23C)(vi) is allowed.**

The Assessee-trust was established with an object of running an educational institution. During the relevant year assessee incurred some of the expenses for awareness on agriculture, scientific research, blood donation camp etc. and while filing the return of income, Assessee claimed exemption under section 10(23C)(vi). The Chief Commissioner rejected the claim by taking a view that assessee trust was not only for education but also for other activities. Tribunal also confirmed the view of the Chief Commissioner.

Before the High Court the issue was whether expenditure incurred for awareness on agriculture, medical camps and eye camp activity could very well be treated as part of activities carried out in school itself and, thus, view taken by Chief Commissioner that said expenses were not related to educational activities.

While deciding the issue, the honorable High Court observed that, the Chief Commissioner has not brought on record any evidence for holding that the expenditure incurred in question did not relate to the educational activities of the Trust, which runs a School. The expenditure incurred for Awareness on Agriculture, for Medical Camps and for Eye Camp activity could very well be part of the activities carried out in the School itself. Therefore the view of the Chief Commissioner was not accepted and held that Expenses for awareness on agriculture, medical camps etc., regarded as part of educational activity - exemption u/s. 10(23C)(vi) is allowed. (AY 2014-15)

*Kamaraj Educational Trust v. Chief CIT, T.C. Appeal No.432 of 2017, order dated 04/08/ 2020 (Mad)(HC), Source : www.hcmadras.tn.nic.in*

**S.72: Losses - Carry forward and set off of accumulated loss - To claim set-off of losses u/s. 72A, condition of filing Form No.62 is only directory and non-compliance, thereof would not disentitle assessee to claim carry forward losses to be set off against profits of company.**

The assessee has claimed unabsorbed depreciation of the assessment years 1999-2000 and 2000-01 in the assessment year 2006 – 2007. In view of the modification to the provisions of s. 32(2) of the Act with effect from 1-4-2002, whereby, the unabsorbed depreciation losses, starting from assessment year 2002-03 will be carried forward to subsequent assessment and becomes part of subsequent year's depreciation. Therefore, the Assessing Officer denied claiming the unabsorbed depreciation loss pertaining to the assessment years 1999-2000 and 2000-01 against the total income of the current assessment year. In appellate proceedings, Tribunal allowed benefit of carry forward of losses under section 72A to assessee which was an amalgamated company in respect of brought forward losses of amalgamating company. Revenue has filed appeal u/s. 260A against the order of the Tribunal stating that assessee failed to submit Form No. 62, benefit of set off of losses under section 72A could not be granted.

The Honorable High Court held that, condition of filing Form No. 62 is only directory and non-compliance thereof would not disentitle assessee to claim carry forward losses to be set off against profits of company. There was no dispute that assessee had crossed 50 per cent of its installed capacity of production in fourth year of amalgamation, provisions of section 72A were duly complied with and, therefore allowing assessee's claim did not require any interference.

*Pr.CIT v. Lotte India Corporation Ltd. T.C.A.No.415 of 2017, dated 29/07/2020 (Mad)(HC), Source : www.hcmadras.tn.nic.in*

### Tribunal:

**S.37(1) : Expenditure incurred by assessee on implementation of software for smooth functioning of business, allowed as business expenditure under section 37(1)**

The assessee is a public limited company engaged in the business of manufacture and sale of Turbine, Gear and Gear Boxes, sugar plants, water treatment plants, mini hydel power projects, etc. During the relevant year, assessee incurred the expenditure on implementation of new ERP package which was treated as deferred revenue expenditure in the books of accounts. The Assessing Officer, disallowed the expenses holding the same to be capital expenditure on the ground that the same resulted in enduring benefit to the assessee, and allowed depreciation @ 60% on the same. On further appeal, the CIT(A), despite agreeing that expenditure was incurred to improve the efficiency and productivity of the assessee, confirmed the action of the Assessing Officer, holding that such efficiency and productivity is a long-term enduring benefit, going beyond the year under consideration. Assessee filed further appeal before Tribunal for the addition being expenses incurred on Enterprise Resource Planning ("ERP") and software expenses, holding the same as capital expenditure is not correct as per law.

The Tribunal while deciding the issue observed that, no ownership of any software is acquired by the assessee as a consequence of the ERP expenditure and this fact was not disputed by the AO, the assessee has only limited right to use the concerned software product which the assessee acquired without acquiring the right of transferring the said software. No benefit of an enduring nature has been derived by the assessee as result of said expenditure. The said expenditure has been incurred only for smooth working and for improving the functioning of the organization. Fast changing technology where software becomes obsolete for smooth functioning of the business, the software needs to be replaced/upgraded by an assessee from time to time, the software, in any, case cannot also be said to result in any enduring benefit to the assessee to be considered and thus, it cannot be held as capital expenditure.

Tribunal held that, expenditure incurred on computer software does not constitute enduring benefit to term the same as capital in nature. Implementation of software for smooth functioning of business, allowed as deduction as business expenditure under section 37(1). (AY 2001-2002)

*Triveni Engineering & Industries Ltd. v. Addl. CIT (ITA No. 1955/Del/2016) order dated 06/08/2020(AY 2001-02). Source: www.itat.nic.in*

## Indirect Taxes

Tanmay Mody, GST Practitioner

### 1) GST – Seizure of Cash

Whether the expression “things” in Section 67(2) covers within its meaning cash? Petitioner contends that when “money” is not included in Section 67(2) of the CGST Act, 2017 the Investigating Agency / Department is not competent to seize the same.

**Held:** The expression used in sub-section (2) of Section 67 is “confiscation of any documents or books or things”. The CGST Act, 2017 has to be seen as a whole and the definition clauses are the keys to unlock the intent and purpose of the various sections and expressions used therein, where the said provisions are put to implementation. A conjoint reading of Section 2(17), 2(31), 2(75) and 67(2) makes it clear that money can also be seized by authorized officer. The word “things” appears in Section 67(2) of the CGST Act, 2017 is to be given wide meaning and any subject matter of ownership within the spear of proprietary or valuable right, would come under the definition of “thing”. It is a cardinal principle of interpretation of statute that unreasonable and inconvenient results are to be avoided, artificially and anomaly to be avoided and most importantly a statute is to be given interpretation which suppresses the mischief and advances the remedy. Therefore, keeping in view the aforesaid interpretation of the word “thing”, money has to be included and it cannot be excluded as prayed by the petitioner from Section 67(2). The present case is at the stage of search and seizure. A search has been carried out and proceedings are going on. No relief can be granted in the present writ petition. The authorities have rightly seized the amount in question and unless and until the investigation is carried out and the matter is finally adjudicated, the question of releasing the amount does not arise.

*(Source: Order by the Madhya Pradesh High Court in WP No. 8204 of 2020 dt. 26th August, 2020 in Smt. Kanishka Mehta vs. Union of India & Ors.)*

### 2) Service Tax – Franchise Service or Tangible Goods Service

Whether the service contemplated under the agreements is a “franchise” service as contended by the Department or a service in the nature of “Supply of tangible goods for use” w.e.f. May 16, 2008, as contended by appellant?

**Held:** If the condition relating to “representational right” is not satisfied, there can be no “franchise” service. “Representational right” means a right that is available with the “franchisee” to represent the “franchisor” and in that case the “franchisee” loses its individual identity and is

known only by the identity of the “franchisor”. An analysis of the agreement between the appellant and Ashirwad Cable clearly establishes that no “franchise” service has been rendered by the appellant. When payment of service tax under the category of supply of tangible goods for use has never been contested by the Department, the confirmation of demand under the category of Franchise Service on the same transaction is not sustainable as once the Department has accepted payment of service tax under one category, which was introduced subsequently, it cannot demand service tax under a different category for the previous period. It is not possible to hold that the service contemplated under the agreement is a “franchise” service.

*(Source: Order in Appeal no. 50023 of 2016 dt. 5th August, 2020 by the Principal Bench of CESTAT, New Delhi in M/s. Siti Cable Network Ltd. vs. Commissioner of Service Tax, Delhi-III)*

### 3) GST – Karnataka AAAR

Whether the activities performed by the Appellant with regard to repair and servicing of Volvo vehicles for Indian customers during the warranty period, for which the reimbursements are made by M/s Volvo Sweden pursuant to the arrangement between M/s Volvo Sweden and the Appellant, is an activity amounting to a supply of service for Volvo Sweden?

**Held:** In the present case the recipients of the service supplied by the Appellant during the warranty period, will be the manufacturer i.e. Volvo Sweden as it is at their behest that the Appellant has undertaken the activity of repair and/or replacement of parts to the customer during the warranty period. The reimbursement received from Volvo Sweden is in the nature of consideration paid by the manufacturer to the Distributor-Appellant for carrying out the service during the warranty period, which activity was part of the obligations of Volvo Sweden. In view of the above, the findings of the lower Authority that the recipient of service is the customer is not tenable. We however agree that the supply by the Appellant to Volvo Sweden is a composite supply of goods and services with the principle supply being a supply of service. The activities performed by the Appellant with regard to repair and servicing of Volvo vehicles for Indian customers during the warranty period is an activity amounting to a composite supply of goods and service for Volvo Sweden with the principle supply being a supply of service. The recipient of the supply of service is Volvo Sweden.

*(Source: Order No. KAR/AAAR-14-B/2019-20 dt. 6th February, 2020 by the Karnataka AAAR in the case of M/s. Volvo-Eicher Commercial Vehicles Ltd.)*



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