

All India Federation of Tax Practitioners



AIFTP TIMES

Volume 12 – No. 8 • August 2021

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
August, 2021	National Executive Committee Meeting & National Tax Conference	Thrissur/Ernakulam
8th & 9th August, 2021	Residential Refresher Course 2021	Alwar
28th & 29th August, 2021	2 Days Virtual National Tax Conference	Virtual Platform
1st, 2nd, 3rd October, 2021	National Executive Committee Meeting & National Tax Conference	Katra (Jammu)
11th, 12th & 13th November, 2021	Foundation day Celebration	Pune
November, 2021	Padma Vibhushan Late Dr. N. A. Palkhivala, Sr. Advocate Memorial National Tax Moot Court and Research Paper Competition	Virtual Platform

APPEAL

Dear Members,

The Federation has formulated a Financial Support Scheme for its members who have been affected by this pandemic Covid-19 and need financial assistance.

Since the implementation of Scheme from 17th of May 2021, almost 250 members have contributed to this Fund for helping the fellow Professionals and keeping the names confidential in more than 10 cases we have disbursed the requisite amount within 48 hours of the receipt of Application.

- 1) We request you to come forward and contribute generously extending a helping hand to our fellow members, you may transfer your contributions directly to our HO Bank Account. The Bank Details are as under:

ALL INDIA FEDERATION OF TAX PRACTITIONERS

BANK NAME: ICICI BANK LTD

MUMBAI FORT BRANCH

ACCOUNT NO. : 623501161215

SAVING ACCOUNT

RTGS/NEFT CODE: ICIC0006235

Please share the details of your contributions with Mr. Ravindra Patade, CEO, and AIFTP through Whatsapp on 9869722522 or through mail to aiftpho@gmail.com for our records.

- 2) We further request each and every member requiring any Financial assistance may please write to aiftpho@gmail.com or communicate with the Zone Chairman / Secretary/ National Vice President providing the details as required under the scheme which **has been published in this issue of AIFTP Times at page No. 2**. We assure you that keeping the name confidential we shall process the application within 48 hours.

Thanking you,

With regards,

Dr. Ashok Saraf,
Chairman of Committee

M. Srinivasa Rao
National President

S. S. Satyanarayana
Secretary General

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

Name	Mobile	Tel. (O)	E-mail
National President – Shri M. Srinivasa Rao, TP	9885796999	08812-238898	sai9malladi@yahoo.com
Deputy President – Shri D. K. Gandhi, Adv.	9810216801	0120-2718620	advocatedkgandhi@gmail.com
Secretary General – Shri S. S. Satyanarayana, TP	9989924646	040-40077737	sreepadass@gmail.com
Treasurer – CA. Vijay Narayan Kewalramani	9820073165	022-25372532	info@kewalramani.in

ALL INDIA FEDERATION OF TAX PRACTITIONERS FINANCIAL SUPPORT TO MEMBERS (COVID-19) SCHEME, 2021

In view of the current pandemic Covid-19, many of the members of the Federation have been hospitalized for treatment. Many of the Members have also lost their lives. Due to the present Covid-19 pandemic situation, such members and/or their families are facing financial exigencies. With a view to give financial support to such members and/or their families, the Federation has framed a scheme to provide financial support to the needy members and/or their families.

- 1) This scheme is called as AIFTP Financial Support to Members (COVID-19) Scheme, 2021.
- 2) The scheme has come into force with effect from 01-03-2021. The object of the scheme is to provide financial support to the members who are facing financial exigencies because of the hospitalization due to Covid-19 and to the family of the member who lost his/her life due to the Covid-19.
- 3) A Committee is constituted who will provide financial assistance to the needy members and their families. The composition of the Committee is as under-
 - i. Chairman: Dr. Ashok Saraf, Past President, Guwahati
 - ii. Member: Shri. Sanjay Kumar, Allahabad
 - iii. Member: Shri. S. Venkataramani, Bengaluru
 - iv. Member: Shri. Vivek Agarwal, Kolkata
 - v. Ex-Officio Member: Shri. M Srinivasa Rao, National President
 - vi. Ex-Officio Member: Shri. S. S. Satyanarayana, Secretary General
 - vii. Ex-Officio Member: Shri. Vijay Kewalramani, Treasurer
- 4) The decision of the Committee in providing financial support shall be final and shall not be questioned by anyone at any level.
- 5) The quantum of financial support shall be as under:-

Sl. No.		Amount
1.	Hospitalization of members upto 7 days due to Covid-19	₹ 20,000
2.	Hospitalization of the member due to Covid-19 for a period of more than 7 days	₹ 35,000
3.	Death of a member due to Covid-19	₹ 50,000
4.	That in cases of Home Quarantine & Treatment at Home if the member is having financial exigencies and there is recommendation of the Chairman or Secretary or the National Vice President of the respective Zone, in such cases the committee may sanction Financial support of amounts as it finds reasonable but which shall remain within the above limits.	

Note: That where the member is hospitalised and has a Medical Insurance Policy from an Insurance Company then the financial support shall be given of amounts as the committee finds reasonable.

- 6) The member or their family who needs financial support shall send such a request to the Committee duly recommended by the Chairman and/or Secretary in consultation with National Vice President of the Zone to which the member belongs.
- 7) The concerned member must be a member of the Federation as on 31.12.2020.
- 8) The member seeking financial support of the Scheme of 2021 shall not have an average Net Income above ₹ 7,50,000 during the years 2017-18, 2018-19 and 2019-20 from any of the sources.
- 9) The member concerned and/or family member of the member shall provide necessary Bank details for the transfer of the financial support amount. The name of the member of the Federation and/or family to whom the financial support is given shall be confidential and shall not be disclosed to anyone under any circumstances.
- 10) A self declaration to that effect shall be given by the member or the family member of the said member to the aforesaid effect. After the Covid period is over, the member and/or the family member shall give necessary documentary proof in support of the aforesaid to the head Office of the Federation. If the declaration given by the member or the family member as the case may be, is found to be incorrect, the membership of the said member shall be terminated immediately and the said member and/or the family of the said member shall be liable to refund the amount of the financial support to the Federation forthwith.

Residential Refresher Course, 2021

All India Federation of Tax Practitioners (CZ)

Alwar Bagh, Aamod Resorts, Alwar - Sariska Road, Alwar

THEME – Present Economic Scenario– Role of Tax Professionals

08th - 09th August 2021

PROGRAMME

Sunday, 08th August, 2021	
05:00 PM to 05:30 PM	Inaugural Session – Esteemed Guests Shri. M Srinivas Rao, National President AIFTP Shri. D. K. Gandhi, Dy. President AIFTP Shri. S.S. Satyanarayana, Secretary General AIFTP
05:30 PM to 06:00 PM	First Technical Session – Income Tax – New Avatar of Reassessment Law Chairman : Mr. Rajesh Mehta, CA, Indore Speaker : Mr. Mahendra Gargiya, Adv. Jaipur
06:00 PM to 07:00 PM	NEC Meeting
07:00 PM to 07:30 PM	Second Technical Session – GST - Survey, Summons & Notices Chairman : Mr. M.L. Patodi, Past President AIFTP Speaker : Mr. D. K. Gandhi, Adv. New Delhi, Dy. President AIFTP
07:30 PM to 08:00 PM	Third Technical Session – Audit - Salient Features & Overview of Forensic Audit Chairman : Mr. G.P Garg, CA, Alwar Speaker : Mr. Anil Mathur, CA, Jaipur
08:00 PM to 08:30 PM	Fourth Technical Session – RERA – Silent issues Chairman : Mr. M.L. Gupta, CA, Alwar Speaker : Mr. Sanjay Ghiya, CA, Jaipur
08:30 PM Onwards	Cultural Program & Cocktail Dinner
Monday, 09th August, 2021	
10:00 AM to 10.45 AM	Fifth Technical Session – IPR - Importance of IPR in Current Scenario Chairman : Mr. Ratan Goyal, CA, Jaipur Speaker : Mr. G. D. Bansal, Adv. Jaipur
10.45 AM to 11.30 AM	Sixth Technical Session – Brain Trust Chairman : Mr. Pankaj Ghiya, Adv., Jaipur Trustees : 1. Mr. G.P. Singhal, CA, Bhilwara 2. Mr. K. K. Khandelwal, CA, Alwar 3. Mr. Ashwini Pani, Adv., New Delhi 4. Mr. Vikram Gogra, Adv., Jaipur 5. Mr. Anuj Bansal, Ad., New Delhi

Pankaj Ghiya 9829013626 Chief Advisor	Rajesh Mehta 9827036956 NVP, CZ AIFTP	Sandeep Agrawal 9414142195 Secretary AIFTP CZ	K. K. Khandelwal 9829096290 Convener RRC	M. L. Gupta 9414277623 Convener Technical	Vinay Jolly 9414043300 Chairman AIFTP CZ
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AIFTP JOURNAL SUBSCRIPTION 2021-2022

Date: February 12, 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, 2021 to 31st March, 2022 falls due for payment on 1st April, 2021.

Life Member

Members are requested to remit the amount of ₹ 1,000/- for one year or ₹ 2,600/- for three years by NEFT/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 NEFT/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**

Sd/-

Vijay N. Kewalramani
Treasurer

Sd/-

Mitesh Kotecha
Chairman, Journal Committee

Note :

1. **You can make online payment through our website i.e., www.aiftponline.org**
2. Alternatively payment can be made by NEFT/Account Payee Cheque/Demand Draft in favour of "ALL INDIA FEDERATION OF TAX PRACTITIONERS".
3. **Members doing NEFT are requested to intimate AIFTP Office through email i.e. aiftpho@gmail.com along with proof of payment.**
4. 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".
5. An early payment of the subscription would be highly appreciated.
6. **Members who require the AIFTP Journal to be couriered separately at their communication address, should add ₹ 300/- per year as courier charges.**
7. Please send the perforated portion furnished below duly filled in all respects along with the payment.
8. Please write your name on the reverse of Cheque/D.D.

Note: For Mode of Payment details kindly refer AIFTP Times July 2021 issue at Page No 4.

**All India Federation of Tax Practitioners Southern Zone
Jointly with All the State Associations of the Zone**

Saturday & Sunday, 28th & 29th August 2021

Conducting

2 Days Virtual National Tax Conference

"Visionary vs. Machinery"

- In the august presence of dignitaries;
- Technical sessions on practical issues
- Symposium on 5th year of GST;
- Souvenir Releasing;
- Cultural evening



Membership Development

ETHICS
DUCATION
XCELLENCE

Membership Fees
₹ 5000 + 100
(ID card) + GST
w.e.f. 16th July 2021



EACH ONE

GET ONE

Join
AIFTP Family
Today

NATIONAL PRESIDENT HAS SET THE TARGET FOR 2000 NEW MEMBERS UPTO 31ST DECEMBER 2021

APPRECIATION AWARDS

Highest New Member Contribution

1st, 2nd & 3rd for Individual

1st, 2nd & 3rd for Office Bearer / Zonal Chairman

1st, 2nd & 3rd for Zone

CATEGORIES (APPLICABLE FOR NEW MEMBERS ADDED BETWEEN 1-1-2021 TO 31-12-2021)

Zone : 400 or more | Office Bearer / Zonal Chairman : 20 Members or more | Individual Member : 1 Member or more

MEMBERS ARE REQUESTED TO PUT THEIR MAXIMUM EFFORT TO ACHIEVE THE TARGETS

For further information, contact

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9825037365

CO-CHAIRMAN

Mr. C. Radhakrishnan, Vellore
9443217802

CONVENOR

Mr. Sreedhara Parthasarthy, Bellary
9449569084

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Mr. S. S. Satyanarayana, Hyderabad, Secretary General • Mr. Vijay Narayan Kewalramani, Thane, Treasurer

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Mr. Pravin R. Shah, Mumbai (WZ)

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For applying online kindly click the link <https://aiftponline.org/subscription-form/?type=membership>

All India Federation of Tax Practitioners

215, Rewa Chambers, 31, New Marine Lines, Mumbai 400 020.

Tel.: 22006342/43/49706343 • E-mail: aiftpho@gmail.com • Website: www.aiftponline.org

Direct Taxes

Ms. Neelam Jadhav, Advocate, KSA Legal Chambers

High Court

- 1. 143(3): Assessment - Order passed without issuing a mandatory draft assessment order or a show cause notice to Assessee is in violation of the principles of natural justice.**

Writ petition has been filed for challenging assessment order passed on 22nd April, 2021 by respondent no.1 National Faceless Assessment Center, Delhi u/s.144 r.w.s. 144B of the Income Tax Act, 1961 for AY 2018-19. Assessee filed replies during E - Assessment proceedings. The NFAC has issued assessment order without issuing a mandatory draft assessment order or a show cause notice to Assessee.

Held that, the Assessee is correct in submitting that S.144B has been violated and assessment proceeding has been completed in violation of principles of natural justice. Assessment order was passed without issuing a mandatory draft assessment order or a show cause notice to assessee, same being contrary to statutory scheme, as provided in S.144B, assessment order issued u/s. 143 r.w.s.144B for AY 2018-2019 as well as demand notice issued u/s. 156 and notice for initiating penalty proceedings issued u/s. 270A and 271AAC(l) was set aside. (AY 2018-19)

Anju Jalaj Batra v. National E-Assessment Centre, W.P.(C) NO.6233 of 2021 & C.M.NOS.19732-19733 of 2021 dated 8/7/2021. Source: www.delhihighcourt.nic.in

- 2. S.147: Reassessment proceedings - Onus lies on Revenue to show that failure on part of Assessee to fully and truly disclose all material facts. (r.w.s.72 & 32)**

The case of the Assessee was selected for scrutiny and a notice u/s. 143(2) of the Act was issued by the AO. The same resulted in Assessment Order making an addition to the taxable income of the Assessee after calculating depreciation and adjusting the brought forward losses of previous assessment year u/s. 72. The CIT(A) was allowed the appeal and a relief was granted to the Assessee.

The revenue before High Court, the Court held that onus is on revenue to show that there was failure on the part of the assessee to fully and truly disclose all material facts necessary for his assessment for that AY. The Revenue has failed to discharge this onus. When there was no failure on the part of the assessee to disclose all material facts fully

and truly, Revenue cannot violate the statutory protection enjoyed by the assessee under proviso to s.147 of the Act.

Pr. CIT v. M/s. Superior Films Private Limited. ITA 153 of 2020 & CM APPL. 7854 of 2020 dated 19/07/2021 Source: www.delhihighcourt.nic.in

- 3. S.32 : Depreciation - Developer entitled to claim depreciation of Public Roads, treating the same as Building**

The assessee engaged in the business of the development of infrastructural facilities and developed a bye-pass road bridge. During the year, the assessee has claimed depreciation on-road/bridge. The AO held that the assessee is not entitled to depreciation on-road/bridge, since the assessee itself amortized the cost of the road/bridge over the construction period of 30/20 years and denied the claim of the assessee. The assessee preferred an appeal before the Appellate Authority. The CIT(A) directed the AO to allow the claim of the assessee.

Revenue before the High Court, while deciding the issue the High Court observed that in the case of Pr. CIT vs. GVK Jaipur Expressway Ltd., [2018] 100 taxmann.com 96 (SC) held that, "Any one in possession of property in his own title exercising such dominion over the property as would enable other being excluded therefrom and having right to use and occupy the property and/or to enjoy its usufruct in his own right would be the owner of the buildings though a formal deed of title may not have been executed and registered as contemplated by Transfer of Property Act, Registration Act, etc. 'Building owned by the assessee' the expression as occurring in Section 32(1) of the Income-tax Act means the person who having acquired possession over the building in his own right uses the same for the purposes of the business or profession though a legal title has not been conveyed to him consistently with the requirements of laws such as Transfer of Property Act, and Registration Act, etc. but nevertheless is entitled to hold the property to the exclusion of all other. Depreciation is an allowance for the diminution in the value due to wear and tear of capital asset employed by an assessee in his business". Following the same ratio, the High Court held that, the assessee is entitled to claim depreciation of public roads, treating the same as building.

CIT v. M/s. L & T Transportation Infrastructure Ltd., T.C.A.No.566 of 2016, dated 20/07/2021 Source: www.hcmadras.tn.nic.in



Hearty Congratulations

Hearty Congratulations to the newly elected office bearers of The Goods and Services Tax Practitioners Association of Maharashtra for the year 2021-22

President : Mr. Aalok K. Mehta
 Vice President : Mr. Sunil G. Khushalani
 Joint Secretary : Mr. Mahesh K. Madkholkar
 Joint Secretary : Mr. Parth R. Badheka
 Treasurer : Mr. Pravin V. Shinde

We wish them all the success.

Indirect Taxes

Tanmay Mody, GST Practitioner

1) GST – ITC reversal on normal loss in manufacturing

Whether reversal of Input Tax Credit is contemplated in relation to loss arising from manufacturing process under Section 17(5)?

Held: Clause (h) of sub-section of 5 of section 17 of the CGST Act relates to goods lost, stolen, destroyed, written off or disposed by way of gift or free samples. The manufacturing loss that is occasioned by the process of manufacture cannot be equated to any of the instances set out in clause (h) of Section 17(5) of the CGST Act. The said clause (h) indicates loss of inputs that are quantifiable and involve external factors or compulsions. A loss that is occasioned by consumption in the process of manufacture is one which is inherent to the process of manufacture itself. The reversal of ITC by invoking Section 17(5)(h) by the revenue, in cases of loss by consumption of input which is inherent to manufacturing loss is misconceived, as such loss is not contemplated or covered by the situations adumbrated under Section 17(5)(h).

(Source: Order dated 24th June, 2021 in Writ Petition No. 2885 of 2020 and others by the Madras High Court in the case of M/s. ARS Steels & Alloy International P Ltd vs. The State Tax Officer)

2) GST – Scope of the term “Business”

Whether GST Registration is required for medical store run by a Charitable Trust; and whether medical store providing medicines at a lower rate amounts to supply of goods?

Held: Every supplier who falls within ambit of Section 22(1) of the CGST Act has to get himself registered under the Act. The petitioners are selling the medicines, may be at a cheaper rate but for consideration in the course of their business. The submission of the petitioner that such a sale could not said to be a “business” in view of the definition contained in Section 2(17) of the said CGST Act cannot be accepted – any trade or commerce whether or not for a pecuniary benefit, would be included in the term ‘business’. For the purpose of “business” under Section 2(17) of the Act, it is immaterial whether such a trade or commerce or such activity is for pecuniary benefit or not. The lower authorities have correctly held that the Medical Store run by the Charitable Trust would require GST Registration, and that the Medical Store providing medicines

even if supplied at lower rate would amount to supply of goods.

(Source: Order dated 9th July, 2021 in Special Leave Application No. 7822 of 2021 by the Gujarat High Court in the case of M/s. Nagri Eye Research Foundation vs. Union of India)

3) Service Tax – Convenience Fee is not subject to tax under OIDAR

Taxability of ‘convenience fee’ charged by appellant to its customers for online booking of movie tickets under the category of Online information and database access retrieval system service defined under section 65 (75) of the Finance Act and taxable under section 65 (105)(zh) of the Finance Act.

Held: A conjoint reading of the clauses of the Terms & Conditions of the contract on the appellant’s website indicates that the purpose for charging convenience fee is to receive consideration for offering a facility of online booking and in the facts of the present case would relate to online booking of tickets. It is clear that the pith and substance and the dominant intention of the arrangement is not to access/retrieve data/information but it is an arrangement by which the facility of online booking is made available to users. It is only when a ticket is booked online that convenience fee is required to be paid by the user. The substance of the transaction is, therefore, to book a ticket online and thereby engage in e-commerce. It cannot, therefore, be said that convenience fee is charged for any access/retrieval of information or database as contemplated under OIDAR service. The Board Circular dated 09.07.2001 also clarifies that e-commerce transactions do not fall within the ambit of OIDAR service. This clarification makes it abundantly clear that fees must be charged for providing information and consequentially liable to service tax under the category of OIDAR. Further, the Terms and Conditions of online booking facility do not mention that the essence of the contract is for accessing or retrieving any information or data. Service tax under the category of OIDAR cannot be levied upon a user merely because he receives a code for getting a printout of the ticket from the cinema hall.

(Source: Order dated 5th July, 2021 by the Principal Bench of the CESTAT, New Delhi in Appeal No. 55438 of 2014 in the case of M/s. PVR Ltd vs. Commissioner of Service Tax, New Delhi.)



Hearty Congratulations

Hearty Congratulations to the newly elected office bearers of MPTA (Maharashtra Tax Practitioners Association, formerly known as WMPTA) for the year 2021-22

President : Mr. Manoj Chitalikar
 Vice President : Mr. Shripad Bedarkar
 Secretary : Mr. Dnyaneshwar Narwade
 Joint Secretary : Mr. Amol Shaha
 Treasurer : Mr. Anurudra Chavan

We wish them all the success

Publications for sale

Sr. No.	Name of Publication	Edition	Rate (₹)		
			Members	Non-Members	Courier Charges per copy
1.	Reassessment – Law, Procedure & Practice (Practical Guide)	Dec., 2020	Free	Available on website	100.00
2.	151 Landmark Judgments of the Honourable Supreme Court	Oct., 2020	Available on website	Available on website	–
3.	Vivad Se Vishwas Act, 2020	May, 2020	295.00*	590.00*	–
4.	GAAR General Anti-Avoidance Rules	Dec., 2019	640.00	720.00	100.00
5.	311 – Frequently Asked Questions on Survey – Direct Taxes	Dec., 2018	600.00	675.00	100.00

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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.
* Including GST

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	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 30th July, 2021 Life Members					
Zone Name	Associate	Individual	Association	Corporate	Total
Central	0	1180	25	0	1205
Eastern	6	1916	37	0	1959
Northern	0	1466	20	2	1488
Southern	1	1944	23	5	1973
Western	5	2752	38	6	2801
Total	12	9258	143	13	9426

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.

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Associate Editor of AIFTP Times : CA. Janak K. Vaghani

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