



AIFTP TIMES

Volume 12 – No. 6 • June 2021

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
19th June, 2021	Webinar on Important Judgements under Direct Tax	Zoom Platform
August, 2021	National Executive Committee Meeting & National Tax Conference	Thrissur/Ernakulam
1st, 2nd, 3rd October, 2021	National Executive Committee Meeting & National Tax Conference	Katra (Jammu)
11th, 12th & 13th November, 2021	Foundation day Celebration	Pune

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.

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.

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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.**
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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.

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Account Number : 623501161215
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DUCATION
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upto 30th June 2021



Join AIFTP Family Today
Fees Increase
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onwards

NATIONAL PRESIDENT HAS SET THE TARGET FOR 2000 NEW MEMBERS UPTO 30TH JUNE 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 30-6-2021)

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

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

Direct Taxes

Ms. Neelam Jadhav, Advocate, KSA Legal Chambers

Tribunal

1. S.68: Income - Cash credit - without resorting to verification either by issuing notice u/s.133(6) or issuing summons u/s.131 simply proceeding to make addition in the hands of the assessee merely by relying on the statement of third party is not allowable in law.

The case was selected for scrutiny and subsequently, case was reopened by issuance of notice u/s.148 after recording reason to believe that income has escaped assessment on account of non-disclosure of full and true material facts necessary for assessment. The AO observed that he had received information from DGIT in case of assessee that assessee was in receipt of funds in form of share capital and share premium from A and P. Based on information received from DGIT (Inv.) AO has made addition.

While allowing the Appeal the Tribunal observed that, the Assessee by furnishing all aforesaid documents had duly explained nature and source of credit in form of share capital and share premium received from aforesaid two shareholders, all transactions are routed through account payee cheques in regular banking channels. Justification for premium was also duly made by assessee by giving explanation in writing. The Assessing Officer after receiving all information in form of various documentary evidence remained silent. AO did not resort to make any verification in any manner whatsoever either by issuing notice u/s.133(6) or issuing summons u/s.131 to concerned shareholders in order to examine veracity of such documents. AO without resorting to any sort of verification in manner known to law, had simply proceeded to make addition in hands of assessee by treating receipt of share capital and share premium as accommodation entries merely by relying on statement recorded. Said statements cannot be relied upon as sole basis for framing addition in hands of assessee, therefore held that Addition made u/s.68 is merely based on surmise and conjecture and absolutely without any basis and absolutely without any verification in manner known to law.

Seth Carbon and Alloys Private Limited v. Dy. CIT. ITA No. 2864, 2865, 286, 2868/Mum/2019, dated 17/05/2021 (Mum) (Trib.)

2. S.221: Imposition of penalty u/s.221 is justified where the company has no explanation whatsoever to offer for its non-payment of taxes.

Assessee has filed its Return of Income without payment of self- assessment tax and case was assessed u/s.143

(3) and there was a demand raised was not paid by the assessee as per demand notice issued by the Assessing Officer. The assessee also sought for payment of tax in installments before the CIT (A) and he allowed the assessee for payment in installments but even the assessee did not pay the installments granted by the CIT (A). The Company has not complied with the directions of the CIT by not paying the installments. The assessee was treated as an 'assessee in default'. The company has, not availed opportunity also and has not paid the tax arrears even as on date.

Notice u/s.221 was issued to the company intimating it of its tax arrears as above and asking it to show cause why a penalty u/s.221 should not be levied for nonpayment of taxes. In this connection, an opportunity of hearing was accorded to the assessee to appear without fail and offer its explanation, if any. The company has, however, once again preferred not to avail this opportunity also and has not appeared before the undersigned nor has it given any representation.

Tribunal dismissing the appeal of the Assessee held that, the company has no explanation whatsoever to offer for its non-payment of taxes. Hence penalty u/s.221 is correctly levied.

SPR Infrastructure (India) Limited v. ACIT, ITA No. 1828/Hyd/2019, dated 24/05/2021 (HYD)(Trib.)

3. S.263: Revision - When a possible view has been taken by the AO, merely because the PCIT is of a different view on the same issue, he cannot resort to invoke revision proceedings u/s 263.

The AO had specifically mentioned that a sum for AY 2013-14 would be eligible to be carried forward for set off in subsequent years. Assessee in its return of income had claimed Long Term Capital loss (LTCL) arising on account of sale of shares. Later assessment framed by AO was sought to be revised by PCIT on ground that AO had allowed claim of Long Term Capital Loss which ought not to have been allowed.

The Tribunal while allowing the appeal of the Assessee observed that, Assessee had furnished replies before AO in writing from time to time by collating all queries that were raised in writing by way of questionnaire as well as queries raised by AO at time of personal hearing, furnished a detailed reply regarding details of long term capital loss on sale of shares. On personal hearing conducted AO had specifically sought an explanation from assessee regarding allow ability of Long Term Capital Loss. AO had actually accepted to entire contentions of assessee by placing all facts and legal points thereon before Audit Party. Audit objection of

Revenue Audit Department goes to prove that Revenue Audit Department apparently had not agreed with view taken by AO; hence there exists two views on same subject within Income Tax Department itself. There is absolutely no incorrect assumption of fact or incorrect application of law by AO. Once a possible view has been taken by AO, his order cannot be termed as erroneous warranting revision proceedings u/s.263. There is no dispute that Revenue Audit Party had indeed raised an objection on very same subject of allowability of Long Term Capital loss and that AO had not accepted same.

The PCIT had invoked revision jurisdiction u/s.263 on very same point of allowability of LTCL, hence revision proceedings has been invoked by PCIT u/s 263 based on audit objection, which is nothing but borrowed satisfaction. Possible view has been taken by AO in matter and merely because PCIT is of a different view on same issue, he cannot resort to invoke revision proceedings u/s 263.

Grasim Industries Ltd. v. Pr. CIT, ITA No. 1964/Mum/2019, dated 24/05/2021, (Mum)(Trib.)



Indirect Taxes

Tanmay Mody, GST Practitioner

1) GST – Import of Oxygen Concentrator for personal use

Whether the State's action, of imposing IGST on oxygen concentrators, which were directly imported by individuals free of cost, without the aid of a canalising agency runs contrary of Article 14 of the Constitution?

Held: The conditions prescribed in the notification no. 4/2021-Customs dated 03.05.2021 prevent the petitioner from claiming exemption from imposition of IGST although the oxygen concentrator imported by him is gifted and is for personal use. The condition which exempts from the imposition of IGST only those oxygen concentrators that are imported, for COVID relief through a canalizing agency creates manifestly arbitrary and unreasonable distinction between two identically circumstanced users depending on how the oxygen concentrator has been imported. Imposition of IGST as per notification dated 03.05.2021, is exempted if the oxygen concentrator is imported through a canalizing agency. The exclusion of individuals from the benefits of the notification only because they chose to receive the oxygen concentrators directly, without going through a canalizing agency is violative of Article 14 of the Constitution. While it is permissible for the State to identify a class of persons, to whom tax exemption would be extended, it is not permissible for the State to exclude a set of persons who would ordinarily fall within the exempted class by creating an artificial, unreasonable, and substantially unsustainable distinction. There is no justification in excluding individuals from the purview of notification dated 03.05.2021 only on the ground that they received oxygen concentrators directly as gifts from their friends and/or relatives located outside the country. The State's stand that a substantial reduction in duties and taxes has been brought about with the issuance of the notification dated 24.04.2021 and 01.05.2021 has no relevance to the matter in issue. The action of the State in not treating, even-handedly, persons, who ordinarily should fall in the same class users is manifestly arbitrary, unreasonable, unfair and wholly unsustainable. Imposition

of IGST on oxygen concentrators which are imported by individuals and are received by them as gifts for personal use, is unconstitutional.

(Source: Order in Writ Petition No. 5149/2021 by the Delhi High Court in the case of Mr. Gurcharan Singh v. Ministry of Finance, Government of India)

2) Maharashtra AAR – GST on liaison services

Applicant is a non-profit organization, formed to represent, support and protect the interests of the Dubai business community in India. All expenses incurred by applicant are reimbursed from its Head office on cost-to-cost basis. Whether services rendered by the applicant to various businesses in India and Dubai is taxable?

Held: Applicant is located in India and represents its Dubai Head Office and as a representative of the Dubai office, the applicant connects businesses in India with business partners in Dubai. There is supply of services by the applicant to various businesses in India and Dubai and such supply is done by the applicant as an intermediary - the applicant satisfies all the conditions of an intermediary. In terms of Section 13(8) of the IGST Act the place of supply in subject case of the applicant as an intermediary would be the location of the supplier of services. Applicants are providing various services for which fees are charged, thus applicant's Head Office appears to be a profit making organization, in which case the applicant cannot be considered as a non-profit making organization. Activities undertaken by the applicant is nothing but "Business". The term "Supply" and "Business" are defined under GST Act, in an inclusive manner and have wide connotations. Activities undertaken by the applicant are covered by the scope of word "Commerce", "Business" and also covered under the scope of "Supply". The applicant's interpretation of term 'commerce' is incorrect. Activities performed by the applicant shall be treated as supply under GST law.

(Source: Order No. GST-ARA-35/2019-20/B-14 dt. 24th May, 2021 by the Maharashtra AAR in the case of M/s. Dubai Chamber of Commerce and Industry)

3) Service Tax/GST – Refund of Education Cesses and Krishi Kalyan Cess

Refund claim of unutilized Education Cess, Secondary & Higher Education Cess and Krishi Kalyan Cess in lying in Cenvat Credit account as on 01.07.2017. What would be the relevant date for period of limitation for claiming EC, SHEC and KKC refund?

Held: As on 01.07.2017 there was no bar on carry forward of the CENVAT credit of Education Cess, Secondary & Higher Education Cess and Krishi Kalyan Cess to GST regime. In these circumstances, the appellant has carried forward the CENVAT credit under CGST Act. Section 140 of the CGST Act, 2017 was amended on 30.08.2018 and was applied retrospectively. As per the amendment, any credit which was not

admissible to the appellant could not be a GST credit for transitional credit to the appellant. The appellant reversed the credit in their GST account and filed the instant refund claim. As the appellant has reversed the said amount in their GST ledger, in terms of the amendment to Section 140 of the CGST Act, 2017, the said amount shall remain unutilized in their CENVAT credit account on account of Education Cess, Secondary & Higher Education Cess and Krishi Kalyan Cess as good as it was on 01.07.2017. Therefore, the contention of the Department that it is to be considered as GST credit, is not acceptable when the provision of law is clear that the said credit cannot be transferred to GST Regime. The appellant is entitled to file the refund claim.

(Source: Order in Service Tax Appeal No. 60095 of 2021 dt. 24th May, 2021 by the CESTAT Chandigarh Bench in M/s. Schlumberger Asia Services Ltd. v. Commissioner of CE & ST, Gurgaon-I)



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1. Life Membership of the AIFTP (including 18% GST ₹ 450/-)	₹	2,950/-*		
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Single copy of the AIFTP Journal	₹	80/-		
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	(5 Yrs.)	(10 Yrs.)	(15 Yrs.)	(20 Yrs.)
Admission Fees (including 18% GST ₹ 90/-)	590/-	590/-	590/-	590/-
Subscription	5,000/-	7,500/-	11,500/-	15,000/-
Total	5,590/-	8,090/-	12,090/-	15,590/-

Note: Members may either apply through website or download the membership form from the website of AIFTP., i.e., www.aiftponline.org

* Applicable upto 30th June, 2021.

Announcement

All India Federation of Tax Practitioners (Western Zone) is pleased to announce its 2nd Online Webinar for the year 2021 covering the following topic:

Topic : Important Judgements under Direct Tax

Day & Date : Saturday, 19th June 2021

Time : 10.30 AM To 12.30 PM

Speaker : Mr. K. Gopal, Advocate

Link to Webinar: Will be shared shortly.

Pravin Shah
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Co-ordinator
Direct Tax

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

Membership of AIFTP as on 31st May, 2021 Life Members					
Zone Name	Associate	Individual	Association	Corporate	Total
Central	0	1178	25	0	1203
Eastern	6	1901	37	0	1944
Northern	0	1429	20	2	1451
Southern	1	1687	23	5	1716
Western	5	2726	38	6	2775
Total	12	8921	143	13	9089

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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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
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Date of Publishing : 1st of every month.

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

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