

All India Federation of Tax Practitioners



AIFTP TIMES

Volume 13 – No. 2 • February 2022

FORTHCOMING PROGRAMMES

Date & Month	Programme	Place
1st February, 2022	Webinar on Union Budget 2022 (CZ)	Virtual
2nd February, 2022	Analysis of provisions of Union Budget, 2022 (SZ)	Virtual
2nd February, 2022	Webinar on the subject/title "Broad overview of Union Budget 2022-2023 (Tax and International Tax) (WZ)	Virtual
3rd February, 2022	Webinar on the subject/title "Union Budget-2022 - Indepth Analysis by Masters in Taxation" (WZ)	Virtual
5th February, 2022	Webinar on Budget 2022 (NZ)	Virtual
16th February to 1st March 2022	Webinar Series on GST and Allied Laws (CZ)	Virtual
18th & 19th February, 2022	Taxcon-2022 (WZ)	Mumbai
26th February, 2022	National Executive Committee Meeting	Kolkata
26th, 27th & 28th February, 2022	Two Day National Tax Conference alongwith Gangasagar Darshan on 28th February, 2022 (EZ)	Kolkata
11th, 12th & 13th March, 2022	RRC at Orcha - Gwalior (CZ)	Jhansi

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The AIFTP Indirect Tax and Corporate Laws Journal will be available on subscription basis from January, 2022. The subscription amount for one year is as under:-

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We request all to subscribe the AIFTP Indirect Tax Journal and also circulate amongst other Professionals friends, WhatsApp groups and ask them to subscribe this Journal. We Request all members to become Donor Members for the initial year to support the Journal.

Journey of this Journal started with the idea conceptualized by Dr. Ashok Saraf the then President of AIFTP and immediately we started working on it and released the journal within a month of conceptualization. It has continued free of cost since then and now it has been felt that a nominal amount be fixed for the subscription of it. The Journal has been applauded by the Professionals and it has received wide acceptance and the Articles contained in the Journal are on the recent issues and controversies and amendments. The eminent Professionals had been contributing Articles in the Journal regularly and we are also covering RERA, FEMA and Companies Act apart from GST.

The payment can be made online and by scanning the QR Code. Kindly click the below link and get the details of the Journal and Form, which has to be filled and e-mailed to us on aiftpjournal@gmail.com :-

<https://aiftp.in/journal>

Pankaj Ghiya

Chief Editor and Dy. President (2022)

TAXCON – 2022

(HYBRID MODE)

DATE : 18th and 19th February, 2022 (Friday and Saturday)

VENUE : Khimji Kunverji Vikamsey Auditorium, ICAI Tower, Plot no C-40, G Block, Opp. MCA Academy, Besides Standard Chartered Bank, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051

Organised by

All India Federation of Tax Practitioners (Western Zone)
Western India Regional Council of The Institute of Chartered Accountants of India
Bombay Chartered Accountants' Society • The Chamber of Tax Consultants
The Goods & Services Tax Practitioners' Association of Maharashtra • Malad Chamber of Tax Consultants

An annual event is revived after more than a decade. TAXCON, which had been a show stopper in earlier times, is back with a bang. This is a Conference conceived and designed by six like-minded professional associations to bring on one platform topics of most relevance in current scenario to the taxation and accounting professionals. The sessions dealing with taxation, accounting and technology encompassing taxation and accounting are to be addressed by top of the line professionals excelling in their respective fields.

The professionals seeking holistic views on some of the contentious areas of taxation and accounting as well as insights into technology led solutions, will find great value by attending the sessions which have been meticulously curated to address various issues through effective deliberations and presentations.

It is an event which can be attended through physical participation thereby having occasion to network with fellow professionals. However, if traveling to the venue is difficult for outstation enthusiasts or even for Mumbai professionals, they can participate remotely through online mode.

DO NOT MISS THE OPPORTUNITY

Fee	
Physical Event	Virtual Event
2,832/- (incl. GST 432/-)	1,180/- (incl. GST 180/-)
Physical event shall be restricted to 150 participants	

The details of the Conference are as follows:

Day 1 – Friday – 18th February, 2022	
9:30 am to 5:30 pm	TDS including Section 195 – CA. Milin Mehta Supply–Controversies & Classification – CA. A R Krishnan Interplay of ICDS & Ind-AS – Issues – CA. Yogesh Thar Panel Discussion on Fake Invoicing – Accounting, Direct & Indirect Tax Aspects Moderator – Adv. Vipul Joshi Accounting Aspects – CA. Himanshu Kishnadwala Direct Tax Aspects – Sr. Adv. Saurabh Soparkar Indirect Tax Aspects – Adv. V Raghuraman
Day 2 – Saturday – 19th February, 2022	
10:00 am to 5:30 pm	Controversies in Valuation and Section 56 – Dr. (CA) Anup Shah Controversies in Input Tax Credit – Rohan Shah Tax Technology – Current Snapshot and Way Ahead – CA. Divyesh Lapsiwala Panel Discussion on Startups and Digital Ventures – Holistic view Moderator – CA. Jayant Gokhale Indirect Tax Aspects – CA. Sunil Gabhawalla Direct Tax Aspects – CA. H. Padamchand Khincha Industry Perspective – CA. Robin Banerjee

REGISTRATION LINK: <https://bit.ly/3fPsMRb> | Conference Contact: taxcon022022@gmail.com

Physical Cheque in name of WIRC OF ICAI can be dropped at respective association's office

Report of National Convention 2021

by Mr. Vikram Chawla, Secretary Convention

The National Convention of All India Federation of Tax Practitioners was convened at Lucknow on 24th December 2021, coupled with a two day Convention on 25th and 26th December, 2021 at Hotel Ramada Lucknow.

On 24th December 2021, the National Convention was held and the elections were also held for NEC. The elections were unanimous and the results were announced by Dr. Ashok Saraf, Chief Election Officer.

The Theme of the Convention held on 24th and 25th December 2021 was "VIDYA DADATI VINAYAM". The Programme was a grand success. It was inaugurated jointly by **Mr. S. P. Singh Baghel** (Union Minister of State of Law and Justice) and **Hon'ble Mr. Justice Rajesh Bindal (Chief Justice, Allahabad High Court)**. In his Inaugural Speech Professor Baghel appreciated the Federation for giving 18 members as Judges to High Court & further informed that during last one year Government was instrumental in appointing 111 Judges to High Court & 11 Chief Justices, the highest number ever since country attained independence. He further promised to help to our fraternity while informing about allocation of 900 crores for infrastructure to various courts. He also complemented by naming Justice Bindal as KUL SHIROMANI of our family of Federation. Justice Bindal, while addressing the audience lauded the Federation's efforts in sharing of knowledge by senior with all other member. He also emphasized that knowledge of one increases by sharing knowledge with others & makes you humble. It brings competence & confidence and stressed the need for Federation member to become economic warriors by contributing to the nation by giving proper advice to all stakeholders including the government. **Mr. D. K. Gandhi** was administered the Oath of National President for the year 2022 by Hon'ble Mr. Justice Rajesh Bindal. This inaugural session was successfully hosted by master of ceremonies CA. Puneet Singh, Varanasi & CA. Aanchal Kapoor, Amritsar.

The 2nd session was a motivational and spiritual session with the topic **Redesigning Professional and Personal Life**. The audience was mesmerized by the wonderful presentation given by *Ms. Anudev, Life Coach from Delhi* and *Mr. Rajesh Agarwal (Dr. destiny)*. The master of ceremony for the session were Mr. Asim Zafar, Advocate, Varanasi and Mr. Sanjay Sharma, Advocate, Delhi.

The 3rd session was a technical session with the topic **Comparative Analysis of Provisions of Survey Search, Seizure and Summons under Direct and Indirect Tax Laws**. The session was chaired by *Smt. Prem Lata Bansal, Senior Advocate, Delhi* and the distinguished speakers *Mr. S. K. Tulsian, Advocate, Kolkata*, *Mr. S. Venkataramani, CA, Bengaluru*, and *Mr. Jagmohan Bansal Senior Advocate from Chandigarh*. The speakers enlightened the audience with the intricacies and technical provisions in this regard and also answered the various queries raised by the audience. The master of ceremony for the session were CA. Jamuna Shukla, Varanasi and Mr. Vikram Chawla, Advocate, Saharanpur.

The 4th session was the cultural session with some great performances of Kathak by the internationally renowned Dr. Anuj Mishra & Troupe and also semi classical vocals by Dr. Sucharita Gupta. This cultural session lasted for over three hours and was appreciated and enjoyed by one and all. The master of ceremonies for the session were Ms. Tamana Banga, Mr. Prakash Gupta & Ms. Rana Tayyab.

The 5th session was held on the morning of 26th December 2021, on the novel topic of **Taxation of Crypto Currencies**. The session was chaired by *Dr. Ashok Saraf, Senior Advocate, Guwahati* and the speaker of the occasion *Ms. Naina Bhardwaj, Advocate, Delhi* made a very interesting presentation on the topic. The program was hosted by Master of ceremonies CA. Siddeshwar Yelamali, Bengaluru & Ms. Kelly Fredric Singh, Advocate, Lucknow.

The 6th session was also a technical session on the topic **New Provisions of Reassessment in Income Tax law** with *Mr. D. D. Chopra, Advocate Lucknow* as the Chairman for the session, and *Mr. G. S. Prashant, C.A., Bengaluru* as the esteemed speaker. It was an informative session with a lot of participation from the floor of the house. The session was successfully conducted by Master of ceremonies *Mr. Piyush Singhal, Advocate, Ayyodhya* & *Ms. Pooja Talwar, Advocate, Prayagraj*.

While the technical sessions continued, the accompanying spouses of the delegates were taken around the Lucknow city, for a guided tour with *Ms. Kelly Frederick Singh, Advocate, Lucknow*, acting as the host of the excursion.

The 7th session was again a technical session on the topic **Intricacies of ITC & Coercive provisions under GST** with *Smt. Nikita Badheka, Advocate, Mumbai* as the Chairperson of the session. She was accompanied by CA. Aanchal Kapoor, Amritsar, and CA. Rohini Agarwal, Delhi as the learned speakers. The session was a great success with the women power taking center stage. The session was efficiently conducted by *Mr. Dileep Yashvardhan, Advocate, Lucknow* & *Ms. Rimika Khera, advocate, Amritsar*.

The 8th session was a special technical session on the controversial topic **Is there Equity & Natural Justice under Tax laws?** The Chief Guest of the session was **Mr. J. B. Mohapatra (Chairman-CBDT)**. The session was chaired by **Hon'ble Mr. Justice (Retd) Ashok Kumar (Chairman U.P. Consumer Forum)**. The Panelists in the session were *Mr. J. K. Mittal, Advocate, Delhi* and *CA. Rajesh Mehta, Indore*. With a lineup of such esteemed persons on stage, the session was definitely, informative, interesting and fiery. A representation on issues relating to Direct Taxes was also presented to the Chairman, CBDT by the Direct Tax Representation Committee Chairman *Mr. Arvind Shukla*. This session was conducted by Master of

ceremonies Mr. Vikram Chawla, Advocate, Saharanpur and Ms. Samstan Dolma, Advocate, Leh Ladakh.

The Convention concluded with the 9th session, which was the valedictory session, in which mementos and awards were distributed to all those who helped in organising the convention. Past Presidents Mr. P. C. Joshi, Smt. Prem Lata Bansal, Dr. Ashok Saraf, Smt. Nikita Badheka showered their blessings on the convention organising team.

On the sidelines of the convention, a Trip to Ayodhya was organised on 27th Dec., 2021, to get the blessing of Lord Ram Lala which was satisfactorily completed & appreciated by all visitors.

Overall, the Lucknow convention was appreciated by all who attended, including the technical sessions, deliberations by eminent speakers and the hospitality of organising Team.

Following AIFTP's Annual Awards were partly handed over in the Inaugural Session and remaining in the Cultural Night on 25th December, 2022:-

01	AIFTP Best Conference Award (Sponsored by Ranka Public Charitable Trust)	- Katra National Tax Conference – Northern Zone
02	AIFTP Best Seminar Award (Sponsored by Ranka Public Charitable Trust)	- Joint Winners Varanasi (Physical) Seminar – Northern Zone Patna (Virtual) Seminar – Eastern Zone
03	AIFTP Best Zone Chairman Award (Sponsored by Ranka Public Charitable Trust)	- Dr. Naveen Rattan - Northern Zone
04	AIFTP Maximum Participation Award (Sponsored by Dr. Ashok Saraf, Sr. Advocate in memory of his father Late Dr. Justice B. P. Saraf)	- Mr. Pradosh Pattnaik – Eastern Zone
05	AIFTP Best Zone Vice-Chairman Award (Sponsored by Dr. Ashok Saraf, Sr. Advocate in memory of his father Late Dr. Justice B. P. Saraf)	- Mr. Prakash Gupta – Northern Zone
06	AIFTP outstanding contribution to the development of Tax Profession Award (Sponsored by Dr. Ashok Saraf, Sr. Advocate in memory of his father Late Dr. Justice B. P. Saraf)	- Mr. Pankaj Ghiya – Central Zone
07	AIFTP Best Upcoming Speaker Award (Sponsored by Shri Bharatji Agarwal, Sr. Advocate in memory of Late Raja Ram Agarwal)	- Mr. Deepak Khandelwal – Central Zone
08	AIFTP Best Zone Award (Sponsored by Shri S. R. Wadhwa, Advocate in memory of Late Mohan Lal Wadhwa)	- Western Zone
09	AIFTP Membership Development Award (Sponsored by Shri Mukul Gupta, Advocate in memory of Late Darshan Lalji Gupta)	- Mr. M. Ganesan – Malappuram, Kerala
10	AIFTP maximum participation in the Conference Award (Sponsored by Income Tax Bar Association, Varanasi in memory of Shri Anil Kumar Singh)	- Pune National Tax Conference - Western Zone
11	AIFTP Best Souvenir Award (Sponsored by Shri Ganesh Purohit, Sr. Advocate in memory of his father Shri Shri Krishna Purohit)	- Katra National Tax Conference - Mr. A. K. Srivastava – Northern Zone
12	AIFTP Best Article in Souvenir Award (Sponsored by Smt. Nikita R. Badheka, Advocate in memory of her father Shri B. C. Joshi)	- Mr. P. K. Bansal and Mrs. Bhavya Bansal Goyal – Northern Zone
13	AIFTP Award to Chartered Accountant having more than 40 years of Practice (Sponsored by Shri K. Rajendra Varaprasada Rao, Eluru)	- Mr. Jai Prakash Gupta – Western Zone
14	AIFTP Award to the Tax Practitioner having more than 40 years practice (Sponsored by Shri K. Rajendra Varaprasada Rao, Eluru)	- Mr. H. T. Sudhindra Rao – Southern Zone
15	AIFTP Award to an Advocate having more than 40 years of practice (Sponsored by Shri K. Rajendra Varaprasada Rao, Eluru)	- Mr. K. N. Kumar – Northern Zone

ANNOUNCEMENT

Dear Members,

We are pleased to inform you that the AIFTP has published a Book titled “**Handbook on Taxation of Partnership Firms & Limited Liability Partnerships: Frequently Asked Questions**” in association with the Taxmann.

The Message for the said publication is written by Hon’ble Mr. Rajesh Bindal, Chief Justice of Allahabad High Court.

Foreword for the publication is written by Hon’ble Justice R. K. Agrawal, Former Judge of the Supreme Court, and the President of National Consumer Disputes Redressal Commission.

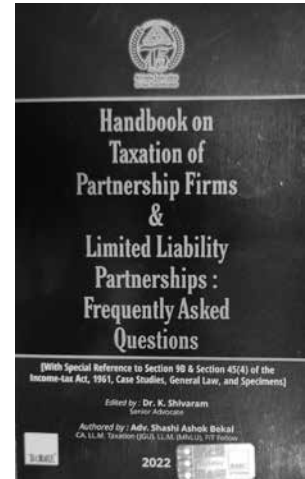
The publication was released by Mr. S. P. Singh Baghel, Hon’ble Minister of State in the Ministry of Law and Justice, and Justice Rajesh Bindal, Hon’ble Chief Justice of Allahabad High Court on December 25, 2021 at the 24th National Convention of AIFTP at Lucknow.

The price of the publication is ₹ 945/-. AIFTP Members can avail the book at ₹ 660/- (Including Courier charges).

ABOUT THE PUBLICATION

“Handbook on Taxation of Partnership Firms & Limited Liability Partnerships: Frequently Asked Questions”

- This publication is dedicated as a Tribute to Late Shri Bharat ji Agrawal, Senior Advocate and Past National President of the AIFTP.
- The publication is published in association with the Taxman.
- The publication is Edited by Dr. K. Shivaram, Senior Advocate and Authored by Advocate Shashi Bekal Advocate.
- The Message for the said publication is written by Hon’ble Mr. Rajesh Bindal, Chief Justice of Allahabad High Court.
- Foreword for the publication is written by Hon’ble Justice R. K. Agrawal, Former Judge of the Supreme Court, and the President of National Consumer Disputes Redressal Commission.
- The publication contains 360 Frequently Asked Questions on the subject of taxation of Partnership Firms and Limited Liability Partnerships.
- The publication is divided into 24 Chapters viz. Admission of a Partner, Dissolution of a Partnership Firm, Reconstitution of a Partnership Firm et cetera.
- The publication draws a special reference to section 9B and section 45(4) of the Income-tax Act, 1961 with a view to provide clarity on these provisions with the help of case studies, as there is no reference to the same in the Memorandum explaining the provisions of the Finance Bill, 2021 (2021) 430 ITR 214 (St) nor in the Notes on Clauses (2021) 430 ITR 160 (St).
- The publication addresses queries on the implications of other laws viz. Stamp duty, GST, FEMA, Labour Laws vis-à-vis Partnership Firms & Limited Liability Partnerships.
- The publication contains the important specimens, case studies, reference to relevant provisions of the Income-tax Act, 1961, and a bare act of the Indian Partnership Act, 1932 and Limited Liability Partnership Act, 2008 for ready reference.



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Direct Taxes

Ms. Neelam Jadhav, Advocate, KSA Legal Chambers

High Court

1. S. 2(15) : Charitable purpose (Objects of general public utility – Proviso to section 2(15) – profit made by society is ploughed back for charitable activities, proviso to sec. 2(15) does not attracted to the Assessee.

The Assessee society was running a printing press and publishing a newspaper, profit so generated was used for charitable purposes and apparently there was no profit motive in activities of assessee. Commissioner had granted registration to assessee under section 12A, recognition under section 10(23C)(vi) and exemption under section 80G. The AO observed that, the assessee is carrying the mandate of the Will of Late A in running the printing press and the newspaper and the income so generated is used for charitable purposes, the assessee is involved in trade, commerce or business and as such the mischief of the Proviso of section 2(15) is attracted, hence he dined the exemption under section 11(1). The CIT(A) & Tribunal held that, the assessee is a charitable institution and mere receipt of fees and income etc. cannot be said that the assessee is involved in any trade, commerce or business. Therefore, exemption is allowable to the Assessee. Revenue before the High Court against the order of the Tribunal.

High court held that, the constitution validity of the proviso of section 2(15) which was under challenge being discriminatory in view of the Article 14 (Equality before law) of the Constitution of India but the Hon'ble High Court has read down the strict and literal interpretation of the Proviso to Section 2(15) and has held that mere receipt of fee or charge cannot be said that the assessee is involved in any trade, commerce or business. As the assessee is a charitable and non-profit institution and also found that assessee is not involved in any trade, commerce or business activity which attracts does not attract the mischief of the Proviso of section 2(15) of the Act and the assessee has been enjoying the exemption u/s. 11(1) and also u/s. 10(23C)(iv) in the past, as the principle of consistency has to be follow. Further held that, Proviso to sec. 2(15) not attracted if profit made by society is ploughed back for charitable activities.

Pr. CIT v. Servants of People Society ITA No. 161 of 2021 dt.16/011/2021. (Delhi)(HC), Source: www.delhihighcourt.nic.in

2. S.28(i) : Business Income vs. Capital Gain – Share Trading – Reopening notice issued on ground that as there was no investment in shares by assessee, no allegation against assessee that it had failed to disclose all material facts, reopening notice issued after four years was unjustified.(r.w.s.45 & 147)

The Assessee Company purchased and sold shares and income earned from it treated as income capital gain and, accordingly, paid taxes at rate of 10 per cent. The same was accepted and assessment was completed u/s. 143(3). A

reopening notice u/s. 148 was issued after four years against the assessee on ground that there were no investments, therefore, the income from sale of shares had to be treated as business income and not as capital gain and tax was to be paid at rate of 30 per cent.

While deciding the issue, the Hon'ble High Court observed that, there is no allegation against the assessee having failed to fully and truly disclose all material facts necessary for the assessment regarding the income from sale of shares. While reading of reasons for reopening will show that there is no such allegation against the assessee. The High Court held that, in the absence of any allegation against the assessee of any non-disclosure, then there is no hesitation to hold that the assessment was escape, hence the reopening is done after four years is a clear case of change of opinion.

Saravana Stocks Investments (P.) Ltd. v. Dy. CIT, W.A. Nos. 2452 & 2453 of 2021, dt.28/09/2021 (Mad)(HC), Source www.hcmadras.tn.nic.in

3. S.56: Income from other sources (Protective Assessment) – No protective assessment in the hands of the assessee, when there was no substantive addition in the hands of other party or other assessee's. (r.w.s.143)

The case of the Assessee was selected for scrutiny through CASS and reason for scrutiny selection "substantial cash deposit in the bank account". The assessee pursuant to the notice u/s. 142(1) brought to the notice of the AO that the savings bank account has been opened for the purpose of Junior College and duly reflected about the same in the return of income of the Society of Education for the year under consideration which runs the Junior College and the sums deposited/withdrawn in the bank account are not pertaining to him and so he is not maintaining any details of the cash deposits or withdrawals in the said bank account. According to the AO, the assessee could not prove that the said bank account was exclusively used for the purpose of college and that the gross receipt shown by the assessee society does not match with the cash deposits as claimed by the assessee. The AO was of the opinion that the total credit made in the said bank account need to be treated as "income from other sources" in the hands of the assessee as income on protective basis to safeguard the interest of revenue.

Tribunal observed that, there was no substantial addition of such an amount made prior in the case of M/s. Society of Education and this finding of fact has not been rebutted/controverted or assailed by the revenue by filing specific ground to this effect in this appeal. The Tribunal held that since there was no substantive assessment/addition in hands of Society of Education, protective assessment made in hands of assessee was needs to be set aside.

ITO v. Keshava Nanda Kakati, ITA No. 460 / GAU / 2019 dt.28/10/2021, (Gua)(Trib.), Source, www.itat.nic.in

Indirect Taxes

Tanmay Mody, Advocate

1) GST AAAR – Taxability of supplies between head office and branches

Whether the appellant's activities of providing facilitation services to their branch offices by way of procurement of common input services from third party vendors on behalf of their branch offices will be considered as supply and whether the same would attract GST?

Applicability of GST on the allocation and recovery of the salary cost of the Head Office's employee from the Branch Offices/Units.

Whether the allocation of the cost of the employees' salary by the Head Office/Corporate Office to the branch offices would attract levy of GST?

Held: 1. The GST Law has provided a very wide connotation for services, which will cover any activity other than those, which involves goods, money and securities. In view of this wide scope and coverage of the term "services", the impugned activities of providing facilitation services to their branch offices/units by way of availment of the common input services by the Appellant' Head office on behalf of its Branch Offices would be covered under services and will qualify as supply of services in accordance with the provision of Section 7(1)(a) of the CGST Act, 2017 as the said services are provided by the Appellant Head Office to its branch offices/units for a consideration in the course of its business. However, the cost of the said common input services availed on behest of Branch Offices/Units and allocated to the Branch Offices/Units by the Head Office will not attract the levy of GST as the said costs have been incurred by the Head Office in the capacity of a pure agent of the Branch Offices, and as such, the said cost incurred by the Head Office shall be excluded from the value of supply of the facilitation services. Under Section 16 of the CGST registered person is entitled to take credit of input tax charged on any supply of goods or services or both, subject to the condition that the goods or services or both received by the registered person should be used or intended to be used in the course or furtherance of business, however, in the instant case, the common input services received by the Appellant's Head Office are being used or consumed by the Branch Office/Units in the course or furtherance of their business, and not by the Head Office, as the Head Office receives these common input services on behalf of the Branch Offices/Units. Hence, the Head Office is not entitled to avail and utilize the credit of tax paid on the common input services received by it on behalf of the branch offices/units.

2. Applicant reliance of entry 1 of the Schedule III to the CGST Act, 2017 is misplaced and erroneous in as much as the impugned transaction of facilitation services are not effected between the employees and the employer,

but between the Head Office and Branch Offices/Units, which are distinct units in terms of Section 25(4) of the CGST Act, 2017, and the same is clearly taxable under GST in terms of Section 7 of the CGST Act, 2017. Hence the allocation and recovery of the salary of the employees of the Head Office from the Branch Office/Units will be subject to GST.

3. The employees of the Appellant's Head Office are working at behest of the Head Office, and not at behest of the Branch Offices/Units. Further, since the Head Office is using all its human resources to facilitate the operational requirements of the Branch Offices/Units by way of procuring common input services on behalf of the Branch Offices/Units, thereby, providing the impugned facilitation services, therefore, allocation and recovery of any amount including its employees' salary cost from the Branch Offices/Units will be subject to GST.

(Source: Order No. MAH/AAAR/AM-RM/01/2021-22 dated 21st December, 2021 in by the Maharashtra AAAR in the case of M/s. Cummins India Ltd.)

2) GST AAAR – “Nil” Export Duty on goods, eligibility for refund

Whether the appellant is entitled to claim the refund of unutilised input tax credit on export of services as per Section 16(3)(a) of the IGST Act and 54(3) of the CGST Act on goods attracting nil rate of export duty?

Held: After conversion of iron ore into pellets, the pellets are exported to the non-resident party. Hence, appellant contention that they are exporting only services, but not goods is not tenable. The rate of export duty on iron ore pellets is Nil, however Nil rate of tax is also a rate of duty; and since the goods exported are covered under Second Schedule to the Export Tariff appended to the Customs Tariff Act, 1975 the said goods are to be considered as subjected to export duty and the exclusion under proviso to Section 54(3) is applicable, whereby the appellant is not eligible for refund of unutilized input tax credit. It is well-settled principle that goods being exempted or chargeable to Nil rate of duty by virtue of Notifications etc., does not remove the goods from the category of those 'leviable to duty'. The wording in the statute specifies that no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to, export duty. The appellant is not entitled to claim refund of unutilized input tax credit in cases where the goods exported out of India are subjected to export duty.

(Source: Order dated 3rd February, 2020 in AAAR no. GOA/AAAR/01/2019-20/3072 by the Goa AAAR in the case of M/s. Chowgule & Company P. Ltd.)



Publications for sale

Sr. No.	Name of Publication	Edition	Rate (₹)		
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1.	Handbook on Taxation of Partnership Firms & Limited Liability Partnerships: Frequently Asked Questions	Dec., 2021	660.00	660.00	–
2.	Reassessment Law, Procedure & Practice (Practical Guide)	Dec., 2020	Free	Available on website	100.00
3.	151 Landmark Judgment of the Honorable Supreme Court	Oct., 2020	Available on website	Available on website	–
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Southern	1	2158	23	2	2184
Western	5	2888	38	3	2934
Total	12	10026	144	6	10188

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E-mail: aiftpo@gmail.com • Website: www.aiftponline.org