



AIFTP TIMES

Volume 4 - No. 6 | June, 2013

FORTHCOMING PROGRAMMES

| Date & Month | Programme | Place |
|------------------------------|--------------------------------------|-----------|
| 8-6-2013 | One Day Tax Seminar | Kolkata |
| 5-7-2013 | National Executive Committee Meeting | Hyderabad |
| 6 & 7-7-2013 | National Tax Conference | Hyderabad |
| 16 to 18-10-2013 | AOTCA Conference at Hanoi | Vietnam |
| 26 to 28-12-2013 (proposed)* | National Convention | Mumbai |
| * Subject to confirmation | | |

Renewal Subscription to AIFTP Journal and Voluntary Contribution to Palkhivala National Tax Moot Court Competition and Research on Tax

Dear Members,

We have posted bill for renewal subscription of AIFTP Journal and Palkhivala Foundation in 1st week of March, 2013. Members are requested to send the DD or Cheque in favour of "All India Federation of Tax Practitioners" payable at Mumbai as early as possible.

Members can also download the subscription and an Appeal for voluntary contribution from our website; i.e., www.aiftponline.org and send us the subscription.

Thanking you,

For All India Federation of Tax Practitioners

NARAYAN P. JAIN
Secretary General

Non-Receipt of AIFTP Journal and AIFTP Times

AIFTP Journal is posted to all AIFTP Journal subscribers on 23rd of every month.

If the subscriber does not receive the AIFTP Journal on or before 30th of the month please send a e-mail or written intimation to the office of the All India Federation of Tax Practitioners to enable the office to take corrective action.

AIFTP Times is posted on 4th of the month to all members.

If the member does not receive the AIFTP Times on or before 10th of the month please send a e-mail or written intimation to the office of the All India Federation of Tax Practitioners to enable the office to take corrective action. The AIFTP Times can also be downloaded from the website of AIFTP i.e. www.aiftponline.org

Mitesh Kotecha
Chairman, Journal Committee

FOR QUERIES PLEASE CONTACT ANY OF THE FOLLOWING OFFICE BEARERS

| Name | Tel. (O) | Fax | Mobile | E-mail |
|--|--------------|----------|------------|--------------------------|
| National President — S. K. Poddar, Adv. | 0651-2202787 | 2309407 | 9431115265 | sheojipoddar40@gmail.com |
| Deputy President — J.D. Nankani, Adv. | 022-22841717 | 22831717 | 9821034867 | jagdish@nankanis.com |
| Secretary General — Narayan P. Jain, Adv. | 033-22821100 | 22820180 | 9830951252 | npjain@vsnl.com |
| Treasurer — CA. Harish N. Motiwalla | 022-22002103 | 22094331 | 9819422300 | hnmotiwalla.ca@gmail.com |

NATIONAL TAX CONFERENCE

Organised by
ALL INDIA FEDERATION OF TAX PRACTITIONERS – SOUTHERN ZONE
Jointly with
**THE ANDHRA PRADESH SALES TAX BAR ASSOCIATION and
TWIN CITIES TAX PRACTITIONERS ASSOCIATION**
at
HOTEL MARIGOLD, BEGUMPET, HYDERABAD, (Annexe of Green Park Hotel)
on
6TH AND 7TH JULY, 2013
GLOBAL ECONOMY – WIDER VISTAS IN TAXATION

6TH JULY, 2013 (SATURDAY)

- 8.30 AM to 9.30 AM : Breakfast & Registration
9.30 AM to 11.15 AM : Inaugural Session : Chief Guest : Chief Justice of India (*)
11.15 AM to 11.30 AM : Tea Break
11.30 AM to 1.30 PM : **First Session**
Topic : Service Tax
Speaker : Shri Arvind Datar, Sr. Advocate, Chennai
Chairman : Shri Bharatji Agarwal, Sr. Advocate, Allahabad.
1.30 PM to 2.30 PM : Lunch Break
2.30 PM to 4.00 PM : **Second Session**
Topic : Domestic Transfer Pricing
Speaker : CA P.V.S.S. Prasad, Hyderabad
Chairman : Shri S.R. Wadhwa, Advocate, New Delhi.
4.15 PM to 4.30 PM : Tea Break
4.30 PM to 5.45 PM : **Third Session**
Topic : Inter-State Works Contracts
Speaker : Shri Vinayak Patkar, Advocate, Mumbai
Chairman : Shri P.V. Subba Rao, Advocate, Hyderabad

7TH JULY, 2013 (SUNDAY)

- 8.30 AM to 9.30 AM : Breakfast
9.30 AM to 11.15 AM : **Fourth Session**
Topic : Tax Accounting Standards
Speaker : CA H. Padamchand Khincha, Bengaluru
Chairman : Shri H. Srinivasulu, IRS, Commissioner of Income Tax, Hyderabad
11.15 AM to 11.30 AM : Tea Break
11.30 AM to 1.00 PM : **Fifth Session**
Topic : Works Contract – With specific reference to recent amendments to APVAT Act, 2005
Speaker : Dr. S.R.R. Viswanath, Advocate, Hyderabad
Chairman : Shri D. Rama Chandra Reddy, Addl. Commissioner (CT) (Legal), Hyderabad
1.00 PM to 2.00 PM : Lunch Break
2.00 PM to 3.30 PM : **Sixth Session**
Topic : Brain Trust Session
Trustees : 1) Shri N.M. Ranka, Sr. Adv., Jaipur
2) Shri Bharatji Agrawal, Sr. Adv., Allahabad
3) Shri P.C. Joshi, Advocate, Mumbai
4) Shri P.V. Subba Rao, Advocate, Hyderabad
5) Shri D. Rama Chandra Reddy, Addl. Commissioner (CT) (Legal), Hyderabad

(*) Subject to confirmation.

DELEGATE FEE: ₹ 2,500/- to be paid in the name of "All India Federation of Tax Practitioners – South Zone" by Demand Draft /Cheque.

Accompanying Spouse : ₹ 2,000/-

DIRECT TAXESAjay R. Singh, Paras S. Savla & Rahul Hakani
Advocates, KSA Legal**HIGH COURTS****1. S. 271(1)(c): Penalty – Concealment – No Penalty u/s. 271(1)(c) for not offering capital gains on S. 50C stamp duty value**

The assessee sold property for a consideration of ₹ 2.50 crore. However, for the purpose of stamp duty, the property was valued at ₹ 5.19 crore and stamp duty was paid on that value. The assessee offered capital gains on the basis that the sale consideration was ₹ 2.50 crore. The AO invoked s. 50C and held that the sale consideration had to be taken at ₹ 5.19 crore and capital gains computed on that basis. The AO imposed penalty u/s 271(1)(c) which was deleted by the CIT(A) and the Tribunal. On appeal by the department to the High Court it was held that though the assessee could have disputed the valuation on the basis of the deemed value and chose not to do so, the fact remains that the actual amount received was offered for taxation. It is only on the basis of the deemed consideration that the proceedings u/s 271(1)(c) started. The revenue has failed to produce any iota of evidence that the assessee actually received one paise more than the amount shown to have been received by him. Order of Tribunal was confirmed.

C.I.T. v. Madan Theatres Ltd. (Calcutta High Court) GA No. 684 of 2013,

ITAT No. 62 of 2013 dtd. 14-5-2013 (Source: www. itatonline.org)

2. S. 40(a)(ia): Amounts not deductible – Special Bench verdict in Merilyn Shipping is not good law

The assessee incurred expenditure on which TDS ought to have been deducted but was not. The AO disallowed the expenditure u/s 40(a)(ia). On appeal, the Tribunal relied on Merilyn Shipping & Transports 146 TTJ 1 (Viz.) (SB) and held that the disallowance u/s 40(a)(ia) could be made only for the expenditure that is "payable" as of 31st March and not for the amounts that have already been "paid" during the year. On appeal by the department to the High Court, it was held reversing the Special Bench that the key words in s. 40(a)(ia) are "on which tax is deductible at source under Chapter XVII-B" and this makes it clear that it applies to all expenses. Nothing turns on the fact that the legislature used the word 'payable' and not 'paid or credited'. Unless any amount is payable, it can neither be paid nor credited. If an amount has neither been paid nor credited, there can be no occasion for claiming any deduction. The Special Bench was wrong in making a comparison between the draft Bill and the enacted law to determine the intention of the Legislature.

A comparison is permissible only between the pre-amendment and post amendment law to ascertain the mischief sought to be remedied or the object sought to be achieved by the amendment. The fact that the impact of s. 40(a)(ia) is harsh is no ground to read the same in a manner which was not intended by the legislature. The law was deliberately made harsh to secure compliance of the provisions requiring deductions of tax at source. It is not the case of an inadvertent error. For the same reason, the second proviso sought to become effective from 1st April, 2013 cannot be held to have already become operative prior to the appointed date. Consequently, the majority view in Merilyn Shipping & Transports is not acceptable.

CIT v. Crescent Export Syndicate GA 190 of 2013, ITAT 20 of 2013 dtd. 28/03/2013 (Calcutta High Court) (Source: www.itatonline.org)

3. Writ to restrain ITAT Members from discharging statutory functions not maintainable

The Petitioner, a Chartered Accountant practicing before the Amritsar Bench of the Tribunal, filed a Writ Petition alleging that he was facing a lot of harassment at the hands of the Judicial Member (Shri H. S. Sidhu) and the Accountant Member (Shri B. P. Jain) of the Amritsar Bench. He alleged that the said Members were totally prejudiced against him as he had made a complaint against the Judicial Member to the Tribunal and also because he had not been able to meet the "expectations" and "illegal demands" of the said Members. It was also alleged that the Bench was delaying the matters of the Petitioner or passing unreasoned orders or by totally ignoring him. A Writ of Mandamus was sought for restraining the said Judicial and Accountant Members of the Amritsar Bench from discharging their functions. The High Court dismissing the Petition held that it appears that the writ petition is to settle scores which the Petitioner might have raised during the course of his conduct as representative of the assessee. The Petitioner has asserted that he is not able to meet the expectations and illegal demands raised by the Members but there are no details as to when and how the demands were raised. Not only the writ petition is bereft of any material particulars but also the Petitioner has no right to claim mandamus for restraining an authority constituted under the Act from discharging the functions entrusted to it by the statute. The present writ petition was gross abuse of process of law and, therefore, it was dismissed.

Yoginder Kumar Sud v. President Income Tax Appellate Tribunal and Others W.P. No. 9731 of 2013 dtd. 8-5-2013 (P&H High Court) (Source: www. itatonline.org)

4. S. 43(5): Definitions – Speculative transaction – Hedging loss

The assessee, an exporter, entered into forward contracts with Banks to hedge against any loss arising out of fluctuation in foreign currency. The forward contract provided that the assessee would buy some quantity of dollars at a particular rate to cover export bill payment. The contract gave delivery option dates and the assessee had the option to cancel the contract and pay the loss to the Bank. The assessee suffered a loss of ₹ 15 lakhs on such cancellation. The AO & CIT(A) held that the loss constituted a "speculation loss" u/s 43(5) and could not be allowed as a deduction. Though the assessee is not a dealer in foreign exchange, it entered into forward contracts with banks for the purpose of hedging the loss due to fluctuation in foreign exchange while implementing the export contracts. The transactions in foreign exchanges were incidental to the assessee's regular course of business and the loss was thus not a speculative loss u/s 43(5) but was incidental to the assessee's business and allowable as such. The fact that there may have been no direct co-relation between the exchange document and the precise export contract cannot be seen in isolation if there are in fact several separate contracts with the bankers

CIT v. Friends and Friends Shipping Pvt. Ltd., Tax Appeal No. 251 of 2010 (Gujarat High Court) (Source: www.itatonline.org)

5. S. 37(1): Business expenditure – Illegal payments – End use of payment

The assessee exported tea to Iraq under the 'Oil for Food Programme', as sanctioned by the United Nations. It paid commission to a Jordanian company. It was found that this company was a front company for the Iraqi regime, meant to receive illegal kickbacks, and did not render any services. The AO, acting on the report, held that the commission paid by the assessee was "illegal" and not allowable under the Explanation to s. 37(1). It was held that while the transactions between the Jordanian company and the Iraqi regime may be contrary to the UN sanctions, the transactions between the assessee and the Jordanian company were not hit by the UN sanctions and that there was no specific violation of law by the assessee. It was emphasised that what the recipient of the payment does is not important because the assessee has no control over the matter. It was held that the "purpose" of the expenditure has to be seen and if the payment is for *bona fide* business purposes, the fact that they end up being used as illegal kickbacks, will not attract Explanation to s. 37(1).

CIT v. Rajarani Exports Pvt. Ltd., ITAT No. 49 of 2013 (Calcutta High Court) (Source: www.itatonline.org)

6. S. 148: Reassessment – Notice – Income likely to escape assessment. (S. 149(1)(b))

With the approval of the Joint/ Addl. CIT, the AO issued a notice u/s 148, after the expiry of 4 years, for

reopening the assessment on the ground that as the property was sold within three years of conversion into freehold, the gains were assessable as STCG. The High Court held that it was imperative that the AO should state in the recorded reasons that the escaped income is likely to be ₹1 lakh or more so that the sanctioning authority is aware that it has exercised power of extended period of limitation u/s 149(1) (b) and applies its mind accordingly. A sanction given without being aware of this fact was not valid. On facts, as there was nothing in the recorded reasons to suggest that the income chargeable to tax which has escaped the assessment is ₹ one lakh or more, the reopening was held to be not valid.

Mahesh Kumar Gupta v. CIT and Another, Writ Tax No. 1086 of 2007 (Allahabad High Court) (A.Y. 2000-01) (Source: www.itatonline.org)

TRIBUNALS

7. S. 43B: Deductions on actual payment – Employer's contribution – Employee's contribution

Ss. 2(24)(x), 36(1)(va), 37(1).

S. 43B covers only the sums payable by way of contribution by the assessee as an employer, i.e., the employer's contribution to the PF and ESI funds. It does not cover the employees contribution. While the employer's contribution is allowable u/s 37(1), the employees' contribution collected by the employer is deemed to be his income u/s 2(24)(x) and is allowable as a deduction u/s 36(1)(va) only if it is paid to the relevant fund by the due date as prescribed in the relevant legislation. Even if one assumes that s. 43B(b) applies to s. 36(1)(va) payments, a deduction would not be admissible because the s. 36(1)(va) payments are not 'otherwise allowable' if they are paid beyond the "due date". Thus, deductibility of employees' contribution has to be seen only with reference to s. 36(1)(va).

ITO v. LKP Securities, ITA No. 638/Mum/2012 dated 17-5-2013 (ITAT - Mumbai) (A.Y. 2008-09) (Source: www.itatonline.org)

8. S. 14A: Disallowance of expenditure – Exempt income – Reasons for disallowance (Rule 8D)

While rejecting the claim of the assessee with regard to expenditure or no expenditure, as the case may be, in relation to exempt income, the AO has to indicate cogent reasons for the same. In this case, since the AO had not considered the claim of the assessee and straightaway embarked upon computing disallowance under Rule 8D of the Rules on presuming the average value of investment at ½% of the total value, the disallowance under section 14A was liable to be deleted.

DCIT v. Ashish Jhunjunwala, ITA No. 1809/Kol/2012 dated 14-5-2013 (ITAT, Kolkata) (A.Y. 2009-10) (Source: www.itatonline.org)

INDIRECT TAXES

P. C. Joshi Advocate

1) BRANCH TRANSFER – ISSUE OF F FORMS

The Guwahati High Court held that the issuance of blank F form cannot be withheld on mere suspicion about the nature of the transactions. Such a question can be inquired into u/s. 6A(2) of the CST Act

State of Tripura & Ors v. H.R.S. Agency & Anr. (2013) 22 STJ 408 (Gau).

2) DEALER

The Madras High Court held that a charitable institution undertaking an activity of constructing 'Sulabh shauchalay' cannot be said to be carrying on business and therefore was not a dealer. In such an activity the department has to prove that there was an intention to carry on business either incidental or ancillary to the main business.

Sulabh International Social Services Organisation v. State of Tamil Nadu (2013) 22 STJ 318 (Mad.).

3) DEDUCTION – TRADE DISCOUNT

Before the Calcutta High Court the assessee had claimed certain deductions on account of credit notes issued after the completion of sale and collecting sales tax on the full value shown in the invoice. When the matter ultimately reached the Calcutta High Court it was found that the buyer at the time of purchase was not aware about the available deduction later on. No such remark was found on the invoice nor did any recurring credit scheme prevailed during the period. In view of the above facts the claim of the assessee was held to be correctly rejected by the lower authorities.

Crompton Greaves Ltd v. Asst. Commr. Commercial Taxes & Ors (2013) 61 S.T.A. Pg.141.

4) EXEMPTION

a) The Madhya Pradesh High Court after considering the provision of the Section 8 (1) of the Madhya Pradesh General Sales Tax Act, 1958 held that the phrase 'in the State of Madhya Pradesh' qualified the term 'sale' and not 'manufacture'. In view of that, the declaration in Form XIIA was held to be duly complied with even when the purchased goods were transported to another State for manufacture and sold in the State of MP after receiving back, duly manufactured.

Sushil Kumar Sharad Kumar v. Commissioner of Sales Tax (2013) 22 STJ 366 (MP).

b) The Madhya Pradesh High Court followed the ratio of Supreme Court Judgment in the case of *Swarn Rekha Cokes and Coal Pvt. Ltd. (136 STC 57)* held that an assessee was entitled to get

the same exemption as it was receiving prior to reorganisation of the State of Madhya Pradesh.

Fairdeal Traders v. Asst. Commissioner, Commercial Tax (2013) 22 STJ 404 (MP)

5) ENTERTAINMENT TAX

Several assesseees had challenged the levy of 'entertainment tax' on direct to home (DTH) services under the provision of MP Entertainment Duty and Advertisement Tax Act, 1936, on the ground that the State had no authority to levy tax on the services provided under entry 92C of List I of the 7th Schedule to the Constitution of India.

The Hon'ble court considered several judgments cited by both the sides as well as the respective entry 62 of List II, the one in List I and held that the State Government was not taxing broadcasting services and the aspect for entertainment tax was different than the aspect in relation to services. There was no over lapping in law.

In view of the above position the court upheld the competency of the State to levy Entertainment Tax on (DTH) services.

Tata Sky Ltd v. State of MP & Ors. (2013) NTN (Vol. 51)-217.

6) GOODS – INTELLECTUAL PROPERTY

The assessee before the Karnataka High Court had transferred its entire business by way of sale of equity shares. The agreement was executed in West Bengal, however the authorities had levied tax on the assumption that the transfer of intellectual property attracted the tax. The Karnataka High Court after considering the case law as to when a person can be said to be carrying on business, held that the intellectual property was not covered by the definition of the term 'goods' under the Karnataka Sales Tax Act, 1957.

Kwality Biscuits (P) Ltd v. State of Karnataka (2013) NTN (Vol. 51) -194.

7) LEASE OF GOODS

a) Vehicles on Rent

The Punjab and Haryana High Court held that the taxable event under Article 366(29A) enable the levy of tax on lease rental received or receivable during the period for transfer of right to use goods and not for the delivery of the goods. For the above purpose the Hon'ble Court followed the ratio of the Supreme Court judgment in the case of 20th Century Finance Corporation Ltd.

M/s. GE Capital Transportation Financial Services Ltd v. The State of Haryana & Anr. (2013) 44 PHT 398 (P&H).

b) Drilling Equipment

Before the Madras High Court, the assessee had agreed with ONGC to give drilling equipments for their operation offshore. Considering the terms of the agreement and the nature of the work executed by the drilling machine by operators of the assessee, the High Court held that there was no effective and direct control of ONGC over the drilling machine and therefore did not involve any transfer of right to use the goods. For the aforesaid purpose the court followed the ratio of the Supreme Court judgment in the case of *State of AP v. Rashtriya Ispat Nigam Ltd (2002) 126 STC 114 (SC)*.

Aban Loyd Chiles Offshore Ltd v. State of Tamilnadu (2013) NTN (Vol.51) – 186.

c) Crane

The assessee owning a crane, allowed it to be used by the work contractor for a specified period but retained the control over the same including its operation, maintenance and fuel. The West Bengal Taxation Tribunal on the above facts held that the agreement in question was merely a permission granted but was not a case of transfer of right to use the crane in question therefore no tax was held to be payable by the assessee.

Safe Lift Crane Hiring (P) Ltd v. A.S.T.O. Central Section & Ors. (2013) 61. S.T.A. Pg.175.

8) LIMITATION

1) The Punjab and Haryana High Court held that sickness of the Advocate representing the assessee during last days of submission of appeal, was a sufficient cause for condoning the delay.

M/s. Delhi Shimla Goods Carriers (Regd.) v. State of Haryana & Anr. (2013) 44 PHT 321 (P & H).

2) The Punjab and Haryana High Court held that the period of 'limitation' commence with the service of the order proposed to be challenged. The review application and its disposal cannot save the continuation of the limitation, therefore the appeal filed against the basic order after the review petition was decided, was held to be barred by limitation.

The State of Haryana v. M/s. Fenna Ltd. & Ors. (2013) 44 PHT 424 (P&H)

3) The Commissioner of Customs had made an application u/s. 129D(4) of the Customs Act, 1962 by which it was provided that the application so made shall be heard as if they were appeals made against the decision or order of adjudicating authority and the provisions relating to the appeal to the Tribunal were made applicable to such applications. Thus statutorily section 129A(5) became integral part

of section 129D(4). For condoning the delay the application made before the Tribunal was rejected on the basis of a judgment in Central Excise case. In appeal to the High Court by the Commissioner, the judgment of the Tribunal was held to be unjustified. When the matter reached the Supreme Court by way of SLP it was held by the apex court that the Tribunal had the power to condone the delay on sufficient cause being shown.

Thakker Shipping P. Ltd. v. Commr of Customs (General) (2013) 61 S.T.A. P.123.

9) NON-SUPPLY OF ORDER

On a Writ Petition by assessee, the Punjab & Haryana High Court directed the authority to supply the copy of the order of assessment that was denied; though the same was stated to have been passed against the assessee. The court in that regard observed that without the certified copy of the order, the assessee cannot challenge it before the appellate forum.

Chander Kant v. State of Punjab & Ors. (2013) 44 PHT 420 (P&H).

10) PLANT & MACHINERY – WHETHER MOVABLE

The Uttarakhand High Court held that 'plant and machinery' being boilers and accessories were removable and transportable to another place therefore they were not immovable property as claimed by the assessee.

Commissioner, Commercial Tax v. D.S. M. Sugar Ltd (2013) NTN (Vol 51) P. 159.

11) REFUND

The Punjab and Haryana High Court held that the refund cannot be withheld simply because the revision proceedings were initiated after the prescribed period of 60 days within which the refund was provided to be granted. The Hon'ble court directed to grant the refund along with the interest for delayed payment.

Country Builders Pvt. Ltd v. State of Haryana & Ors. (2013) 44 PHT 306 (P&H)

12) REHEARING OF APPEAL

The Punjab and Haryana High Court disapproved the rehearing of the case when after earlier hearing two out of three members had already signed the judgment. The court also held that non signing by one of the members or failure to record dissent will not render the majority opinion that was already decided by the remaining two members. Reconstitution of the Bench and rehearing *de novo* was held to be not tenable.

M/s. Maruti Udyog Ltd. v. State of Haryana (2013) 44 PHT 323 (P&H).

13) RECOVERY

A) Stay of

The Allahabad High Court held that while considering the application for stay of recovery, the court must apply its mind as to whether the assessee had a strong *prima facie* case on merit. The other aspects to be considered were the financial constraint and the balance of convenience. Refusal to exercise such a discretionary power would reduce the right of appeal an illusory one.

Sarva Shree Sunny Edible Products Pvt. Ltd. v. State of UP & Ors. (2013) NTN 51 Page 153.

B) Refund of

The dues outstanding from the firm, was recovered from a partner. In appeal the firm got relief, consequent to which a refund was due. The partner from whom the recovery was made claimed that the refund should be granted in his name. The authority however issued the refund order in favour of the firm. The Allahabad High Court approved the action of the authority by holding that the *inter se* dispute between the partners cannot be a subject matter of revision before the court for which the individual partner can avail the intervention of the appropriate court.

Chhote Lal Jai Prakash Arhati v. Commissioner of Trade Tax (2013) 22 STJ 351 (All).

14) REJECTION OF BOOKS OF ACCOUNT

The Allahabad High Court held that the some errors in one or two bills cannot be the sole basis for rejection of books of account.

Commissioner Commercial Tax U.P. Lucknow v. Arihant Ispat (2013) NTN (Vol. 51) - 177

15) SALE IN COURSE OF IMPORT

a) The Madras High Court held that once the genuineness of the evidence was accepted, the claim cannot be rejected simply because the assessee was unable to produce endorsed copy of bill of lading. A transfer as contemplated u/s. 5(2) can take place even by delivery of documents.

Punjab Concast Steels v. State of Tamil Nadu (2013) 22 STJ 330 (Mad).

b) The assessee a financing bank entered into an agreement of lease of certain machinery to be imported by the lessee. The lessee placed purchase order with the foreign supplier where after the assessee bank also placed the purchase order for supply of the machinery desired by the lessee. In the said purchase order, the reference of the earlier purchase order by the lessee directly was also made.

The foreign supplier dispatched its machinery by ship and when the goods were on high seas, a master lease agreement was executed between the assessee and the lessee. The bill of lading in question was drawn in the name of the bank A/c lessee. In view of the inextricable link, the Madras High Court held the transaction to be in the course of import.

State of Tamil Nadu v. Karnataka Bank Ltd. (2013) 22 STJ 339 (Mad.)

16) SALE IN THE COURSE OF EXPORT (SECTION 5(3) OF CST ACT

Before the Haryana Tax Tribunal the assessee had consigned certain goods to a local public sector undertaking for its compliance of a purchase order from the foreign buyer. The physical export was, however delayed by the said PSU and therefore the foreign buyer backed out. Under those circumstances the PSU sold the goods to some other foreign buyer. On the above facts the Hon'ble Tribunal found no link between the sale by the assessee to PSU and the sale by PSU to another foreign buyer. It therefore held that the claim u/s. 5(3) was not justified.

M/s. Food Corporation of India v. State of Haryana (2013) 44 PHT 335 (HTT)

17) WORKS CONTRACT – SPECIFICATION IN THE CST RC

The Himachal Pradesh Tax Tribunal, after considering the provisions of sections 8(3)(b) and 8(4) of the CST Act and the amendment by Finance Act, 2002 held that the items 'machinery' and 'raw material' required for execution of the Works Contract have to be incorporated in the Registration Certificate issued under CST Act.

C & C Construction Ltd. v. Excise and Taxation Commissioner (2012) 44 PHT 372 (HPTT).

18) WRIT JURISDICTION

The Madhya Pradesh High Court following the judgment of the Supreme Court in the case of *India Oil Corporation (2003) 2 SCC 107* observed that the Rule of exclusion of Writ Jurisdiction due to availability of an alternative remedy was a rule of discretion and not that of compulsion. In other words, in appropriate cases, despite the availability of alternative remedy the court may be justified in exercising in a case where there was violation of, fundamental rights, principles of natural justice or the impugned order was wholly without jurisdiction or the vires of the section or rule was challenged.

C.P. Industries v. State of M.P. & Anr. (2013) 22 STJ 289 (MP)

INTERNATIONAL TAXATION

CA Dhanesh Bafna, CA Madhav Khandelwal & Sujeeth Karkal, Advocate

HIGH COURTS

1. Payable – S. 40(a)(ia) – Income-tax Act, 1961

The provisions of section 40(a)(ia) are applicable not only to the amount which is shown as payable on the date of the balance sheet, but are also applicable to expenditure that became payable at any time during the relevant previous year and was actually paid within the previous year. [Merilyn Shipping & Transports v. ACIT – 136 ITD 23 (Visakhapatnam) (SB) overruled]

CIT vs. Crescent Export Syndicate (2013)(33 taxmann.com 250)(Del)(HC) (also see *CIT v. Sikandarkhan N. Tunvar (2013)(33 taxmann.com 133)(Guj)(HC)*)

2. Determination of ALP – S. 92C – Income-tax Act, 1961

The High Court held as follows:

- i. Interest earned from investment of surplus funds is not a primary income generating activity, and it therefore needs to be excluded from the “operating profit” for the purpose of the determination of arm’s length price (ALP).
- ii. Furthermore, the compensation paid in connection with the closure of the Indian units represents abnormal costs and thus needs to be excluded for determining ALP.

Marubeni India Pvt. Ltd. vs. DIT (2013)(33 taxmann.com 100)(Del)(HC)

3. Determination of ALP – S. 92C – Income-tax Act, 1961

The proviso to s. 92C(2) is explicit that where more than one price is determined by the most appropriate method, the ALP shall be taken to be the arithmetical mean of such prices. Furthermore, OECD guidelines cannot be applied when there are specific provisions of Rules 10B(2) & (3) and the first proviso to s. 92C(2), which will apply to the facts of the present case.

CIT v. Mentor Graphics (Noida) Pvt. Ltd. (2013)(32 taxmann.com 300)(Del)(HC)

TRIBUNALS

4. Force of Attraction – S. 9(1)(i) – Income-tax Act, 1961

The Special Bench has held as follows:

- i. The Explanation to s. 9 as amended by Finance Act, 2010 with retrospective effect from 1st

June, 1976, applies to clauses (v), (vi) or (vii) of s. 9(1) and to clause (i) of s. 9(1). Thus, the Bombay High Court decision in the case of Clifford Chance (176 Taxman 485) still holds good even after the said amendment.

- ii. Since the connotation of profits indirectly attributable to the permanent establishment is defined specifically in Article 7(3) of India-UK Tax treaty, the Tribunal in Linklater LLP decision (40 SOT 51) (Mum) has erred in placing reliance on Article 7(1) of the UN Model Convention, which is materially different from Articles 7(1) & 7(3) of the India-UK DTAA.

ADIT v. Clifford Chance (2013) (33 taxmann.com 200)(Mum)(SB)

5. Tested Party – S. 92C – Income-tax Act, 1961

Under the scheme of s. 92C of the Income-tax Act, 1961, the profit actually realised by the Indian assessee from the transaction with its foreign associated enterprise (AE) has to be compared with that of the profits realised by the comparables. Foreign AE cannot be considered as “tested party” for determining the ALP.

Onward Technologies Ltd. v. DCIT (Mumbai, ITAT) (www.itatonline.org)

6. Attribution of Profit – Article 7 – India-USA DTAA

The Tribunal has provided following steps for attribution of profit:

- i. Step 1: Compute global operating income percentage of the customer care business as per annual report / 10K of the company.
- ii. Step 2: This percentage should be applied to the end-customer revenue with regard to contracts/projects where services were procured from Convergys India Services Pvt. Ltd. (‘CIS’). The amount arrived at is the Operating Income from Indian operations
- iii. Step 3: The operating income from India operations is to be reduced by the profit before tax of CIS. This residual is now attributable between US and India.
- iv. Step 4: The profit attributable to the PE should be estimated on residual profits as determined under Step 3 above.

Convergys Customer Management Group Inc. v. ADIT (www.itatonline.org)

TRIBUTE TO SHRI B. C. JOSHI

My Homage to Dear Balabhadrabhai

15th May, 2013 "Going, Going but NOT Gone".....B. C. Joshi

16th May, 2013 "Going, Going and NOW Gone"

"Never to return".....P.C. Joshi

To pen down about someone who was my guardian, right from tender age of seven years when I lost my father, is really a difficult task. One can write in a flowery language about an unconnected person, but with great difficulty instead of referring to his professional achievements, I would share some of my momentary and emotional reflections hereunder about some of the aspects which may possibly be not known to others.

The first thing which comes to my mind is his riding me as a young boy on the bar of his cycle. By nature he was so different that he would create a new path instead of following the traditional religious actions which did not appeal to his mind. During College days at Ahmedabad he jumped in the Quit India Movement in 1942 and went to the extent of physically removing the rail tracks near Anand Station. The news reached our family and fearing his arrest by British rulers, my father overnight rushed and traced him amongst several young, energetic and enthusiastic freedom fighters; and persuaded him with great difficulty to return to the family at Godhra, our native place.

His fighting spirit was also visible to all his college hostel mates when as a mess in charge, he challenged the purchases of some grocery items at a higher price than the one in wholesale market. After graduation in Commerce from H. L. College of Commerce, Ahmedabad, he came down to Bombay where our eldest brother was in employment with Railways. Finding that several people did not get their railway claims in time he started practising as a Railway Claims Practitioner. After some time he switched over to an employment with a private concern (M/s L.N. Gadodia & Sons) as an accounts clerk. That employment also was found to be not suitable to his independent style of working; therefore he ventured to do his own independent business in the name and style of M/s Cosmic Services. Unfortunately, his partner behaved in a manner unacceptable to him. As a businessman he had the occasions to appear before the tax authorities. Finding grave injustice met at the hands of authorities he plunged into the tax profession as a Sales Tax and Income Tax Practitioner sometime in 1949/1950. During those days the matters arising out of Bombay Sales Tax Act, 1946 were in full flow. His past acquaintances with businessmen mostly in cloth and chemical, helped him during the initial period of practice. Soon thereafter, he obtained the law degree and continued to practice as an advocate in Direct and Indirect Taxes.

He took active interest in the formation of 'Sales Tax Practitioners' Association (STPA)' with hardly a few professional friends like Shri C. M. Mehta, J. P. Thakkar, B. M. Trivedi, C. B. Shah, P. C. Kshatriya, G. T. Dattatray and others. During lunch time those who happen to be near Income Tax Office at Queens Road, used to have tea/coffee in the ground floor flat of Sunbeam Chambers where the Chamber of Income Tax Consultants had its office.

In his appearances before Sales Tax Tribunal since its inception, he shined out as a workaholic person never interested in any other activity than the profession. His colleagues during initial years still cherish several memorable incidents of his activity, at times waging an intense battle at the Bar.

Accepting the suggestions from the then President of the Tribunal Shri T. P. Goghale, he took a leading active part in formation of an Association of only those professionals who were regularly appearing before the Tribunal. Such a move met with serious opposition from some of the members of STPA. It was Shri B.C. Joshi who withstood the protests like a solid rock. The Association later on flourished to the present position as Sales Tax Tribunal Bar Association. That was an example of his stubborn nature which forced him not to change his views very easily but strived for achieving the goal set in his mind.

Expanding his field of activity with a view to give benefit of his knowledge and experience, to younger generation, he took upon himself to make the Chamber of Income Tax Consultants a vibrant institution instead of a place for whiling away the lunch time by those practising income tax. He also prevailed upon some of the active professional friends from STPA to join the Chamber, so as to enlarge the roll of membership side by side organising the seminars and conferences. He also initiated the publication of Income Tax Review.

With a view to enlarge his horizon, he successfully contested the election of Bar Council of Maharashtra to become its first Tax Advocate as a Bar Councillor. Later on he became its Chairman. With the help of some of his fellow Councillors like Shri D.R. Dhanuka, Shri Ram Jethmalani, Shri M. P. Vashi and Shri Mahabaleshwar Morje, he started the publication of a quarterly Journal, possibly first of its nature by a statutory body like Bar Council.

He always yearned for the independence of the Appellate forums including the Tribunal. He spent many days in search of the materials and authorities in its support. His contribution was recognised in the country when he was awarded the First prize in an All India Competition for a research paper. That thesis is even today referred to, for some of the finer points dealt with by him in great detail.

Though the appointment of I.T.A.T. members and its independence have by now well established, much remains to be attained as far as the other Tribunals are concerned. I may share herein that during the present summer vacation period he desired to draft a comprehensive Writ Petition for a transparent and independent system for appointment of Hon'ble members and working of the Sales Tax Tribunals as well as various similar Forums and Courts under all State Enactments. That desire or last wish remained unfulfilled. As a real tribute to the departed soul it would be our duty to strive to achieve it.

Balabhadrabhai did not restrict his attention only to the State of Bombay (since bifurcated into that of Maharashtra and Gujarat), but when in the year 1973-74 (I was the President of STPA) the Second All India Conference was organised, he floated the idea of having an all India Body that will unite the Direct and Indirect Tax Professionals from the nook and corner of the country on one common platform. An *ad hoc* Committee was then formed which worked out the modalities that were crystallised in the Draft form of Constitution of All India Federation of Tax Practitioners (AIFTP). It was on 11th November, 1976, in the course of yet another All India Conference arranged by Chamber of Income Tax Consultants under the Presidentship of my Brother B.C. Joshi the Draft Constitution of AIFTP was adopted in the presence of Hon'ble Chief Justice of India (Retd.) Shri J. C. Shah and blessing of Shri Nani Palkhivala, Shri Ramrao Adhik-Advocate General of Maharashtra, Shri S. P. Mehta, and several other renowned tax professionals from all parts of the country. Bhai became the Dy. President with Shri N. C. Mehta as the Founder President and myself as Founder Secretary General. AIFTP today have grown up like a Big Banyan Tree. I salute those visionary GEMS of India.

To me, Balabhadrabhai was the effective mentor; who moulded my life in entirety. Whatever I am today, is all due to his decisions about me and my family as Karta of our H.U.F.

I still cherish and follow his everlasting advise "*welcome the clients with a smile and part with an assurance to him that the best of your ability would be at his command*". Advise him to leave behind the problems he faced to be sorted out by you in his best interest. "*Place the core points before the authorities duly supported by evidence / documents without any fear of being rejected*". "*Theirs are not the final words of law, that in future may be settled by the judgment of the Tribunal, High Court or Supreme Court*".

I conclude with a note that like a bright evershining Polestar in the Sky, he will always be with me and many others, to guide or show the right direction, or render help in arriving at the correct decision in future.

22-5-2013

— P. C. Joshi, Past President, AIFTP

Dear Prafulbhai & Smt. Nikitaji,

We were shocked to learn about sad, sudden and untimely demise of late Shri B. C. Joshi, Advocate, Past President, All India Federation of Tax Practitioners at Mumbai on 16th day of May, 2013. Both the brothers, Shri B. C. Joshi and Shri P. C. Joshi have been founding fathers and pillars for All India Federation of Tax Practitioners and it is a matter of great esteem that Shri P. C. Joshi, Smt. Nikita Badheka and Shri Vipul Joshi are closely associated, taking keen active interest in the activities and promoting the Federation. In Smt. Nikita Badheka, beloved daughter of late Shri B. C. Joshi, I find as the first women President and successor of Shri B. C. Joshi and Shri P. C. Joshi. Dear Vipul Joshi is also now taking interest in the Federation. We hope as per Convention of the Federation, a new publication on Indirect Taxes shall be dedicated in his sweet memory.

Shri B. C. Joshi was a person with integrity, morality observing ethics, having deep knowledge of Indirect Taxes, Commercial Laws, Hindu Law and allied subjects. We have been closely associated for over 25 years and cherish sweet memories of inter-action with him and his family. He was stalwart on Sales Tax and was commanding high respect both at the Bar and the Bench.

We pray Lord Mahaveera to confer peace on the departed soul and to give strength to all the members of the family, relatives, friends, acquaintances and members of All India Federation of Tax Practitioners and other institutions with which he was closely associated and to give peace to the departed soul.

With best wishes,

N.M. Ranka, Past President, AIFTP

A Tribute to the stalwart of the Sales Tax Bar

Late Shri B. C. Joshi was a fearless fighter of the Sales Tax Bar. He practiced for more than five decades without compromising on integrity and ethics. One of his articles titled "Statutory Limitations as guide to Interpretation" which was published in a publication of the All India Federation of Tax Practitioners (AIFTP) "Interpretation of taxing statute – An overview" proves his in-depth knowledge of general law and his masterly analysis of the Sales Tax law. His vast erudition of the subject had him the gift of stating his arguments in a manner whereby the most obtuse and complex appeared simple and obvious. He was amongst those few great luminaries who helped to shape the Sales Tax law by their counsel and advocacy. His passing away is a great loss to the AIFTP and to the Sales Tax Bar. I pray to the almighty to give strength to his family especially Shri P. C. Joshi, Mrs. Nikita Badheka and Mr. Vipul Joshi to bear the irrecoverable loss suffered by them. May his soul rest in peace. His soul would always bless the AIFTP as a guiding spirit.

Dr. K. Shivaram, Past President, AIFTP

Condolence Message

The sad and sudden demise of Shri B.C. Joshi, Advocate is a great loss not only for the members of AIFTP but for the entire tax fraternity in general and the industries and the assesseees, in particular, who have been availing the privilege of his advice and guidance for minimizing their tax liability under the tax laws.

It is a personal loss to me because I have been associated with him since the time when my elder brother late Shri Raj Ram Agrawal, who was the Advocate General of U.P. and I met him for the first time in the year 1977 at Bombay (now Mumbai).

I can never forget the personal affection given to me by him as my elder brother, even after the death of my elder brother late Shri Raja Ram Agrawal. I have been consulting him continuously as an elder brother for various matters, other than professional work.

The life time achievement award given to him by Hon'ble Mr. Justice Markandey Katju, the retired Supreme Court Judge in the function organized at Mumbai, is still fresh in my mind and whatever was expressed by Justice Katju about him will also be remembered and will be followed both by Madam Nikita and Mr. Vipul.

It is a great loss to all the family members, but I am quite sure that the path shown by him in the practice of sales tax (now VAT) will be followed in true spirit by Madam Nikita who is also an asset of our federation.

The gap created by his sad and sudden demise can never be filled although the members of the federation shall try to follow the path shown by him.

I convey my heartfelt condolence to the members of the bereaved family and also pray to the GOD that He should give sufficient strength to each and every member of the family and also to every member of the federation to bear this irreparable loss.

May his soul rest in peace!

Bharat Ji Agrawal, Past President, AIFTP

A Tribute to Mr. B.C. Joshi

I was saddened to learn about the sudden and untimely demise of Late Shri B.C. Joshi, Advocate, Past President & Founder Member of All India Federation of Tax Practitioners on 16th May, 2013. He was closely associated with a number of social, educational, cultural and professional associations and above all an upright, courteous, simple, knowledgeable and humane human being.

Shri B.C. Joshi was a highly qualified Advocate and practiced at High Court, Tribunals, Commercial Laws, Taxation and allied Laws. He was God fearing and a very social and religious person.

He held various posts in Professional Bodies. He was Past President of Sales Tax Practitioners Association of Maharashtra, Founder and Past President of Sales Tax Tribunal Bar Association, Maharashtra, Chairman, Maharashtra Bar Council , Past Editor Sales tax Review, Income Tax Review, Maharashtra Bar Council Jounl. Past Member of Sales Tax Advisory Committee, Sales Tax Amendments Committee, Maharashtra, Bar Council Disciplinary Committee. He has written several Articles and papers on tax laws and laws in general, presided over several Tax Seminars and Brain Trust. His paper on "Natural Justice" is also referred to today.

I came in touch with him while I was Secretary General of the All India Federation of Tax Practitioners during 2002 - 05. I observed that he was a most unassuming individual ready to help one and all. He received the First Prize, Indian Law Institute, New Delhi for paper on Administration of Sales Tax in 1972.

While he was National President of the All India Federation of Tax Practitioners, he always took the Past Presidents, office bearers and executive members into confidence before deciding any important matter. Despite his very pressing professional schedule he always managed to take time out for attending National Executive Committee Meetings, chairing Technical Sessions and organizing conferences. His public and professional image was excellent.

During my tenure as National President in 2010 & 2011 he often guided me through the myriad decisions of the Federation with impartial advice and supported me in all Federation's activities. I looked upon him as a mentor and guide.

I am quite sure that the legacy left by late Shri B.C. Joshi shall be continued in true spirits by his son Shri Vipul Joshi, Advocate & C.A and his daughter Ms.. Nikita R. Badheka, Advocate & Notary.

We, the members of the Federation pay homage to this great soul.

M.L. Patodi, Imm. Past President - AIFTP

Shri B. C. Joshi - a person par excellence...

People will remember Shri B. C. Joshi as an original thinker and a person par excellence.

My association with Shri B. C. Joshi dates back to 1962, i.e. the year in which I joined the Sales Tax Department. I distinctly remember that Joshi Saab was very meticulous while presenting his case. His command over the English language, Law and Facts of the case were noteworthy. Whenever any officer used to see the authority letter of Joshi Saab, in any case, it used to carry a distinct weight. The officer used get alert and had to take extra efforts while passing the order. At times they had to consult their higher authority before passing the order. At times some officer used to have hostile attitude due to fierce nature of Joshi Saab but ultimately Joshi Saab used to win his case in the Tribunal.

My contact with Joshi Saab had strengthened, when I started my practice in the year 1975. I used to attend the Tribunal, some times just to listen to Shri Joshi Saab. The way, in which he used to put up the facts of the case, the way in which he used to analyze the language of the sections, the way in which he used to distinguish the judgments of the Courts cited by the Department was a treat by itself. The main art of argument of Joshi Saab was that in the beginning the Departmental Representative would not get an idea on what line Joshi Saab wants to make his argument and consequently on what points to attack. It was only in the end Joshi Saab used to sum up in such a way that table used to turn in his favour! This is an art which very few lawyers possess.

When an obnoxious law viz. The Maharashtra Sales Tax Act, 1979 was passed in the Legislative Assembly, our Association and especially, our stalwarts Shri B. C. Joshi Saab and Shri P. V. Surte Saab were on the forefront to oppose the black law. I had got an opportunity to accompany these stalwarts to different suburbs of Mumbai and other parts of Maharashtra State. And a history was created that even though the Act was passed in the Legislative Assembly the Government had to keep it in abeyance and could never implement the same.

In a Pure Helium's case before the Tribunal my nephew, Vikram Nankani was appointed by Department to argue the case, who in his rhetorical style argued very well but ultimately it was Shri B. C. Joshi who succeeded in convincing the Tribunal members.

Though, Vikram was arguing from the Department's side Joshi Saab used to guide him that he must argue with conviction such was the greatness of Joshi Saab.

I distinctly remember when if I fought the election of Bar Council of Maharashtra and Goa, it was Joshi Saab who called me and encouraged me to file the nomination for the same because he wanted, like him, some member from the taxation field to represent in the Council.

The ideals and teachings of Shri Joshi Saab will remain with us for ever and we shall try to put them in practice that would be the real tribute to a person like him a person par excellence.

S. K. Poddar **J. D. Nankani,**
National President, AIFTP Deputy President, AIFTP

■

I am sorry to inform you that Shri B.C. Joshi, Past President, AIFTP has passed away this morning.

His contribution for the Federation as well as for the profession has been commendable. We will miss him.

We express our heartfelt condolences to the family and pray Almighty God to give his family strength to bear this great loss. We also pray that his soul rest in peace.

— **Narayan Jain**, Secretary General, AIFTP

■

Deeply grieved by the sudden demise of the past President of our Federation Shri B C Joshi, who had been the pillar of the Federation. His valuable direction and advise have brought the fame to the Federation.

His demise have brought a great vacuum in the Federation. It is not only a loss to the family but an irreparable loss to the Federation.

May the departed soul rest in peace. I pray almighty to give strength to the bereaved family.

Kindly accept the condolence on behalf of me and on behalf of the members of AIFTP(NZ).

Prem Lata Bansal, Vice President, AIFTP

■

I am shocked to receive a sad demise message of our beloved late Mr. B. C. Joshi is a great stalwart. He is a noble person to everybody and especially legal fraternity. It is a great soul. I have immersed in sea of sorrow. I pray the almighty to give strength and courage to the bereaved family members

Thank you.

With regards

— **J. V. Rao**, Vice President, AIFTP ■

I am very sorry to know that our beloved Past President of All India Federation of Tax Practitioners Shri B. C. Joshi has passed away from the place of Earth. It is very sad news to all of us and we have lost a Senior Leader of our Federation. The departed soul may take rest with the help and blessings of God forever in Urdhvalokas. Please convey my deep condolences to Smt. Nikita R. Badheka and Shri Vipul Joshi and all other family members and convey my condolences message in Sunday and Monday meetings also.

— **M. Srinivasa Rao**, Joint Secretary, AIFTP ■

My heartfelt condolences to Nitika Badheka, Mr. P. C. Joshi and all the members of AIFTP on the sad demise of past President Shri B. C. Joshi, a pillar and doyen of AIFTP, who was an institution in himself.

— **H.C. Bhatia**, NEC Member ■

Deeply grieved to learn about the death of a Pillar of our Federation Shri B. C. Joshi, one of the Founder members & second President of our esteemed body. May his soul rest in eternal peace. I pray to Almighty to give strength to the bereaved family to bear this irreparable loss.

Om Shanti Shanti Shanti

— **Sanjay Sharma**, NEC Member ■

Dear Smt Nikita,

It was shocking information that a doyen of the profession Shri B. C. Joshi is no more. His active role in betterment of our profession and specially dedication towards AIFTP is well known and will be remembered for ever.

Convey my heartfelt condolences to your family and the family members of your beloved father Shri B. C. Joshi.

May his soul rest in eternal peace.

I pray to almighty to give strength to the bereaved family to bear this irreparable loss.

Yours in sorrow.

— **CA Hemendra V. Shah**, NEC Member ■

It is matter of great pain to all of us, the members of AIFTP, an unparallel organization thought of and founded by Late Shri B. C. Joshi. It has progressed and is being run on the principles set by the founders of AIFTP. Mr. Joshi will always be remembered.

I convey my heartfelt condolences to the family of Mr. B. C. Joshi and pray almighty to give strength to bear this great loss. May his soul rest in peace.

— **V.P. Gupta**, New Delhi ■

Grieved to note the sad demise & heavenly abode of our Guru and Mentor in Taxation field Shri B. C. Joshiji. The dynamic judgments obtained from various High Courts & Supreme Courts in the Indirect Taxation are noteworthy & memorable record of his legal luminary. We pray God to restore his Noble Heart in peace and his great ideals & blessings be showered on his only daughter Mrs. Nikitaben & her Children and all his juniors, associates and friends all over the country to emulate to become noteworthy in their respective Professions, avocations and education and bring name, fame & glory to the country. Respectful Condolences to all family members including Sri P. C. Joshi, Tushar Joshi and family we have lost a great Luminary after late Sri N. C. Mehta. It is very Hard to fill this void by our AIFTP for decades to come.

Tearful Homage to Shri BCJ.

With Regards

— **K. H. Rao**, Hyderabad ■

I am shocked to know the demise of Shri B. C. Joshi. Please convey my heart felt condolences to bereaved family. I pray almighty to rest his sole in heavenly peace and give courage to his family members.

— **S. Hanmanth Rao**, Hyderabad ■

LIST OF PUBLICATIONS

| Sr. No. | Name of Publication | Edition | Members | Price Non-Members | Courier Charges |
|----------------|--|----------------|----------------|------------------------------|----------------------------|
| 1. | International Taxation — Important Aspects & Issues | Dec., 2012 | 240.00 | 270.00 | 60.00 |

Notes:

1. The above publication is available for sale; those who desire to buy may contact the office of the Federation.
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 for above publications.
4. Few copies of above to publication are in stock.

ADVERTISEMENT TARIFF FOR AIFTP JOURNAL (W.e.f. October, 2011)

Per Insertion

| | |
|--|------------|
| 1. Quarter Page | ₹ 1000/- |
| 2. Ordinary Half Page | ₹ 1,500/- |
| 3. Ordinary Full Page | ₹ 3,000/- |
| 4. Fourth Cover Page – Three fourth page (in four colour) | ₹ 5,000/- |
| 5. One single colour page | ₹ 11,000/- |
| 6. Four colour pages | ₹ 20,000/- |

Discount

20% on advance for 12 months
15% on advance for 6 months

Membership of AIFTP as on 28-5-2013

Life Members

| | Associate | Individual | Association | Corporate | Total |
|--------------|-----------|-------------|-------------|-----------|-------------|
| Central | 0 | 776 | 22 | 3 | 801 |
| Eastern | 3 | 1093 | 35 | 3 | 1134 |
| Northern | 0 | 895 | 17 | 0 | 912 |
| Southern | 1 | 834 | 13 | 5 | 853 |
| Western | 4 | 1660 | 33 | 15 | 1712 |
| Total | 8 | 5258 | 120 | 26 | 5412 |

Hearty Congratulations

Congratulations to **Shri B.N. Mahapatra** who was nominated as a member to the Regional Direct Taxes Advisory Committee, Bhubaneswar approved by CBDT. We wish him all the success.

Congratulations to the newly elected office bearers of Chartered Accountants Association, Ahmedabad for the year 2013-14.

President : CA Prakash B. Sheth
Vice President : CA Shailesh C. Shah
Hon. Secretaries : CA Chintan M. Doshi & Abhishek J. Jain

Congratulations to the newly elected office bearers of Udaipur Tax Bar Association, Udaipur for the year 2013-14.

President : Shri V. S. Nahar
Secretary : Shri Sudhir Mehta

Congratulations to the newly elected office bearers of Baroda Tax Bar Association, Vadodara for the year 2013-14.

President : Shri Narendra M. Patel
Vice President : Shri Ashwin R. Parekh
Hon. Secretaries : Shri Rajiv N. Shah & Shri Hiendra R. Upadhyay
Treasurer : Shri Kalpesh M. Shah

We wish them all the success.

Non-receipt of the Times must be notified within one month from the date of publication, which is 4th of every month.

Associate Editors of AIFTP Times : Mr. Kishor Vanjara & Mr. Deepak R. Shah

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: Karkala Shivaram Kittanna.

To

**Posted at Mumbai Patrika Channel Sorting Office -
Mumbai 400 001.**

Date of Publishing : 1st of every month.

Date of Posting : 3rd & 4th June, 2013

If undelivered, please return to :



ALL INDIA FEDERATION OF TAX PRACTITIONERS
215, Rewa Chambers, 31, New Marine Lines, Mumbai 400 020. • Tel.: 22006342
Telefax: 22006343 • E-mail: aiftp@vsnl.com • Website: www.aiftponline.org