



All India Federation of Tax Practitioners

**Price Rs. 5/-**  
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# AIFTP TIMES

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## FEDERATION NEWS

Mukul Gupta, Secretary General

### FORTHCOMING PROGRAMMES

Dates & Months	Programmes
6th March, 2009	National Executive Committee Meeting at Varanasi
7th & 8th March, 2009	National Tax Conference at Varanasi organised by All India Federation of Tax Practitioners (Northern Zone)
5th & 6th June, 2009	Two Day National Tax Conference at Pune
19th, 20th & 21st November, 2009	AOTCA International Tax Conference, 2009 at Mumbai

### NATIONAL EXECUTIVE COMMITTEE

The 6th National Executive Committee meeting of All India Federation of Tax Practitioners is scheduled to be held on Friday, 6th March, 2009 at 7.00 p.m. at Varanasi.

**Mukul Gupta**  
Secretary General

### BRIEF NOTE ON THE REGIONAL CONVENTION ON DIRECT AND INDIRECT TAXES AT JUNAGADH, GUJARAT ON 9TH & 10TH JANUARY, 2009.

All India Federation of Tax Practitioners – Western Zone, Taxation Advisers Association, Junagadh and All Gujarat Federation of Tax Consultants jointly organized a Two Days Convention on “Direct & Indirect Taxes” at Junagadh, Gujarat on 9th & 10th January, 2009.

The Convention was inaugurated by Mr. S. S. Khan, Hon'ble Member of CBDT, Mr. Vedanand Jha, CCIT, Rajkot presided over the function. Mr. Natubhai Chokshi, Industrialist was Chief Guest. The Convention was well attended by CIT, CIT (Appeal), Addl. CIT of Rajkot charge and other dignitaries.

#### FOR QUERIES PLEASE CONTACT ANY OF THE FOLLOWING OFFICE BEARERS

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<b>Secretary General</b> — Mukul Gupta, Adv.	0120-2820380	2821407	9811023739	mukuladv@hotmail.com
<b>Treasurer</b> — CA. Janak Vaghani	022-22821978	—	9324680306	janakvaghani2004@yahoo.com

Galaxy of faculties from Mumbai and Gujarat delivered papers. CA. Rajesh S. Shah, Vice Chairman, AIFTP (WZ) and Mr. Vipul Joshi, Advocate from Mumbai and CA. Mahesh Sardar, Mr. Samir Divetia, Advocate, CA. K. D. Shah, Mr. Nayan Sheth, Advocate from Ahmedabad presented the papers. The papers were well received by the 294 delegates from entire Gujarat. Delegates were from Junagadh, Rajkot, Jamnagar, Bhavnagar, Morvi, Jetpur, Dhoraji, Keshod, Veraval, Una, Baroda, Navsari, Godhra, Porbandar, Amreli & other parts of Gujarat. The following papers were presented on the two days of the Convention:

- |   |  |
|---|--|
| (1) Scrutiny, Assessment, Stay & Appeal               | CA Mahesh Sardar, Rajkot               |
| (2) Controversies of Income Tax                       | CA K. D. Shah, Ahmedabad               |
| (3) Recent Decisions of Supreme Court and High Courts | Mr. Samir Divetia, Advocate, Ahmedabad |
| (4) Income Tax Act – Is the law settled?              | Mr. Vipul Joshi, Advocate, Mumbai      |
| (5) Unexplained Investment / Cash Credit              | CA Rajesh S. Shah, Mumbai              |
| (6) Liability of VAT in Works Contract Transactions   | Mr. Nayan Sheth, Advocate, Ahmedabad   |

Second day session was Chaired by Hon'ble Mr. D. T. Garasia, Member, ITAT, Rajkot.

The Brains' Trust Session was appreciated by all the delegates. The trustees for the Brains' Trust were Mr. Samir Divetia, Mr. Upendra Bhatt, Mr. Dipak Rindani & Mr. Samir Jani.

Delegates have appreciated efforts put in by Mrs. Nikita Badheka, Chairperson, AIFTP - WZ, Mr. Latesh Parikh of AGFTC & Mr. Samir S. Jani of Taxation Advisers Association for making the convention a grand success. Overall, it was a mega event for the Saurashtra Region.

## **TWO DAY NATIONAL TAX CONFERENCE AT PUNE BY AIFTP (WZ)**

**Friday & Saturday, 5th & 6th June, 2009**

**Theme – Vision 2010 – Way to Tax Reforms**

### **Issues Suggestions & Solutions**

AIFTP (WZ) is pleased to announce two day conference at Pune along with Mahratta Chamber of Commerce who is celebrating its 75th Anniversary, and Western Maharashtra Tax Practitioners Association, Pune.

### **The Highlights of the Conference**

- 1) Indepth Study of GST (Goods & Service Tax)** – Invitees would be one of the member of empowered committee along with Commissioner of Sales Tax, Maharashtra State who would be requested to speak on GST – Shape of things to come and how it works in other countries. Eminent Industrialist would be invited to speak on expectation of the industry from GST and a Senior Counsel would be speaking on the legal aspects involved in introducing the GST.
- 2) Aftermath of Dharmendra Textiles** – Famous case on penalty which is going to reverse all the previous trend. There would be in depth discussion and guidance on the effect of the Judgment on direct and indirect taxation.
- 3) Tedious issues of TDS & Refunds** – The eminent paper writers and Chairman will throw light on the burning issues of TDS and refunds under Income Tax Act & under VAT Act and its solution.
- 4) Disallowance under 14A of Income Tax Act**
- 5) Software Industry – Issues, Solutions & Suggestions**  
The burning issues on this subject under Service Tax & Sales Tax would be discussed by the eminent paper writers with expert comments by Chairman.
- 6) Issues relating to input tax credit & CENVAT Credit**  
The typical issues arising out of conflicting areas and practical aspects thereof would be discussed by Prominent paper writers including the issues under Income Tax & Accounting aspects of ITC & CENVAT Credit.
- 7) Whether Works Contract Tax, Service Tax or both ?**  
In addition to the above interesting debate, the two day Seminar would be memorable for the members who wish to visit Nashik / Shirdi. Organizers plan to have special visit to these holy places by luxury coach on the

previous day of Seminar i.e. 4th June 2009 from Pune. Within Pune also there are famous places to be visited There would be special arrangement for accompanying spouse with lots of places to shop at Pune.

The Seminar is specially planned on 5th & 6th June 2009 so as to enable the members to resume their work on the Court opening day i.e. 7th June 2009.

With the recent trend of early rains, the weather at Pune would be pleasant in the first week of June. Friends, plan your visit from now only. Book your tickets by Air or Train so as to reach Pune latest on 4th June early morning –Do not miss tour to Nashik/Shirdi temple.

Detailed programme will be published in our next issue of AIFTP Times.

## TRIBUNAL NEWS

### 1. Business Expenditure – Interest – S. 36(1)(iii)

Interest on borrowing utilized for setting up a new section in its existing business though capitalized in the books of account is allowable as deduction.

*ACIT vs. Ashima Syntex Ltd. (2009) 18 DTR 91 (Ahd.)(SB)(Trib.)*

### 2. Capital Gains – Cost of Acquisition – Family Settlement – S. 49(1)

Family settlement is analogous to partition attracting section 49(1), hence, in case of property acquired by way of family settlement dated 1st September, 1997 effective from 31st July, 1992 for purposes of computing capital gains. Deduction has to be allowed on indexed cost of acquisition by taking into account its fair market value as on 1st April 1981, the property having been acquired by previous owner in 1966.

*ACIT vs. Baldev Raj Charla & Ors. (2009) 18 DTR 413 (Del.) (Trib.)*

### 3. Deduction – Profits and Gains from publication of books – S. 80Q

The word “book” is a word of widest amplitude which would not only include literary work or other work authored by some one, but may also include mere collection of sheets within its ambit. It can be said that “yellow pages” which is in form of a directory, listing address and telephone numbers of various persons under various classifications, such as lawyers, doctors, etc., can be treated as “books”.

Income generated from advertisement given a Yellow Pages Directory could not be ignored and would have to be taken into consideration while computing income derived from business of publication of books.

*Tata Infomedia Ltd. vs. ACIT (2009) 116 ITD 426 (Mum.)*

### 4. Interest – Book Profit – S. 115JA, 234C

Provisions of section 234C are attracted even in a case where a company is assessed on the income computed under section 115 JA.

*ACIT vs. Asima Syntex Ltd. (2009) 18 DTR 91 (Ahd.)(SB)(Trib.)*

### 5. Penalty – Concealment – S. 271(1)(c)

Merely because the addition is confirmed does not *ipso facto* attract penalty provision. Penalty provision requires a strict adherence, and onus to prove that there was a concealment of income with a view to avoid the tax, is on the department, penalty is not automatic.

*Gem Granites (Karnataka) vs. Dy. CIT (2009) 18 DTR 358 (Chennai) (Trib.)*

Editorial Note.: Judgment in *UOI vs. Dharmendra Textile Processors (2008) 306 ITR 277 (SC)*, has been considered.

### 6. Reassessment – Notice – S. 143(2), 147, 148, 292BB

Reassessment made in the absence of service of notice under section 143(2) is invalid. Neither amended section 148 nor section 292BB were applicable on the facts of the case.

*Chandra R. Gandhi vs. ITO (2009) 18 DTR 165 (Mum.) (Trib.)*

### 7. Revision – Intimation – S. 143(1), 263

An intimation under section 143(1) is not amenable to revisional jurisdiction of CIT under section 263. High Courts in India are not unanimous whether provisions of section 263 are applicable where only intimation under section 143(1) has been issued. Two reasonable views being possible, the one favourable to the assessee has to be preferred.

*Vinod Kumar Rai vs. CIT (2009) 18 DTR 171 (Agra) (TM)(Trib.)*



## **NATIONAL TAX CONFERENCE**

*Days & Dates:*

**Saturday & Sunday, 7th & 8th March, 2009**

*Venue:*

**Shehnai Ramada Plaza**

The Mall Cantonment, Varanasi – 221 002

**Theme : Global Economic Scenario – Role of Tax Professionals**

### **PROGRAMME**

#### **SATURDAY, 7th MARCH, 2009**

08.30 A.M. to 09.30 A.M.	Registration & Breakfast												
09.30 A.M. to 12.30 P.M.	<b>Inaugural Session</b> Chief Guest & Guests of Honour: <ul style="list-style-type: none"><li>• Hon'ble Shri H.R. Bhardwaj, Union Minister of Law, Government of India</li><li>• Hon'ble Mr. Justice Dalveer Bhandari, Supreme Court of India</li><li>• Hon'ble Mr. Justice Markandey Katju, Supreme Court of India</li><li>• Hon'ble Mr. H. L. Gokhale, Chief Justice, Allahabad High Court</li><li>• Hon'ble Mr. Justice S.R. Alam, Senior Judge, Allahabad High Court</li></ul>												
12.30 P.M. to 01.15 P.M.	LUNCH BREAK												
01.15 P.M. to 03.45 P.M.	<b>1st Technical Session</b> <b>Important issues relating to "Real Estate Transactions" under Income Tax, VAT &amp; Service Tax</b> <table><tr><td>Chairman of Session</td><td>Hon'ble Mr. Justice R.K. Agrawal Allahabad High Court</td></tr><tr><td>Introduction of subject</td><td>Mrs. Nikita R. Badheka, Advocate, Bombay High Court</td></tr><tr><td>Presentation of paper (Income-tax)</td><td>Dr. K. Shivaram, Advocate, Bombay High Court</td></tr><tr><td>Presentation of paper (VAT)</td><td>Dr. Ashok Saraf, Senior Advocate, Guwahati High Court</td></tr><tr><td>Presentation of paper (Service Tax)</td><td>Shri Kapli Vaish, FCA, Bareilly</td></tr><tr><td>Expert's Comment</td><td>Shri V. Ramachandran, Senior Advocate, Madras High Court</td></tr></table>	Chairman of Session	Hon'ble Mr. Justice R.K. Agrawal Allahabad High Court	Introduction of subject	Mrs. Nikita R. Badheka, Advocate, Bombay High Court	Presentation of paper (Income-tax)	Dr. K. Shivaram, Advocate, Bombay High Court	Presentation of paper (VAT)	Dr. Ashok Saraf, Senior Advocate, Guwahati High Court	Presentation of paper (Service Tax)	Shri Kapli Vaish, FCA, Bareilly	Expert's Comment	Shri V. Ramachandran, Senior Advocate, Madras High Court
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Presentation of paper (Service Tax)	Shri Kapli Vaish, FCA, Bareilly												
Expert's Comment	Shri V. Ramachandran, Senior Advocate, Madras High Court												
03.45 P.M. to 04.00 P.M.	Tea Break												
04.15 P.M. to 05.45 P.M.	<b>2nd Technical Session</b> <b>Section 145 of Income-tax Act with special reference to Cottage Industries</b> <table><tr><td>Chairman of Session</td><td>Chairman, Central Board of Direct Taxes, New Delhi</td></tr><tr><td>Introduction of subject</td><td>Shri Anil Kumar Singh, Advocate, Varanasi</td></tr><tr><td>Presentation of paper</td><td>Shri S.K. Poddar Senior Advocate, Jharkhand High Court</td></tr><tr><td>Expert's Comment</td><td>Shri N.M. Ranka, Senior Advocate, Rajasthan High Court</td></tr></table>	Chairman of Session	Chairman, Central Board of Direct Taxes, New Delhi	Introduction of subject	Shri Anil Kumar Singh, Advocate, Varanasi	Presentation of paper	Shri S.K. Poddar Senior Advocate, Jharkhand High Court	Expert's Comment	Shri N.M. Ranka, Senior Advocate, Rajasthan High Court				
Chairman of Session	Chairman, Central Board of Direct Taxes, New Delhi												
Introduction of subject	Shri Anil Kumar Singh, Advocate, Varanasi												
Presentation of paper	Shri S.K. Poddar Senior Advocate, Jharkhand High Court												
Expert's Comment	Shri N.M. Ranka, Senior Advocate, Rajasthan High Court												
05.45 P.M. 06.00 P.M.	HIGH TEA												
07.30 P.M. onwards	GULAB BARI — THE CULTURAL EVENING												

**SUNDAY, 8th MARCH, 2009**

08.30 A.M. to 09.00 A.M.	Breakfast	
09.00 A.M. to 10.45 A.M.	<b>3rd Technical Session</b> <b>Important Issues under Income-tax relating to Shares, Securities and Derivatives Transactions</b>	
	Chairman of Session	Hon'ble Mr. Justice Pradeep Kant Senior Judge, Lucknow Bench of Allahabad High Court
	Introduction of subject	Smt. Surabhi Ranka, CA, Jaipur
	Presentation of paper	Shri H. Padamchand Khincha, FCA
	Expert's Comment	Shri Kishor B. Karia, FCA, Mumbai
10.45 A.M. to 11.00 A.M.	TEA BREAK	
11.00 A.M. to 01.00 P.M.	<b>4th Technical Session</b> <b>Input Tax Credit (ITC) under VAT</b>	
	Chairman of Session	Hon'ble Mr. Justice Rajesh Bindal Punjab & Haryana High Court
	Introduction of subject	Shri Rahul Agrawal, Advocate, Allahabad High Court
	Presentation of paper	Shri Sujit Ghosh, Advocate, Partner, BMR Tax Advisors, New Delhi
	Special comments with reference to U.P. VAT	Shri Bharatji Agrawal, Senior Advocate, Allahabad High Court
	Expert's Comment	Shri P.C. Joshi, Advocate, Bombay High Court
01.00 P.M. to 01.30 P.M.	LUNCH BREAK	
01.30 P.M. to 03.00 P.M.	<b>5th Technical Session</b> <b>Important issues relating to Business Auxiliary Services under Service Tax</b>	
	Chairman of Session	Hon'ble Mr. Justice Rajes Kumar, Allahabad High Court
	Introduction of subject	Shri Sumit Batra, Advocate, New Delhi.
	Presentation of paper	Shri Madhukar N. Hiregange, FCA, Bengaluru
	Expert's Comment	Shri Ashok Kumar Batra, FCA, New Delhi.
03.00 P.M. to 03.10 P.M.	TEA BREAK	
03.10 P.M. to 04.30 P.M.	<b>6th Technical Session : Brain Trust</b>	
	Chairman of Session	Shri N. M. Ranka, Senior Advocate Rajasthan High Court
	Other Brain Trustees	1. Shri P.C. Joshi, Advocate, Bombay High Court 2. Shri P.S. Sarin, Advocate, Delhi High Court 3. Shri M. L Patodi, Advocate, Kota 4. Shri Narayan P. Jain, Advocate, Calcutta High Court 5. Smt. Premlata Bansal, Advocate, Delhi High Court 6. Shri V.P. Gupta, Advocate, Delhi High Court 7. Shri Mukul Gupta, Advocate, Ghaziabad 8. Shri Vikram Nankani, Advocate, Bombay High Court
04.30 P.M. to 06.00 P.M.	VALEDICTORY SESSION	
	Chief Guest:	Hon'ble Dr. Justice B.S. Chauhan, Chief Justice, Orissa High Court
	Guest of Honour:	Hon'ble Mr. Justice Rakesh Tiwari, Allahabad High Court
		• Felicitation of Senior and elderly members of the Bar
06.00 P.M. onwards	HIGH TEA	



Special tour packages are available for all the nearby important places like Chunar, Vindhyachal, Ayodhya, Allahabad, Chitrakoot, Naimisharanya, Kushi Nagar, Bodh Gaya etc. in different brackets and rates.

**DELEGATE FEES**

AIFTP Members	Rs. 1,500/-
Non-member, Advocates, Chartered Accountants, ITPs, Company Secretaries	Rs. 2,000/-
Others	Rs. 3,000/-
Accompanying Spouse	Rs. 1,000/-

Please enroll yourself and your spouse as delegates and submit your Cheques/DDs in favour of **All India Federation of Tax Practitioners (North Zone)** payable at **Varanasi**. Separate Cheques/DDs may be sent towards Hotel accommodation.

*For further details please contact Conference Secretariat at:*

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**S.R. Wadhwa**

Vice-President (NZ)

**H.C. Bhatia**

Chairman (NZ)

**APPEAL TO MEMBERS**

Dear Members,

The journal has become monthly from January, 2002. We desire that the journal should become self-sufficient. Hence, we request you to send us advertisements for the journal. The rates of advertisement are as under:

- |  |             |
|--|-------------|
| 1. Quarter Page  | Rs. 600/-   |
| 2. Ordinary Half Page  | Rs. 1,000/- |
| 3. Ordinary Full Page  | Rs. 2,000/- |
| 4. Second and Third Cover Page                               | Rs. 2,500/- |
| 5. Fourth Cover Page –<br>Three fourth page (in four colour) | Rs. 3,500/- |

**MUKUL GUPTA**  
Secretary General

**Membership of AIFTP  
as on 10-02-2009****Life Members**

	Associate	Individual	Association	Corporate	Total
Central	—	595	20	0	615
Eastern	—	714	32	0	746
Northern	—	673	17	0	690
Southern	—	626	13	1	640
Western	03	1439	31	8	1481
<b>Total</b>	<b>03</b>	<b>4047</b>	<b>113</b>	<b>9</b>	<b>4172</b>



## **AOTCA MUMBAI MEETING 2009**

**INTERNATIONAL TAX CONFERENCE**  
**19-21 November, 2009**

Trident, Nariman Point, Mumbai, India

### **CONFERENCE SCHEDULE**

#### **DAY 1 : THURSDAY, 19TH NOVEMBER, 2009**

- 4.00 p.m. onwards Registration
- 6.15 p.m. Inaugural Function – Theme: India Vision – 2020
- 8.00 p.m. Welcome Reception Dinner

#### **DAY 2 : FRIDAY, 20TH NOVEMBER, 2009**

- 8.30 a.m. Fellowship & Morning Refreshments
- 9.30 a.m. Technical Session 1
- “Opportunity of Investment in Maharashtra – Advantages”
- 10.00 a.m. • Trade Treatise – RTA / FTA
- 11.00 a.m. Technical Session 2
- Current Development within the Confederation Fiscale Europeenee (CFE) and the OECD
  - Double Taxation Agreements – Controversial Issues – Comparison with Asian countries
- 1.00 p.m. Lunch
- 2.30 p.m. Technical Session 3
- VAT - Comparison
- 4.00 p.m. Evening Refreshments
- 4.30 p.m. Technical Session 4
- Doing Business in India, China, Australia and Japan

#### **DAY 3 : SATURDAY, 21ST NOVEMBER, 2009**

- 8.30 a.m. Fellowship & Morning Refreshments
- 9.30 a.m. Technical Session 5
- Transfer Pricing Comparison
- 11.00 a.m. Technical Session 6
- Confidentially and Client Privilege
  - India Advantages
  - Valedictory Address
- 1.00 p.m. Lunch

Presentation for each Technical session would be made by one Indian and two foreign speakers and chaired by eminent professionals.



## Delegates Profile

Over 75 International delegates and 125 Indian delegates comprising of Tax Professional and Members from Judiciary, Revenue Department and Government are expected to participate in the AOTCA Mumbai Meeting, 2009.

## Registration

Each delegate is requested to fill in the Event Registration Form and send to AIFTP by email or fax on or before 31st July, 2009.

Email : info@indiainternationaltaxconference.com, aiftp@vsnl.com

Phone : +91-22-22006342

Fax : +91-22-22006343

To participate in the "AOTCA Mumbai Meeting 2009", each delegate are required to pay the registration fee shown below upon his/her registration.

## Registration Fees

### Indian Delegates

Rs. 10,000/- (If confirmed by 31st July, 2009); Rs. 12,000/- (If confirmed after 31st July, 2009)

Note: Demand Draft/Cheque may be drawn in favour of "All India Federation of Tax Practitioners" payable at Mumbai.

## General Information

### DRESS CODE

Business attire is requested for most events.

### Members of Editorial Team of AIFTP Times : Mr. Kishor Vanjara & Mr. Deepak R. Shah

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