



Preface

From the Desk of the Editorial Board

Dr. K. Shivaram, Senior Advocate

Nani A. Palkhivala: God's Gift to India - Savior of The Constitution of India - A Legend & A Role Model To The Tax Professionals

January 16, 2021 marks a memorable day in Indian history, wherein we will be celebrating centenary of Padma Vibhushan Late Dr. N. A. Palkhivala who is widely acknowledged as '**God's Gift to India**'. Many of us at the ITAT Bar Association (Mumbai), and the All India Federation of Tax Practitioners (**AIFTP**) were fortunate enough to have an opportunity to interact with Shri N. A. Palkhivala frequently and at close quarters. I had the immense privilege of being the Honorary Secretary of the ITAT Bar Association during the period that he was the President of the Association. As kindred as every personal interaction with him was, I had the occupational advantage of listening to his arguments before the High Court at Bombay, the ITAT and his speeches at various Tax Conferences. His Budget speeches were a whole different delight, enthralling an entire stadium of people with the same rapt attention that a match on the same ground would struggle to replicate till perhaps it was classified as a nail biter that went up to the last ball!

Shri N. A. Palkhivala was instrumental in the formation of the ITAT Bar Association Mumbai, which was established on 18th November 1965. Shri N. A. Palkhivala was the longest serving President of the ITAT Bar Association, a duration spanning from 1968 to 2002. Shri N. A. Palkhivala was also instrumental in the formation of AIFTP on the occasion of All India Shri N. A. Palkhivala was instrumental in the formation of the ITAT Bar Association Mumbai. He was the longest serving President of the ITAT Bar Association, a duration spanning from 1968 to 2002. Shri N. A. Palkhivala was also instrumental in the formation of AIFTP in the year 1976.

National Conference, which was organised by the Chamber of Income Tax Consultants on 11-11-1976.

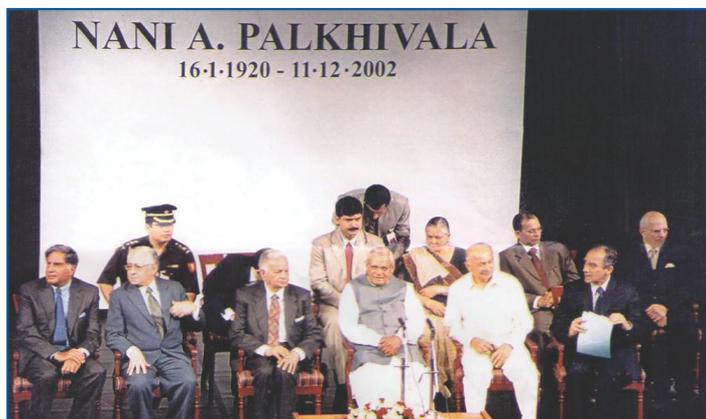


Shri Nani Palkhivala delivering Keynote address at 1st All India Conference on Taxation on 11th November 1976

In 1996, the ITAT Bar Association Mumbai challenged the order of the Government which had the effect of interfering with the Judicial functioning of the ITAT (**ITAT Bar Association v. UOI WP. No. 2350 of 1996**). I, along with Mr. N. R. Jagtap and Mr. K. Gopal, Advocates had an opportunity to appear before the Bombay High Court, lead by Shri N. A. Palkhivala before the then Chief Justice of the Bombay High Court, Hon'ble Justice Mr. M. B. Shah. It is said that it was his last appearance before the Court. His health did not permit him to appear thereafter in the matter, and on his request, Shri Iqbal M. Chagla, Senior Advocate, ably Assisted by Mr. Darius J. Khamabatta, Senior Advocate, argued the matter on behalf on the ITAT Bar Association Mumbai. The Independence of the Appellate Tribunal was up held, and guidelines for transfer of Hon'ble Members of the Appellate Tribunal were framed (**Ajay Gandhi & Anr. v. B. Singh & Ors (2004) 265 ITR 451 (SC)**). In a land mark Judgement, **ITAT through President v. V. K. Agarwal (1999) 235 ITR 175 (SC)** the Hon'ble Court held that, the Law Secretary has no jurisdiction to interfere with the judicial functioning of the Appellate Tribunal. The conduct of the then law Secretary, of unduly interfering with the judicial function of the Appellate Tribunal was held to amount to a gross contempt of Court and a fine of ₹ 2,000 was imposed for the contempt.

On his demise, the AIFTP made an appeal to the Government of India to release a commemorative postage stamp in his memory. It was heartening to note that, the same was accepted and the then Hon'ble Prime Minister of India Late Shri Atal Behari Vajpayee himself, came to Mumbai to release the commemorative stamp on January 16, 2004. The entire release function was organised with the support of Shri Ratan Tata and Shri A. D. Shroff, President Forum of Free Enterprises.

Release of Commomorative Postage Stamp on Shri Nani A. Palkhivala on 16th January, 2004



1st Row from Left to Right: S/Shri Ratan Tata, Soli Sorabjee, Attorney General for India, His Excellency Mohd. Fazal, Governor of Maharashtra, A. B. Vajpayee, Hon'ble Prime Minister of India, Sushil Kumar Shinde, Hon'ble Chief Minister of Maharashtra, Shri Arun Shourie, Hon'ble Minister of Communication, IT & Disinvestment.

2nd Row from Left to Right: S/Shri A. D. Shroff, President, Forum of Free Enterprises, Shri K. Shivaram, National President, All India Federation of Tax Practitioners, Smt. Jayanti Mehta, Hon'ble Minister of State (Power).



Picture of the Postal Stamp released in the honour of late Shri Nani A. Palkhivala, commemorating him in a befitting manner, on his 84th birth anniversary (16-1-2004)

It is also a matter of great coincidence that on the same day, on the request made by the ITAT Bar Association Mumbai, the then Hon'ble Justice Mr. V. N. Khare, Chief Justice of India visited the premises of the ITAT for unveiling the portrait of Shri N. A. Palkhivala. It was a memorable day in the history of the ITAT that the Chief Justice of India visited the premises of the ITAT Mumbai along with three Judges of the Supreme Court, Chief Justice of Bombay High Court and many Judges of the Hon'ble Bombay High Court. It is said that an artist is appreciated only after his death. It was perhaps fitting then, that death did not diminish the legacy of a lawyer that was considered a legend even during his lifetime.



Honourable Justice, Mr. V. N. Khare, Chief Justice of India, Honourable Justice Mr. C. K. Thakker, Chief Justice Bombay High Court Unveiling the Potrairt of Nani Palkhivala on 16-1-2004

In the year 2003, the AIFTP had published a special Issue titled **“A Tribute to the Stalwarts of the Tax Bar”** (Shri R. J. Kolah, Shri N. A. Palkhivala and Shri S. P. Mehta) which contains Tributes by the Judges and Professionals. Whenever a junior joins our chamber or any student takes up internship, we make it a point to request them to read the Special issue of the AIFTP **“A Tribute to the Stalwarts of the Tax Bar”** (2013) AIFTPJ- August –Vol 5. and also **“Nani Palkhivala - the Court room Genius”** by Soli J Sorabjee, Former Attorney-General of India, Senior Advocate and Arvind P. Datar, Senior Advocate.

In the year 2004, with a view to developing a new generation of professionals to take up the cause of tax jurisprudence and to develop interest in taxation, the AIFTP in association with the ITAT Bar Association Mumbai and Government Law College Mumbai started Nani Palkhivala Memorial National Tax Moot court

competition with active support of Shri B.A.Palkhivala Tax Professionals, Prof. P. R. Rao Principal, Govt law College, Prof. Sanjay Kadam, Chairman, Moot Court Association Govt. Law College and Student Members of Government law College Moot Court Association. This was the first National Moot court Competition on the subject of Taxation. The Moot Court Competition was held at the actual court rooms of the ITAT premises and was judged by the professionals who regularly appear before the ITAT and the High Court. The semifinal was judged by the Hon'ble Members of the ITAT and final was by the sitting Judges of the Bombay High Court. More than 26 leading law colleges from across the country used to participate in the competition every year. The winning team and runner-up team was awarded cash prizes and also internship with leading law firms. The best speaker was given an opportunity of internship with leading Tax Senior counsel of India, Shri S. E. Dastur Senior Advocate, Shri V. Ramachandran, Senior Advocate and Shri. N. M. Ranka, Senior Advocate and Shri Bharat Ji Agarwal Senior Advocate. The best team and the best speaker were given the membership of AIFTP along with its publications. The Palkhivala Memorial National Tax moot court competition was held for a decade from 2004 to 2013. Every year a souvenir was published which contained the messages, articles etc.

A Nani Palkhivala Memorial research paper on Direct taxes was also set up for students from more than 200 law colleges to contribute to. The best three Research papers were published in the Journal of AIFTP and also on www.itatonline.org. It is also to be appreciated that in the year 2009, one of the research papers had the distinction of being published in the International Bureau of Fiscal Documentation (**IBFD**) journal (Amsterdam, Netherlands). The legacy of the man continued to support the development of tax as a profession long after he left the tax bar.

In the year 2004, the AIFTP has published a publication titled **“A Fine Balance: law and Procedure Before Income-tax Appellate Tribunal”**, which was dedicated to Padma Vibhushan Late Dr. N. A. Palkhivala. Similarly, in 2017, the AIFTP in association with ITAT Bar Association Mumbai has published a publication titled **“Income Tax Appellate Tribunal – A Fine Balance, law practice, procedure and conventions”**, also dedicated to his memory.

2021 being the centenary year of the Padma Vibhushan Late Dr. N. A. Palkhivala, the Journal committee of AIFTP is publishing a Special issue as a Tribute to Padma Vibhushan late Dr. N. A. Palkhivala. The Title of the special issue is **“Centenary Celebration of Padma Vibhushan Late Dr. N. A. Palkhivala Senior Advocate – Remembering the Legend - A Tribute”** In this publication we have made an attempt to publish the quotes from the Judges, Senior Advocates, Advocates and Chartered Accountants, which were published in the journal/souvenirs of the AIFTP. Each quote will be an inspiration to young professionals to know and understand the life history of a legend who arguably is one of the greatest lawyers to this country and a savior of the fundamental rights enshrined in the Constitution of India.

The life history of Padma Vibhushan Late Dr. N. A. Palkhivala was marked with multiple challenges that were overcome more by his sheer perseverance and hard work more than any gift that lady luck may have bestowed upon him. Any first-generation lawyer, can even today empathise closely with the challenges that the young 'Nani' as he was fondly called might have faced in his early days:

- An initial handicap of stammering which he overcame by sheer willpower.
- The not having of any Godfather in the profession which today is considered to be 'sin qua non' for being successful at the bar.
- Not being born into a privileged family where all the luxuries of life were available to him.

But then, every problem must have a solution, and these he did find!

- As a junior, when he was not involved with any work he spent hours in the Judges' library.
- He ardently believed that work is worship. He used to repeat the lines of a poem "blessed is he who has found his work; let him ask no other blessedness."
- He was very particular about the English language, both spoken and written.
- Punctuality despite of a very busy schedule was made a habit rather than an exception. He always tried to come to the court at least 5 minutes before his case was expected to be called up or taken up
- He was considered a voracious reader and had a rare mastery over the English Literature. 'Work hard' was his motto. Those who were close to him attest to the fact that books were his constant companions. Even while travelling!
- He cultivated his memory very assiduously, and had managed to acquire the power of recall, developed the intellect of the highest calibre and photographic memory
- He had a genuine sense of affection and was overwhelmingly kind to people around him.
- Soft spoken, very courteous and humble and always readiness to help the profession or his fellow professionals. He was never rude to any judge nor to any member of the Bar. The questions put to him by the Judges, no matter how junior were answered with respect and humility.
- Most polite, co-operative and displayed a deep sense of understanding the views of his legal opponents.

- He emphasised human character, basic values, financial integrity, intellectual honesty, courage, integrity and humility.
- An incredibly analytical mind, a prodigious memory and a lucidity that made the most complex argument simple to a person of the meanest intelligence
- As a defender of Constitutional liberties and a champion of human rights, he had courageously advanced his conviction that ‘expediency in the name of progress, at the cost of freedom, is no progress at all, but retrogression’. He has been a lawyer, teacher, author, and economic developer,
- While arguing matter before Supreme Court in the case of **Kesavanada Baharti v. State of Kerala, AIR 1973 SC 1461**, on most of the days worked 18 hours a day including time spent in the court.
- He cherished freedom and fought for it against great odds. He saved our Constitution, as well as our fundamental rights when they needed saving from a brute parliamentary majority.
- He supported independence of our country’s institutions with special soft corner for the ITAT.
- He had great insight in financial and economic matters which he used to a great effect.
- He is not known to have spoken ill to any one and if someone did say something nasty about him, he would not take it badly, he never indulged in gossip.
- He is well known to have done many matters ‘ Pro bono’ when he came to know that the client was not in a position to pay and offered to pay the Court fee also when some injustice was done if required.
- He entertained junior lawyers in his chamber for discussing their personal difficulties or guidance.
- Humble enough to see every client to the door at the end of each meeting.
- Deprecated the tendency to accumulate wealth. He believed in the principle of Trusteeship and felt that all wealth, like knowledge, has to be shared.
- He believed in the need for continuous self- improvement.
- He was a great orator, an outstanding scholar and a humanist par excellence, a rare combination of humility, sensitivity, genius and integrity – all rolled up in one person. He is one of those rare people who became a legend during their life time.

At AIFTP, there are two wishes that are yet to be realized - The formation of Palkhivala Memorial Research Center on Direct Taxes and Indirect Taxes in

association with Government of India and the conferment of the Barat Ratna on the Late Shri Palkhivla for his contribution to save the Democracy of the Country as desired by Shri M. L. Bhakta Advocate & Solicitor Mumbai.

We are sure that as long as the democracy in India survives, the contribution of late Shri N. A Palkhivala in fight to save the Constitution of India both in its letter and spirit shall be remembered. It is desired that his life story may be known to the citizens and future generation. We hope the future leaders of the AIFTP shall carry forward his legacy.

We desire that AIFTP in Association with ITAT Bar Association Mumbai and the Government Law College, Mumbai, may consider holding a Virtual version of the Nani Palkhivala Memorial National Moot Court Competition on Direct and Indirect taxes and also continue the Nani Palkhivala Memorial Research paper on direct and Indirect taxes for the benefit of young professionals who desire to develop a tax litigation practice. We also desire that Senior Tax Practitioners may be requested to address law colleges which are situated in remote places of our country on the subject of development of direct and Indirect tax practice and also value , ethics and conventions practiced by Padmavibhushan Late Dr. N.A . Palkhivala and stalwarts of the Tax Bar .

We are hopeful that by studying the life history of Late Shri Palkhivala, we may be able to get many more brilliant lawyers. We also believe that legacy of Shri N. A. Palkhivala would be best preserved by practicing unstintingly the values he preached and practiced during his lifetime. After all, the legacy of the past is nought but rubble, if not preserved, cherished and propagated!

Mr. M. Srinivasa Rao National President, AIFTP, Mr. Mitesh Kotecha Chairman of Journal Committee, AIFTP, Mr. Janak Vaghani Vice President (AIFTP) West Zone, Mr. K. Gopal Editor of AIFTP Journal and the Committee Members of the Journal Committee deserves a special appreciation for devoting their valuable time and support for this prestigious publication.

This publication is hosted on the website of the AIFTP i.e., www.aiftponline.org and made available to all the members of the AIFTP and others.

For Editorial Board

Dr. K. Shivaram
Senior Advocate