

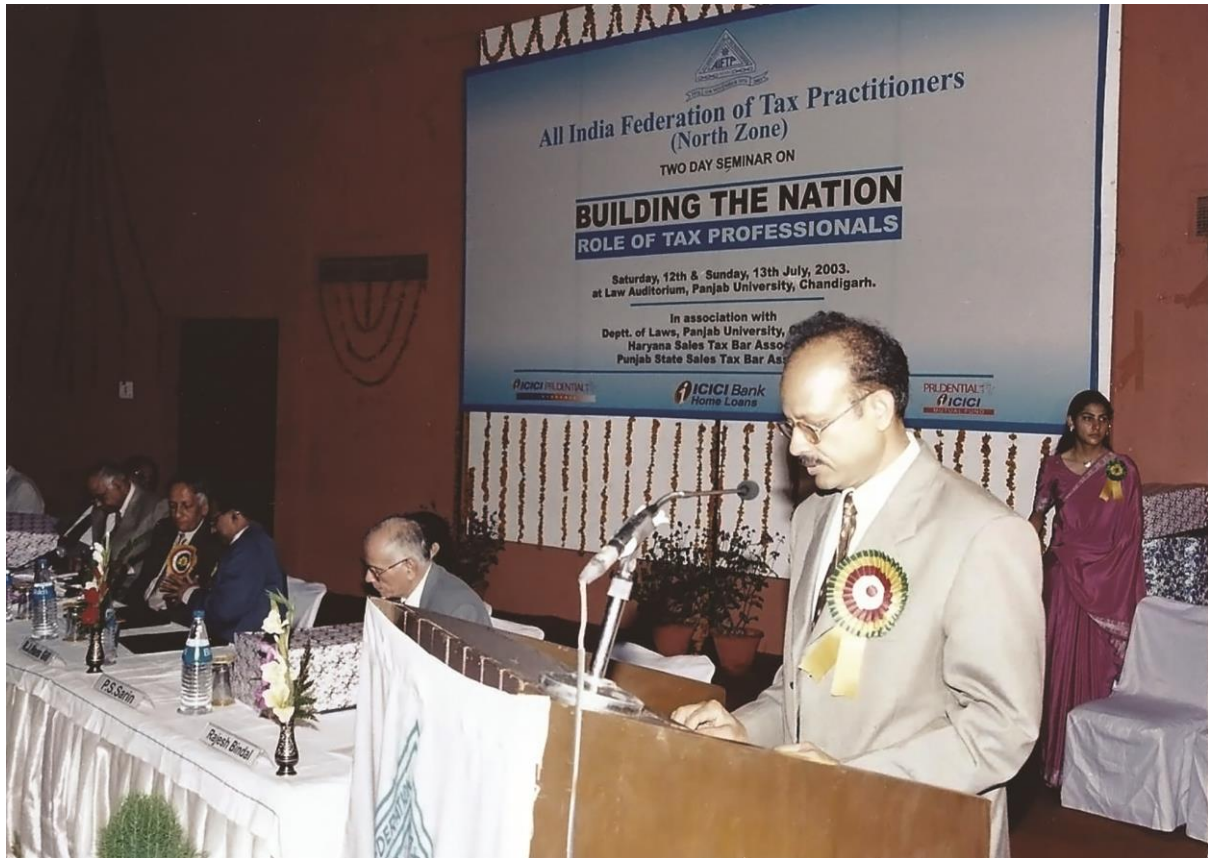
**Hon'ble Justice Mr. Rajesh Bindal, Judge Supreme Court of India**

**Tax Judge elevated to Supreme Court – We wish the lordship all the best.**

Hon'ble Justice Mr Rajesh Bindal Judge of the Supreme Court was a National Executive member of the All India Federation of Tax Practitioners for the period 2003 to 2007.

The first time the North Zone of the AIFTP organized a National tax Seminar was at Chandigarh on July 12, 2003, and it was under the leadership of Mr Rajesh Bindal and then as a National Executive Committee member of the AIFTP





Mr Rajesh Bindal used to appear regularly before the Hon'ble Punjab and Haryana High Court on direct and Indirect tax matters.

When his lordship was the judge of the Punjab and Haryana High Court, his lordship disposed of around 80,000 cases. Hon'ble Justice Rajesh Bindal was Chairman of the Computer Committee Punjab and Haryana High Court, Chandigarh. It is with vision and mission the e-Court project is at a national level, Phase -1 was launched in the year 2007 and all the decided cases in Punjab and Haryana High Court were digitized.

Hon'ble Justice Rajesh Bindal was the acting Chief Justice of Jammu and Kashmir and the Union Territory of Ladakh. Hon'ble Justice Rajesh Bindal served as the Chief Justice of Calcutta High Court and Chief Justice of Allahabad High Court.

Hon'ble Justice Mr. Rajesh Bindal as a Judge of the High Courts and as Chief justice of High Courts had inaugurated and addressed many All India Conferences organised by the AIFTP.

At the National convention of the AIFTP held on December 25, 2021 at Lucknow his lordship released the Publication titled "Handbook on taxation of Partnership Firms & Limited Liability Partnership: Frequently asked

questions”. The publication was dedicated to the late Shri Bhartji Agarwal, Senior Advocate and Past National President of the AIFTP. The said publication was edited by Dr. K Shivaram, Senior Advocate and Authored by Mr. Shashi Ashok Bekal, Advocate



A few important Land mark judgments of His Lordship are:

**1. PCIT v. V.N. Enterprises Ltd. [2021] 439 ITR 624 (Cal)(HC)**

Where the assessee was engaged in purchasing different varieties of tea and blending and packing same for export, such activities undertaken by the assessee would not amount to manufacture, and, therefore, the assessee would not be entitled to claim an exemption under section 10B of the Act.

**2. Rishi Sagar v. CIT [2017] 393 ITR 214 (P&H)(HC)**

Where two credits shown by the assessee did not find an entry in the creditor's books of account and consequently Assessing Officer rejected the books of account of the assessee, Commissioner (Appeals) was justified in not admitting additional evidence produced by the assessee in form of an unaudited provisional balance sheet to explain two transactions pertaining to creditors

**3. CIT v. Dhillon Rice Mills [2002] 256 ITR 447 (P&H)(HC)**

It was held that the addition made on an estimate basis would not automatically lead to the conclusion that there was a failure to return correct income by means of fraud or gross or wilful neglect

**4. CIT v. S. Hoshnak Singh [2007] 292 ITR 390 (P&H)(HC)**

Where land allotted to the assessee in lieu of land left in Pakistan was acquired by Government, the capital gain arising on the transfer of such land was exigible for capital gains and as the assessee was allotted land prior to 1-3-1970 (date on which agricultural land situated within municipal limit was declared to be a capital asset), cost of acquisition had to be determined as on 1-3-1970

**5. Institute of Chartered Accountants of India v. Vivek Kapoor [2016] 136 SCL 229 (P & H)(HC)**

Where the respondent-Chartered Accountant defrauded revenue and left the country, the conduct of the respondent was wholly unworthy of a chartered accountant, who is expected to maintain a high standard of professional conduct and, therefore, the name of the respondent was to be removed from the register of members of Institute of Chartered Accountants of India for life

**6. CIT v. Porrits and Spencer (Asia) Ltd. [2008] 304 ITR 186 (P&H)(HC)**

Held that section 80VV of the Act was concerned only with representation before the authorities / Court, while the fee could be paid even for general consultation, which was not covered under section 80VV. Having regard to the finding of the Tribunal that the amount was paid not only for the services rendered for representation before the authorities but also for consultation, no fault could be found with the view taken by the Tribunal in allowing the deduction.

**7. Vidya Sagar v. ITO [2008] 305 ITR 124 (P&H)(HC)**

Where the petitioner had not filed a reply to the notice issued under section 148 of the Act, even though the return of income had been filed in pursuance of said notice, the writ court could not interfere as the assessee had to follow the procedure laid down by Supreme Court in **GKN Driveshafts (India) Ltd. v. ITO [2003] 259 ITR 19 (SC)**.

**8. Charan Pal Singh v. CIT [2008] 307 ITR 132 (P&H)(HC)**

Where the assessee was a director in a company which was an agent of a company at Baroda and following a search at the premises of Baroda company assessee's case was transferred from Ferozpur to Baroda for effective and co-ordinated investigation, an order of transfer could not be faulted.

**9. Skyline Automation Industries v. State of U.P. [2023] 146 taxmann.com 159 (All)(HC)**

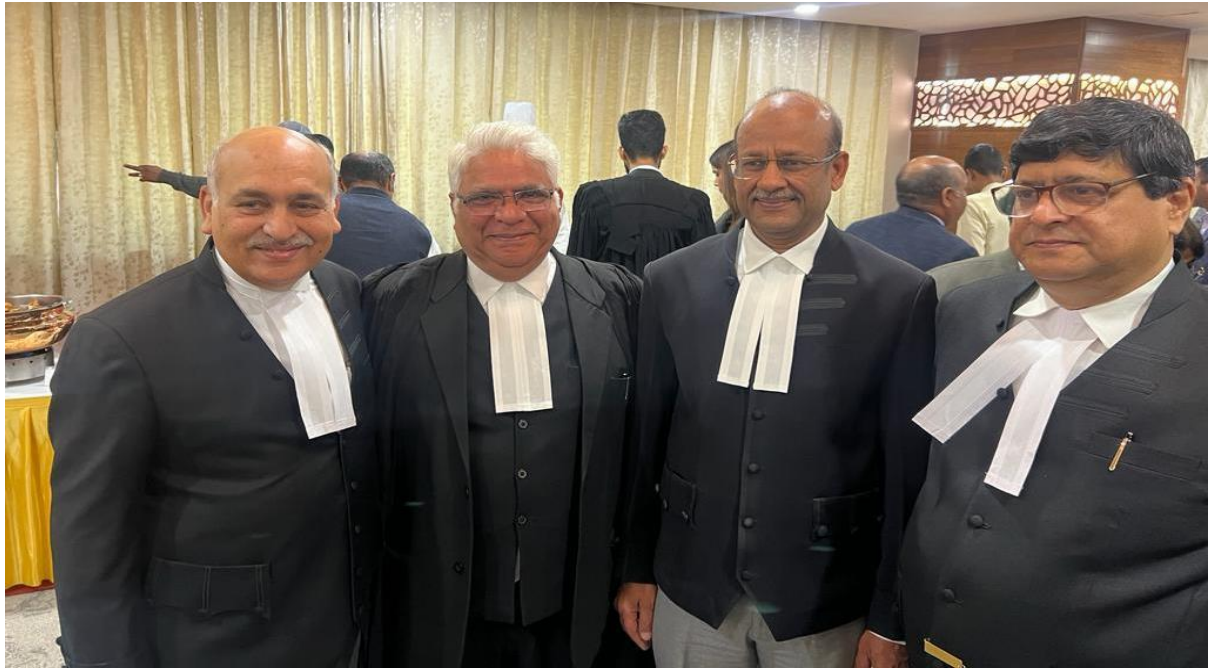
For initiation of proceedings, a notice as provided for under Rule 142(1A) of the Rules in Part A of FORM GST DRC-01A must be issued, which would have communicated details of any tax, interest and penalties as ascertained by an officer. However, in the instant case, FORM GST DRC-01A was not issued and any subsequent reminder would not cure the inherent defect in proceedings initiated against the petitioner. Therefore, it was held that the impugned order was liable to be quashed with the liberty to initiate fresh proceedings against the petitioner in accordance with the law.

**10. V.K. Ratti v. CIT [2008] 299 ITR 295 (P&H)(HC)**

Where the assessee was in India for less than 90 days and was not on leave or vacation as his services were terminated, the case of the assessee did not fall in Explanation to section 6(1)(c) of the Act and, therefore, the assessee was to be treated as resident and he could not claim to be non-resident.

The tax bar is very much honoured that one of the tax judges is elevated as a judge of the Supreme Court.

Hon'ble Justice Mr. Rajesh Bindal has taken oath as Judge of the Supreme Court on February 13, 2023. On this solemn occasion, a large number of members of the AIFTP attended the oath-taking ceremony at the Hon'ble Supreme Court.



We wish his lordship all the best as Judge of the Hon'ble Supreme Court.

Editorial Board.