

Case Laws

KAY PAN SUGANDH (P) LTD. VS CCE, C& ST (2017) 83 TAXMANN 343

Subject: Rights of the assessee to cross examine the witness

The assessee was engaged in manufacture of Gutkha with retail sale prices of Rupees 1, 1.50 and 2 per pouch. The department passed an order that the assessee was also manufacturing Gutkha of rupees 5 per pouch and demanded Excise Duty without allowing the assessee to cross-examine the witness. The High court held that the revenue should allow the assessee to cross examine the witness before passing final order.

KPIT TECHNOLOGIES LTD VS CCE (2017) 83 TAXMANN 342

Subject : Service tax on remittance received from overseas branches for providing services to overseas customers.

The overseas branch offices of assessee had entered into contracts with overseas customers to provide technological services on behalf of assessee. The department demanded tax on the value of services rendered by the branches to overseas customers on behalf of the appellant. It was held that No service tax on remittance received from overseas customers for the service provided.

TATA MOTORS LTD VS CST (2017) 83 TAXMANN 233

Subject : Service tax on same service under two different periods

The assessee, a manufacturer of automobiles, allowed affixing of its trade mark on products manufactured by three oil companies. The department classified the above as 'Business Auxiliary Service' and demanded tax up to 09/09/2014 and after 10/09/2017 levied tax under intellectual property service. The tribunal held that tax cannot be collected under two different taxable heads in a single regime of taxation for two different periods.

TABLETS INDIA VS CESTAT (2017) 83 TAXMANN 299

Subject: Valuation of tax on Physician sample supplied at free of cost

The assessee engaged in manufacturing of medicines. They supplied certain medicines free of cost to physicians and paid excise duty on the basis of sale price of similar goods in the market. The assessee reworked the assessable value of free medicine on basis of cost of production the value was 115% of the cost of production and found that it had paid duty in excess therefore applied for refund. The department denied the refund claim. The HC held that the valuation of physician's samples should be on basis of cost of production and refund to be allowed in accordance with law.

MOHAN GOLDWATER BREWERIES LTD VS CCE&ST (2017) 83 TAXMANN 132

Subject: classification of Leasing plant & machinery for manufacturing

The assessee had entered into an agreement with UBL for providing its facility of plant and machinery infrastructure etc., on payment of lease rent for manufacture of finished goods. The department held that service tax is leviable on lease rent under the category of 'Renting of immovable property'. The tribunal held that leasing of plant and machinery for manufacturing will not be classifiable as 'Renting of immovable property'.

PARADISE FOOD VS STATE OF TELANGANA (2017) 63 TAXMAN 331

Subject : chargeability of tax for Transfer of entire business as an outgoing concern under Telangana VAT

Where assessee, a partnership firm, had transferred its entire business as an outgoing concern to a company, transfer of business as a whole was not chargeable to tax under section (4)(1) of Telangana VAT act, because transfer of business as a whole was not per se included in charging provision contained in section (4)(1).

JAKAP METIND (P) LTD VS CC & CE (2017) 83 TAXMANN 153

Subject: Determination of Physical Process of goods by applying Standard Input Output Norms (SION)

The assessee was engaged in manufacture of brass parts of machine. It sent brass scrap to job worker and after its conversion the brass was returned. As per the SION permissible burning loss was 5% to 7.5% but the average burning loss during conversion was 15%. The department confirmed duty on difference of burning loss of 15% and permissible burning loss of 7.5%. During the appeal it was held that Standard Input and Output Norms couldn't be applied to determine physical process of goods.

PAINTERIOR (INDIA) VS STATE OF MAHARASHTRA (2017) 84 TAXMANN 159

Subject: Classification of repair, reconstruction and maintenance of building

The assessee was engaged in the business of repairs and reconstruction of buildings. The assessee contended that it was classifiable as construction contract, the department rejected it. The court held that construction contract includes repair, reconstruction and maintenance of building.

About us

D Arvind & Associates LLP (DAA) is a Chartered Accountant Firm founded in 2009 by D Arvind, an Ex-partner of KPMG with a vision to provide to create innovative and insightful solutions to resolve Complex Business & Tax Challenges.

D Arvind, apart from being a Chartered Accountant is also a Company Secretary & Arbitrator, having 30 Years of Experience in Large Industries as Tax & Legal Head and Partner in Big 4 Consulting Firms. This puts him in a unique position to see Complex tax Issues from Business & Solutions perspective.

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