

Case Laws

CITY LUBRICANTS (P) LTD VS COMMISSIONER OF CENTRAL EXCISE (2016) 75 TAXMANN 278

Assesse took the credit of 'low Sulphur High Flash –High speed Diesel'. The department denied the credit on the ground that 'High Speed Diesel' (HSD) is excluded from the scope of 'input' and 'low sulphur High Flash-High Speed Diesel' was nothing but the HSD with a different flash point and different Sulphur content. The tribunal held that 'Low Sulphur High Flash HSD' is ineligible for input credit.

WS RETAIL SERVICES (P) LTD VS UNION OF INDIA (2017)84 TAXMANN 92

The assessee carried on the business of selling goods through online portal. When order was placed by a customer of Punjab, it brought goods from its warehouse situated outside state of Punjab to its delivery hub located in Punjab. The assessee filed the declaration at ICC contending that it did not have any taxable turnover in the state of Punjab and also contending that it had paid CST in respect of the goods so brought into the state of Punjab. The department held alleged that it had under taken trading/sale/purchase in or from the state of Punjab. It was held that movement of goods from one state to another for delivery of goods purchased online would be inter -state sale.

SHAPOORJI PALLONJI INFRASTRUCTURE CAPITAL COMPANY LTD VS CST (2017)84

The assessee entered into an agreement of operation and maintenance (O&M) with SPCL for operating and maintaining power generating plant. It was paying service tax on maintenance and repair charges. Later on, the assessee entertained a view that it was not liable to pay service tax on such maintenance and repair activities and refund claims. The department rejected the claim. It was held that operation of power plant couldn't be classified as 'Maintenance and repair service'.

TODAYS PETROTECH LTD. VS JT. COMMISSIONER (2017) 82 TAXMANN 130

The assessee filed appeal against assessment order before the commissioner (Appeals). The appeal was dismissed on ground limitation as the commissioner took a view that he was not empowered to condone any delay beyond the condonable period of three months for filing the appeal. The assessee filed an appeal in the HC on the ground that if three months was considered as 90 days in that case appeal would be within period of limitation as it was filed on the 90th day itself. It was held 3 months would be considered as 3 calendar months and not 90 days for filing appeal to commissioner.

COMMISSIONER OF CENTRAL EXCISE PUNE –III VS. ZENSAR TECHNOLOGIES LTD

The issue that has come up for consideration is whether services provided by overseas branches of the Appellant has to be included while computing export turnover for the purpose of claiming refund. The Adjudicating Authority has completely ignored this fact and passed orders against the Appellant. On Appeals it was held that services provided by overseas branches excluded from export turnover as they are performed outside taxable territory.

INDIAN CARD CLOTHING CO. LTD VS CCE (2017) 82 TAXMANN 182

The assessee was engaged in the manufacture and sale of excisable goods. In its sales depot and workshops, the also undertook servicing activities like repair and maintenance of card clothing. The department sought to include repair charges of old card clothing in value of goods cleared from factory of assessee. The assessee filed an appeal to the tribunal it was held that Value of repairing service couldn't be added to assessable value of newly manufactured product for excise duty.

**ALL INDIA ASSOCIATION OF AUTHORISED MONEY CHANGERS & MONEY TRANSFER AGENTS
VS UOI TAXMANN (2017) 82 180**

The assessee, an association of authorized money changers and transfer agents, filed a writ petition in the high court stating that there was without jurisdiction and ultra vires to the Finance Act, 1994 on the ground that there was no change in law, and another circular had been issued levying service tax on consideration received by agents for rendering service to an overseas entity. The High Court held that new circular couldn't supersede earlier circular, unless there was change in provision of law.

CT & T VS JAGTIRI PLASTICS LTD (2017) 79 TAXMANN

The assessee was engaged in the business of sale of imported goods. It purchased DEPB Scrips (Duty Entitlement Passbook Scrips) on payment of VAT and used the same for payment of customs Duty and availed credit on it. The department denied the credit availed on DEPB Scrips. The high court Held that VAT paid on DEPB Scrips is allowable as input tax credit.

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