

## Case Laws

### **EM MANI CONSTRUCTIONS PVT LIMITED VS COMMISSIONER OF C.EX &S.T 2016 (44) STR 265**

#### **Subject: Value of free supplies made by service recipient**

The appellants were engaged in the Commercial or Industrial service and were availing the benefit of Notification No. 20/2004- S.T and 1/2006 S.T. the department held that they are under a legal obligation to include the value of the items supplied free of cost by service recipient for the payment of service tax. it was held that the items supplied free of cost by service recipient would not form value of service and would get excluded for the purpose of the notification.

### **SAMPRE NUTRITIONS LTD VS COMMISSIONER CUS., C.E., S.T TAXMANN 91 GST 318/77 (2017)**

#### **Subject : Reversal of Credit due to non- payment of duty**

Where the assessee, a manufacturer, was availing Cenvat credit facility on inputs and it as a result of decision taken in Board meeting had accounted in account books a certain amount as extra ordinary income by writing off dues to suppliers, since assessee had neither paid value of goods to suppliers nor duty on goods, it was held that the assessee was bound to reverse credit availed on inputs.

### **BOMBAY WELL PRINT INKS (P) LTD VS COMMISSIONER OF C.E & S.T (2017) 59 GST 278/77**

#### **Subject : Utilization of credit in later date at time of payment of tax**

The assessee were engaged in service of renting of immovable property. During the period of 2007 to 2010 paid service tax for it and availed Cenvat credit available on 31- 01-2011. The department held that credit available on 31-01-2011 cannot be availed for the tax paid for 2007 to 2010. It was held that there was no restriction to utilize Cenvat credit even later date at time of payment of service tax.

### **DATA MINI TECHNOLOGIES LTD VS COMMISSIONER OF C.E (2017) 78 TAXMANN 182**

#### **Subject: Service tax on reimbursement for promoting microsoft and intel logo on assessee's product**

Assessee was engaged in the manufacture of personal computers and used products of Intel and Microsoft for such manufacture. A specified percentage was paid by these two companies on the condition of including their logos on publicity material of the assessee. The reimbursement was made from a fund created out of a contribution of the two entities that was directly linked to purchase done in the past by the assessee. The department demanded service tax on the reimbursement . the tribunal rejected the demand.

## NORTHERN COALFIELDS LTD VS CCE(2017) 84 TAXMANN 147

### Subject: Denial of input credit

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.

## BHANU IRON&STEEL CO.LTD VS CCE (2017) 30 GSTR 130

### Subject: Raised invoice without movement of goods

The assessee created a fictitious units to procure invoices without movement of goods to avail credit. The authorities procured the proof of fraud with intention to fabricate documents to illegally avail of and pass on CENVAT credit. Penalty was warranted

## S.P .FABRICATORS (P) LIMITED VS COMMERCIAL TAX OFFICER (2017) 103 VST 335

### Subject: Rectification of application

Appellants were engaged in the business of sale of imported goods. They had made imports using DEPB scribs and paid VAT on domestic sales. The Adjudicating Authority, Appellate Authority and Tribunal denied credit availed on DEPB Scribs which was on appeals held to be an eligible credit by the High Court.

## ASAHI SONGWON COLORS LTD AND ANOTHER VS U.O.I AND OTHERS (2017)103 VST 322

### Subject : Reimbursement on the purchase of raw materials

The manufacturing unit of the assessee is a 100% Export oriented unit. The assessee received reimbursement of Central Sales Tax paid on the purchase of raw materials from another export oriented unit . The department after 7years of the claim which was granted without any dispute demanded the repayment of such reimbursement mentioning that it was granted incorrectly. The court held restriction on transfer of goods from one EOU unit to another EOU unit is not given in the foreign trade policy further the department made a delayed action. Thus the petition is disposed.

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