

Case Laws

GUJARAT STATE FERTILIZERS & CHEMICALS LTD. VS CCE (2016) 76 TAXMANN 357

Subject: : Service tax on receipt of share in common expenses.

Two assesses involved in the dispute namely, GSFC and GACL received Hydro Cynic Acid (HCN) through common pipeline from Reliance Industries. The HCN came first to premises of GSFC and then to GACL. To enable GACL to receive HCN through common pipeline, handling facilities were installed in premises of GSFC and therefore incineration also took place at said premises. The expenditure was shared equally by both parties. The department confirmed demand of service tax upon GSFC for collecting incineration charges from GACL. It was held that service tax can't be levied on receipt of share in common expenses.

SD PACKERS VS ASSISTANT COMMISSIONER (CT) (2016) 76 TAXMANN 358

Subject : Notice without asking for the submission of documents.

The assessee was a dealer under Tamil Nadu VAT Act 2006, engaged in the manufacture of wooden crates and boxes for supply to industries. The department issued notice stating that, it was found that the selling dealer had shown its sales in Annexure I instead of Annexure II for the purchases. Therefore, it was proposed that the difference in purchase turnover was liable to be reversed. The assessee argued that the notice does not provide any details for the documents required by department for filing the objection properly. It was held that in case of input credit mismatch dept must give opportunity of producing supporting document.

BANSWARA SYNTEX LTD VS UNION OF INDIA (2017) 77 TAXMANN 230

Subject : Delay in issuing of shipping bill

Assessee exported certain goods on payment of duty through merchant exporter. It was allowed to export goods on January 01, 2007, but shipping bills were given only on January 28 2008. Thereafter, it submitted an application on March 17, 2008 for rebate. The department rejected the claim of the assessee as it was not claimed within one year. The HC held that rebate of duty won't be treated as time barred when delay is on part of department to issue shipping bill.

VIKHROLI CORPORATE PARK VS CST (2017) 78 TAXMANN 12

Subject: Notional interest on forfeited security deposit of tenant

The assessee had constructed a commercial building for renting of the same to various customers. It had taken interest free security deposit from various customers for giving space on rent. It had forfeited the amount of advance on relegation of the contract by the customers. The department on calculated notional interest payable on interest free security deposit and held that it was liable to service tax and also the forfeited amount is liable to service tax under renting of immovable property. Tribunal held Notional interest calculated on forfeited security deposit of tenant isn't liable to service tax.

VPSSR FACILITIES VS COMMISSIONER OF VALUE ADDED TAX (2017) 79 TAXMANN 195

Subject: VAT on Consumables used in provision of services

Railway awarded housekeeping, maintenance, cleaning, waste management contract to assessee, merely because chemical/ solvents was deposited with railway and later on issued to assessee. The department demanded VAT for the said transaction. It was held that consumables used in provision of services can't be treated as sales not liable to VAT.

CST VS NORTEL NETWORKS INDIA (P) LTD (2017) 79 TAXMANN 235

Subject: Delay in filing appeal

There was a huge delay in filing appeal by the assessee because of officers who were responsible for processing appeal. It was held that delay was to be condoned as state's claim being huge it would be against larger public interest to reject examination of judgment under delay to file appeal.

INGRAM MICRO INDIA (P) LTD VS Pr. CC (2017) 83 TAXMANN 104

Subject: Duty levied without passing any speaking order

The assessee was engaged in business of import and distribution of Ethernet Switches which was exempted from Basic Custom Duty(BCD) as per Notification No: 24/2005. But after amended notification, the Carrier Ethernet Switches were excluded from exemption. The custom authorities held that Ethernet switches could not be cleared without payment of BCD and levied 10% BCD without passing any speaking order. The assessee paid the duty under protest. Writ petition was filed by the assessee it was held that officer was duty bound to pass speaking order when duty was paid under protest.

HOMERUN SPORTS PVT LTD VS ASST. COMMISSIONER (2017) 100 VST 354

Subject: Cancellation of VAT registration without issuing notice

The department cancelled the VAT registration of the dealer, the court held that cancellation of registration is not permissible without issuing notice to the registered dealer.

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