

## Case Laws

### **CARI BECHEM LUBRICANTS INDIA (P) LTD VS CCE (2017) 81 TAXMANN 55**

**Subject: Cenvat Credit on service tax paid on import of services on manufactured goods**

The assessee was engaged in the manufacturing of excisable goods. It had exported the goods manufactured by it and also exported the goods imported by it. He availed the credit of service tax paid on import of services on manufactured goods and traded goods under reverse charge. The department denied the credit. It was held that the assessee was eligible to take proportionate Cenvat Credit of service tax on manufactured goods and it had wrongly taken Cenvat credit attributable to trading of imported goods.

### **FORCE MOTORS LTD VS CCE (2017) 81 TAXMANN 10**

**Subject : Interpretation of Rule 8 of Valuation Rules**

The assessee were engaged in the manufacture of motor vehicle chassis liable to central excise duty. It supplied chassis to the body builder who after building the body cleared the complete vehicle to the depot of the assessee for sale by the assessee. The department held that there was no sale of chassis and applied the rule 8 of valuation rules because goods were supplied free of cost. It was held that Rule 8 of Central excise will not apply where some part goods produced was cleared to independent buyers.

### **DSM SUGAR ASMOLI VS CCE (2017) 81 TAXMANN 12**

**Subject : ITC on goods used in repair and maintenance of capital goods engaged in manufacturing**

The assessee was a manufacturer of sugar molasses. He availed the credit on various items like plates, Shape, & Section, MS Angles used as inputs for repair and maintenance of capital goods. The department held that the above goods do not fall under capital goods therefore not eligible for credit. The tribunal held that goods used in repair and maintenance of capital goods engaged in manufacturing were eligible for input credit.

### **MY HOME INDUSTRIES LTD VS CCE, CE & ST (2017) 82 TAXMANN 34**

**Subject: Cenvat credit on service tax paid on gardening services for maintaining green belt**

The assessee was engaged in the manufacture of cement and clinker. He availed of the Cenvat credit of service tax paid on gardening services. The department disallowed the credit on the subject services. The tribunal held that Manufacturer was eligible to credit of service tax paid on gardening services for maintaining green belt.

## DEVICHAND KANTHILAL SHAH VS ITO (2017) 82 TAXMANN 164

### Subject: Application of section 54 of IT ACT

The issue before the tribunal was whether section 54 of IT act relief was available to the assessee on if investment in new property was made after execution of sale deed. It was held that section 54 relief was available even if investment was made in new property before execution of sale deed.

## PARADISE FOOD VS STATE OF TELANGANA (2017) 81 TAXMANN 331

### Subject: VAT on the transfer of business as a whole

The assessee, a partnership firm, engaged in the business of operating restaurants, cafes and bakeries. It had entered into a business transfer agreement with a company and had transferred its entire business as an outgoing concern to the company in which partners of assessee were shareholders. In consideration of transfer of business as whole, partners of assessee were allotted equity shares and preferential shares in the company. The department demanded to the assessee to levy VAT on the transfer. It was held that transfer of business as whole wasn't chargeable to tax under Telangana VAT.

## MAHADEV LOGISTICS VS C& CESC (2017) 81 TAXMANN 409

### Subject: Imposition of penalty under service tax

The assessee was engaged in the supply of vehicles on hire basis and also in goods transportation by road without obtaining service tax registration. The department had issued summons to the assessee for submission of requisite documents related to its activities. The assessee obtained the registration and deposited the service tax and interest liability and filed an application to the commission for immunity from penalty and prosecution. The settlement commission granted immunity from prosecution but imposed penalty. The HC held that Guilty mind pre-requisite for imposing penalty under service tax.

## C.RAMACHANDRAN VS COMMISSIONER OF SERVICE TAX, (2017) 100 VST

### Subject: Non-payment of service tax

Appellant registered as an outdoor caterer did not pay service tax on gross amount and did not pay on the amount received after TDS hence penalty was levied. Appellant believed that tax is payable on net amount. no penalty is warranted

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