

Case Laws

CT&T VS. MCDONALDS INDIA (2017) 85 TAXMANN 30

The assessee, a wholly owned subsidiary of McDonalds corporation entered into franchisee to allow them to adopt and use McDonalds system for the purpose of operating their restaurants in India. The department held that Use of McDonalds system could be held as transfer of right to use goods and would be liable for tax. It was held that use of the system could not be held as transfer of right to use goods.

ADVANCE SURFACTANTS INDIA LTD VS UNION OF INDIA (2017) 85 TAXMANN 30

The assessee was a manufacturer of excisable goods and cleared all such goods on payment of duties and had been availing of the benefit of Cenvat credit scheme. By considering the first proviso to rule 3(4) of the Cenvat credit rules, the department held that the assessee could not have utilized the Cenvat credit taken in the beginning of a particular month while discharging the duty liability for the goods cleared in the previous month thus the assessee had made a default in payment of excise duty. The HC held that the first proviso to rule 3(4) of the Cenvat credit rules would be contrary to rule 8(1) of the Central Excise rules 2002. Thus the first proviso to rule 3(4) is 'ULTRA VIRES'

SHETH & SURA ENGINEERING (P) LTD VS UNION OF INDIA (2017) 85 TAXMANN 54

The assessee provided works contract services, such as erection, commissioning and installation. The department levied service tax on the works contract services, such as erection, commissioning and installation services provided by the assessee prior to June 1, 2007. The HC held that work contract could not be divided into various components for service tax purpose.

INDO SWISS EMBROIDERY INDUSTRIES LTD VS CCE (2017) 84 TAXMANN 156

The assessee was engaged in manufacture of Embroidered grey fabrics. It had classified the said product under heading No. 5804.11 of central excise tariff act 1985. The department held that such product would fall under heading No. 5804.9 and assessee was liable to pay additional duty U/S 3(3) of Additional duties of Excise Act, the HC held that interest couldn't be charged in absence of provisions in Section 3(3) of Additional duties of Excise Act.

RIICO LTD VS CCE (2017) 82 TAXMANN 304

The Rajasthan Government had allotted vacant land on 99 years long-term lease to the assessee. The assessee had further allotted the land to various allottees against payment of development charges/Allotment Rate/ Cost of land. The department held that the service tax had been levied on lump-sum amount received by assessee from allottees on allotment of land. It was held that lump-sum amount received on leasing of land for more than 30 years was not chargeable to service tax

STATE OF GUJARAT VS PIPAVAV DEFENSE & OFFSHORE ENGINEERING CO (2017) 82 TAXMANN 270

The assessee was a dealer engaged in manufacturing and repairs of ships. It constructed Dry Dock, Fit Out Breath and it claimed Input tax credit on purchase of cement, sand, steel, greet, concrete etc.. the department rejected the credit on the capital investment. The tribunal held that Immovable structures viz., dry rock and fit out berths are capital goods.

ASST COMMISSIONER, CIRCLE-A VS SANGHAVI AGENCIES (2017) VST 251

The respondent-dealer sold erasers, rulers and glass marking pencils and according to the assessee, it was exempt as per various notifications issued by the state government. The court also held that all these form part of stationery items and cannot be termed as falling within the general category. the items in questions were stationery items eligible for exemption.

TRIMUPH MOTORS (P) LTD VS COMMISSIONER OF VAT (2017) VST 84

The assessee was engaged in trading new cars. It sold a car which had already been used for demo car. It had not paid any VAT on its sale on ground that used car was exempted from tax it had not claimed ITC on the demo car. The court held that since the assessee did not claim any ITC, No VAT could be levied on sales of demo cars.

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