

Case Laws

FAIRDEAL SUPPLIES LTD VS CC(2017) 81 TAXMANN 467

In the present case the assessee filed an appeal before the tribunal against the order of the commissioner Appeals. The tribunal on scheduled date heard the appeal of the assessee ex-parte and dismissed the same on merits. The assessee had made an application before the tribunal seeking recall of its order and restoration of appeal. The tribunal dismissed the application of the assessee. The assessee filed a writ petition, the HC held that **EX-PARTE** order could be revised if assessee had made sufficient reasons for not remaining before tribunal.

KARVY COMPUTERSHARE (P) LTD VS ADDL. CIT (2017) 85 TAXMANN 182

Assessee a Tax payer as per provisions of sec 92E of the IT act was required to obtain a report from an accountant and furnish such report in Form 3CEB on or before specified date. The assessee failed to furnish said report in time. The assessing officer levied penalty upon the assessee. Assessee pleaded that non-submission was not intentional but he had a bona-fide belief. Beside it is due to the ignorance of financial manager. It was held that ignorance of compliance provision couldn't be said to be a reasonable cause to delete penalty.

MY HOME INDUSTRIES LTD VS CCE, C&ST (2017) 82 TAXMANN 34

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.

CAPARO ENGINEERING INDIA (p) LTD VS CCE (2017) 80 TAXMANN 368

The assessee was engaged in the manufacture of automobiles cabin parts. He received certain amount from the customer as operational compensation. It had not paid any duty on the said amount on the plea that it was received by way of compensation in the form of liquidated damages and was not towards the sale or supply of goods. The department held that such amount was an additional consideration and would form part of the assessable value of goods already cleared. He raised additional demand duty. liquidated damages received from customer couldn't be added to assessable value of goods already cleared

NAVDURGA ISPAT (p) LTD VS CCE& ST (2017) 80 TAXMANN 369

The assessee (service receiver), as per Notification No. 30/2012, was required to pay 75% of service tax and the remaining 25 per cent was required to be paid by service provider. He had not paid any service tax whereas the service provider had paid 100% service tax paid by the service provider. But he had taken credit of entire amount of service tax paid by the service provider. The department disallowed excess credit availed by the assessee and imposed interest and penalty. It was held that penalty couldn't be set aside if assessee failed to pay interest levied on availment of excess credit.

MONNET INTERNATIONAL LTD VS CCE (2017) 80 TAXMANN 380

The assessee was a service provider. It had deposited certain amount towards service tax by mistake. After knowing the fact the assessee claimed for a refund of the tax amount paid. The department rejected the claim of assessee as being time barred. It was held that refund claim of service tax paid by mistake couldn't be rejected on ground of expiry of time.

CST VS ATRENTA INDIA (p) LTD (2017) 80 TAXMANN 382

The assessee was a service provider. Refund was claimed by the assessee of Cenvat credit paid on input services. The department rejected claim of assessee on the ground that he was not registered with the department during the claim period and hence was not eligible, to take refund. It was held that Cenvat Credit couldn't be rejected on ground that assessee was not registered during said period of claim.

SIMRAN INTERNATIOANL VS ASSTT. COMMISSIONER (CT) (2017) 81 TAXMANN 241

In the present case the department passed the assessment order and raised tax demand on the assessee. Therefore it issued further notice for imposing penalty. On a writ petition the HC held that Penalty could not be imposed by as separate order which didn't form part of assessment order.

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