

23rd February 2018

Case Laws

GOVAN TRAVELS VS CCE (2018) (9) G.S.T.L 268

Incentive received for the continues usage of CRS System

The assessee are rendering service of air travel agent to their customers. The appellant utilized computer reservation service software provided by Galileo India Pvt. for booking air tickets to their customers. Galileo paid incentive (commission) to the appellant for continued usage and patronage of the CRS System. The department demanded service tax on the incentive received by the appellant. The tribunal confirmed the

JIMTEX PVT LTD VS COMMISSIONER OF CENTRAL EXCISE 2018(9) G.S.T.L 290

Refund of unutilized CENVAT credit.

The issue involved in this appeal is whether the appellant is eligible for refund under Rule 5 of Cenvat credit rules, 2004 on account of unutilized credit lying in balance for clearance of excisable goods to 100% EOU (deemed export) in Form AR -3A. It was held that Evidence of actual export not furnished by appellant therefore refund not admissible.

SANKALP CONSTRUCTIONS VS CCE & ST (2017) 84 TAXMANN 158

Failed to deposit service tax collected from client

The assessee provided 'works contract service' and 'consulting engineering services' and recovered the service tax from the clients but did not pay it to the Government exchequer. It also did not file service tax returns. Penalty was imposed.

BROADWAYS OVERSEAS LTD VS CCE (2017) 84 TAXMANN 107

Absence of ARE-1 number in shipping bill

The assessee was a manufacturer of aluminum fence fittings. It supplied goods to its parental unit for export and cleared them through ARE-1 without payment of duty. Due to absence of ARE-1 number in the shipping bills the department alleged that goods had been cleared without payment of duty and held that goods were not exported and confirmed demand of duty and penalty. It was held that proof of export had not been produced and the goods were cleared from the factory therefore absence of ARE-1 number in shipping bill amounts to clandestine clearance of goods.

GLOVIS INDIA (p) LTD VS CCE (2017) 84 TAXMANN 130

Re-packing of motor vehicle parts after anti-trust treatment

The assessee was engaged in the export of parts or components of motor vehicles after purchase of goods from local vendors. For the purpose of export of goods, the assessee procured inputs as well as input services and availed the Cenvat credit on such services the department held that the activity undertaken by the assessee did not amount to manufacture and proposed to recover the Cenvat credit along with interest and penalty. It was held that re-packing of motor vehicle parts after anti-trust treatment was deemed manufactures. The assessee was eligible to avail credit.

SHOELINE VS CST (2017) VST 100 345

Filing writ petition four years after demand was confirmed

The assessee filed a writ petition for the refund of service tax four years after the demand for service tax was confirmed the petition was dismissed, the assessee filed SLP in the supreme court, the SC held that the assessee approached belatedly and it was not entitled to the refund of service tax.

MINDA SAI LTD VS COMMISSIONER OF CENTRAL EXCISE (2017) 63 GST 52/83

Classifications of scrap generated

The assessee during the process of manufacturing wiring harness generated small cuts pieces and rejected pieces of insulated wires as scrap which were not usable. The department held the scrap is marketable and falls under tariff item No.85489000 and demanded excise duty. The tribunal held that scrap of electrical wires does not fall under tariff item 85489000 the same was held in the assessee 's own case in the earlier period and was reached finality.

J.K CEMENT WORKS VS STATE OF KARNATAKA (2017) 80 TAXMANN 263

Availment of credit on cement used for laying down the foundation of a manufacturing plant.

The assessee, a cement manufacturer claimed input tax credit on cement which was used as raw material for the construction of the factory building of the assessee. The tribunal rejected the claim. The HC held that credit for laying down foundation of cement manufacturing plant prior to start of production was allowable.

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