

Case Laws

SHIRDI INDUSTRIES LTD. Vs COMMISSIONER OF C. EX., MEERUT 2018 (359) E.L.T (Tri. - Del.)

Facts of the case: The appellant is engaged in the manufacture of MDF Board, High Pressure Laminates, etc. The resins manufactured are captively consumed in the manufacture of final product and exemption under notification is availed for the same.

Dispute: The department alleged that the said intermediate products manufactured and captively consumed are dutiable.

Judgment: It was held that the resins captively used in the manufacture of final product are not liable to duty

SRI VASAVI GOLD & BULLION (P) LTD Vs C.C. (AIRPORT & AIRCARGO), CHENNAI 2018 (359) E.L.T. 588 (Tri. - Chennai)

Facts of the case: The Appellant has filed claim for refund of Special Additional Duty (SAD) in respect of Bills of entry in Chennai Sea Customs whereas the goods were cleared through Chennai Air Customs.

Dispute: The department alleged that the claim was filed before the wrong jurisdictional authority and due to which time limit has been expired.

Judgment: It was held that the Appellant would be given sufficient opportunity for supporting their claim, as the Sea Customs Commissionerate instead of issuing a deficiency memo, processed the same and issued a memo seeking for further documents. Therefore it is proper to set aside the impugned order and remand the matter back to the concerned original authority.

VIJAY ELECTRICALS LTD Vs. COMMISSIONER OF CUSTOMS, MUMBAI 2018 (359) E.L.T.567 (Tri.-Mumbai)

Facts of the case: Valuation on import of crude oil

Dispute: The department alleged that the levy of duty is on the invoice amount

Judgment: It was held that the levy of duty is on the received quantity and not on invoiced quantity and it is not permissible as the received quantity is lesser than invoiced. Similarly remission of duty is also allowed on the loss of goods

JINDAL STEEL & POWER LTD Vs. COMMISSIONER OF CENTRAL EXCISE, RAIPUR 2018 (359) E.L.T. 610 (Tri. -Del)

Facts of the case: The appellant is engaged in the manufacture of iron and steel and clearing the same for construction purpose on payment of duty. The appellant has found that they have paid excess duty due to variation in price and therefore filed a refund claim with supporting documents.

Dispute: The department rejected the refund claim on the ground that the appellant has not opted for provisional assessment during the impugned order.

Judgment: The appellant has been discharged the burden of unjust enrichment and therefore they are entitled for refund claim. As the appellant has approached the jurisdictional Asstt. Commissioner and the same has been rejected, the question of opting provisional assessment during the impugned period does not arise.

UNITED CHLORO PARAFFINS (P) LTD Vs. COMMISSIONER OF S.T.- II, KOLKATA 2018(10) G.S.T.L. 501 (Tri.- Kolkata)

Facts of the case: The appellant has filed an appeal against Order-in-Appeal on which the deposit is paid from the CENVAT account.

Dispute: The department alleged that the pre-deposit has to be made in cash.

Judgment: as per CESTAT registry of Kolkata, payments made from CENVAT Credit account are considered as due payments for considering as deposit. Accordingly, appeal filed by the appellant are allowed by way of remand and to decide the appeal on merits

REKHA N. PUBLICITY Vs. COMMISSIONER OF CENTAL EXCISE, JAIPUR 2018 (10) G.S.T.L. 476 (Tri. - Del)

Facts of the case: The appellant is engaged in the activity of providing advertising services like painting of different brands of tea on the walls of houses, where the appellant collects certain amount from the clients and pays the same.

Dispute: The department alleged that the charges received by the appellant should be considered for the computation of Service tax.

Judgment: The appeal is allowed in favour of the appellant as the charges received towards the rent were paid to the house owners and the appellant never gained anything out of such rent.

UNION OF INDIA Vs. INTERCONTINENTAL CONSULTANTS AND TECHNOCRAFTS PVT. LTD 2018 (10) G.S.T.L. 401 (S.C.)

Facts of the case: The assesses are rendering services like consulting engineering services, Share transfer agency services, Customs house agent services covered under the head "clearing and forwarding agent" and site formation ,clearances, excavation, earth moving and demolition services and service tax is been paid on the same. While rendering the aforesaid services they are also been getting reimbursement on certain services rendered by them which are not included in 'Gross Value' and service tax is not paid on the same

Dispute: The department alleged that the value of the said reimbursable activities is also to be included as a part of service provided.

Judgment: The appeal was dismissed under the fact that all expenditure or cost incurred by the service provider in the course of providing the taxable services shall be treated as consideration for the taxable services and shall be included in the value for the purpose of charging service tax.

CLASSIC ENTERPRISES LTD Vs. COMMISSIONER OF C.EX. & S.T., ALWAR 2018 (10) G.S.T.L. 463 (Tri.- Del)

Facts of the case: The appellant has a factory where advance license was procured for receiving duty free goods for the manufacture of export goods, later a fire accident occurred due to which the appellant started producing in another factory. The appellant also intimated the same to DGFT.

Dispute: The department alleged that the appellant has received goods at another premises and therefore duty to be calculated.

Judgment: DGFT has issued a revalidated license in the name of the new unit and the transaction entry in the statutory report of export is not denied as per the audit report. Therefore the appellant is entitled to get the benefit.

About us

D Arvind & Associates LLP (DAA) is a Chartered Accountant Firm founded in 2009 by D Arvind, an Ex-partner of KPMG with a vision to provide to create innovative and insightful solutions to resolve Complex Business & Tax Challenges.

D Arvind, apart from being a Chartered Accountant is also a Company Secretary & Arbitrator, having 30 Years of Experience in Large Industries as Tax & Legal Head and Partner in Big 4 Consulting Firms. This puts him in a unique position to see Complex tax Issues from Business & Solutions perspective.

DAA is a boutique tax firm specializing in GST, Customs, Foreign Trade Policy including representation to Government, Appearance before Tax Authorities & Tribunal apart from practicing in Internal Audit and Corporate Governance.

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