

Case Laws

VERISIGN SERVICES INDIA PVT LTD. Vs. COMMISSIONER OF S.T., BANGALORE-I 2018 (12) G.S.T.L. 161 (Tri. - Bang.)

Facts of the case : The appellant is an 100% EOU providing services outside India and are availing certain services namely renting of immovable property services for parking space and supply of tangible goods for cafeteria.

Dispute : The department alleged that the appellant are not entitled to claim refund as those services does not constitute "Input service".

Judgment : The appellants are entitled for refund of Service Tax paid on such services as the parking space is necessary for providing output services and similarly the cafeteria services provided to the employees increases their efficiency.

LEA INTERNATIONAL LTD. Vs. COMMISSIONER OF SERVICE TAX, DELHI 2018 (12) G.S.T.L. 166 (Tri.- Delhi)

Facts of the case: The appellant is engaged in providing engineering consultancy services and technical assistance in various road related projects.

Dispute : The authority held that the appellants are liable to service tax along with penalties, as certain expenditure shown in the books of accounts under the category of consultancy fee and technical fee are reflected in LIL, Canada and similarly the staff and officers deputed under the category of manpower supply services are to be taxed under reverse charge mechanism.

Judgment : The appeal is allowed as the expenditure which is towards income which was accrued to LIL Canada but for which the tax has been paid by the appellant and hence cannot be taxed under reverse charge basis as it would lead to double taxation and deputing employee for executing work cannot be considered as manpower supply service.

PANASONIC ENERGY INDIA CO. LTD. Vs. COMMISSIONER OF C. EX., VADODARA - II 2018 (12) G.S.T.L.

Facts of the case: The appellant has deposited the pre-deposit amount with interest as per the direction of the Hon'ble Supreme Court against an appeal which is now refundable.

Dispute: The department alleged that the appellant are not entitled to claim refund against the interest on interest on the original refund amount.

Judgment: The impugned order is set aside and the appeal is allowed as the interest is merged with the principle amount, therefore the appellant is entitles to refund of interest on interest as well.

ITC LTD Vs. COMMISSIONER OF CENTRAL EXCISE, KOLKATA - VI 2018 (12) G.S.T.L. 182 (Tri.- Kolkata)

Facts of the case: The appellant is availing services such as club or association services and health and fitness services and have been taking Cenvat credit on service tax paid on such services..

Dispute: The adjudicating authority has denied the CENVAT Credit on the ground that these services are not confining to the definition of "input service".

Judgment: The appeal is allowed, since the membership obtained and the health and fitness center opened was exclusively for the benefit of its director and employees. This helped in accomplishing its business purpose and hence the CENVAT Credit is available to the appellant.

INTERNATIONAL SEAPORT DREDGING LTD. Vs. COMMISSIONER OF S.T., CHENNAI 2018 (12) G.S.T.L. 185 (Tri.- Chennai)

Facts of the case: The appellants are engaged in Dredging, reclamation of seaports and allied activities.

Dispute: The department alleged that the appellant is liable to service tax on hiring of dredgers/vessels from the foreign company under the category of 'Supply of tangible goods services' on reverse charge basis and the inclusion of customs duty, entry tax on the import of material paid by the clients on actual basis.

Judgment: The impugned order is not legally sustainable and the same is set aside as there is transfer of asset along with complete right of possession and transfer of control and hence is a deemed sale not liable to Service Tax. Custom duty, entry tax, etc. are not consideration for actual taxable service and are hence not includible.

COMMISSIONER OF SERVICE TAX, MUMBAI Vs. IDEAL ROAD BUILDERS PVT. LTD. 2018 (12) G.S.T.L. 192 (Tri. - Mumbai)

Facts of the case: The respondent has purchased the right for the collection of toll from National Highway Authority of India under a tripartite agreement in an auction.

Dispute : The department alleged that the respondent is liable to service tax under the category 'Business Auxiliary Services' for the difference between toll collected and amount paid to NHAI.

Judgment : The appeal filed by the revenue department is dismissed as, they do not get any commission on account of collection of toll and therefore there is no deduction of tax at source, thus the difference between the toll collection and bid amount paid in no way can be termed as an activity of Business Auxiliary Service. Moreover the respondent is not acting on behalf of NHAI as NHAI is not concerned about the collections made by the respondent and is acting on its own account. Hence Service Tax shall not be applicable.

HARISH CHANDAR Vs. COMMISSIONER OF CUSTOMS (PREVENTIVE), NEW DELHI 2018 (360) E.L.T. 567 (Tri. - Del.)

Facts of the case: The appellant herein has imported motor cycle batteries and filed the bills of entry before the customs authority.

Dispute: The department has alleged that the appellant has undervalued the imported goods.

Judgment: The appeal is set aside as there is no specific data available in NIDB report that the goods were identical in nature and quality as mentioned in the data and there was no corroborative evidence to show suppression of facts on the assessee's part in defrauding government revenue.

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.

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