

Case Laws

KUMAR GANDHARV Vs. KRBL LTD. (2018) 93 TAXMANN.COM 149 (NAA)

Facts of the case : The applicant stated that the benefit of reduction in the rate of tax on 'India Gate Basmati Rice' had not passed on to the consumer as MRP of rice has increased.

Dispute : Violation of Anti-Profiterring rules of CGST had been done by increasing the price of 'India Gate Basmati Rice'.

Judgment : KRBL successfully proves that it hadn't violated GST anti-profiterring rules as the company proves to the satisfaction of the department that price of the product did not depend solely on the tax structure and there were other market driven forces which affected the prices of the product.

NARENDRA PLASTIC (P.) LTD. Vs. UNION OF INDIA (2017) 85 TAXMANN.COM 153 (Delhi)

Facts of the case : The assessee-company was engaged in the business of manufacturing and exporting plastic products and the assessee had paid IGST out of its sources for import causing a working capital blockage.

Dispute : The assessee had filed a writ petition seeking to avail the credit outstanding in respect of advance authorization issued.

Judgment : The high court held that under foreign trade policy, the advance authorization license was issued to a manufacturer-exporter or merchant exporter having past export dealings in at least two preceding financial years. Therefore HC allows exporters to import without payment of IGST to extent of advance authorization license.

CCE Vs. DRISH SHOES LTD. (2018) 90 TAZMANN.COM 393 (SC)

Facts of the case : The assessee was engaged in the manufacture of finished leather, which is wholly exempt from payment of duty and claimed refund on the CENVAT credit of duty paid on inputs purchased.

Dispute : The department rejected the refund claim of the assessee

Judgment : The supreme Court held that a manufacturer, who exported the final products which were exempted from duty, could claim the refund of CENVAT Credit paid on inputs and input services in the manufacture of excisable products.

MOHAN GOLDWATER BREWERIES LTD. Vs. CCE & ST (2017) 83 TAXMANN.COM 132 (ALLAHABAD – CESTAT)

Facts of the case : The assessee had entered into an agreement with UBL for providing its facility of plant and machinery infrastructure on payment of lease rent or manufacture of finished goods.

Dispute : The department held that service tax was leviable on lease rent received under the category of 'Renting of Immovable property'.

Judgment : The tribunal held that there was no renting of land and building along with its fixtures. The assessee had only let out plant and machinery and therefore the manufacturing facility would not qualify under the definition of 'Renting of immovable property services'.

GKB Lens (P.) Ltd., In Re : AUTHORITY FOR ADVANCE RULINGS, WEST BENGAL,

Facts of the case : The Applicant is stated to be a Re-seller and Importer and has transferred goods from the head office to its branches in other states.

Dispute : Whether goods supplied to its branches in other states can be valued in terms of the cost price instead of 90% of MRP.

Judgment : Where applicant is a re-seller and importer and has transferred goods from Head Office to its branches in other States, applicant has option of not supplying goods to its branches and it can be valued in terms of the Cost Price instead of 90% of MRP as required under the First Proviso of same

JAKAP METIND (P.) LTD. Vs. CC & CE (2017) 83 TAXMANN.COM 153 (Mumbai – CESTAT)

Facts of the case : The assessee is 100% EOU engaged in the manufacture of brass parts of machine. The burning loss during conversion of brass scrap to brass rod is 15% and whereas the Standard Input Output Norms (SION) is 5%-7.5%.

Dispute : The department confirmed duty on the difference of burning loss and permissible burning loss.

Judgment : The tribunal held that when the physical process was carried out, the input output norms under SION need not always be the same as actual. Therefore SION couldn't be applied to determine physical process of goods.

ABL INFRASTRUCTURE (P.) LTD. Vs. CCE, C & ST (2018) 93 TAXMANN.COM 50 (Mumbai – CESTAT)

Facts of the case : The assessee was engaged in providing works contract services and has opted for discharging service tax liability on the works contract services under the works contract rules, 2007. It contended that the value of material supplied by the service recipient free of cost and would not be included in the gross value of works contract.

Dispute : The department held that the value of material supplied free should be added in the gross value.

Judgment : The tribunal held that the value of material supplied free of cost by service recipient should be included in gross value of works contract

S.R. ENTERPRISES Vs. CCE (2018) 91 TAXMANN.COM 369 (NEW DELHI – CESTAT)

Facts of the case : The assessee is engaged in the manufactured of casting items as per the design supplied by the customer and the design provided by customer was not included in the value of goods on the ground that it had no value.

Dispute : The department held that the valuations rules shall apply to the free supply of design.

Judgment : The tribunal held that the value of the design will have to be added to the value of the goods as per the valuation rules. In the instant case, the value of design supplied by customer to the manufacturer had no market value. Therefore, the 'nil' value will be added to the assessable value and hence the impugned order is set aside.

SWITCHING AVO ELECTRO POWER LTD., In Re (2018) 92 TAXMANN.COM 223 (AAR-WEST BENGAL)

Facts of the case : The assessee supplies UPS along with the battery

Dispute : The assessee contended that such supplies could be treated as Composite supply.

Judgment : The authority for advance ruling held that the supply of UPS and battery is to be considered as Mixed Supply as they are two different and independent items which are supplied under a single contract at a combined single price i.e., not naturally bundled.

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

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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