



**This alert summaries the AAR Rulings under the GST Regime, rulings of courts and tribunals under the erstwhile Indirect Tax Regime along with an expected amendment in IGST law:**

- Amount retained by hospital from fees charged by contractual doctors not taxable as fee for support services : Sir Ganga Ram Hospital Vs. CCE (CESTAT - New Delhi)
- Assessee entitled to deduction of all trade discounts for computing taxable turnover : Maya Appliances (P.) Ltd. Vs. Addl. CCT (SC)
- Material handling & shifting couldn't be taxable as 'Manpower recruitment & supply agency service' : Shailu Traders Vs. CCE, Indore (CESTAT - New Delhi)
- Passing on bonus by Del Credere Agent (DCA) to recipient is not a supply as DCA works as pure agent : K.K. Polymers (Prop. Advantage Agency (P.) Ltd (AAR- Raj)
- No GST on supply of goods by dealer through its UK based principal directly to vessel at Singapore : Enmarol Petroleum India (P.) Ltd. (AAR - Maharashtra)
- Transportation services without consignment notes not to be considered as GTA services : Northern coal field ltd. Vs. CCE (CESTAT- All.)
- Competent Authority can't invoke bank guarantee till assessee exhausts its statutory remedy : Safa Mill Stores Vs. Assistant State Tax Officer (HC - Kerala)
- GST leviable on transportation service if such service is integral component of composite supply : Emco Ltd., (AAR - Maharashtra)

### **SIR GANGA RAM HOSPITAL Vs. CCE (2018) 95 Taxmann.com 226 (New Delhi – CESTAT)**

- The assessee, a hospital, had engaged doctors on contractual basis and has provided space to the doctors in the hospital with required facilities to attend patients.
- The professional fee was paid to doctors in terms of contracts, was computed on the basis of amount received by the assessee from the patients
- The department held that the collections charges / facilitation fees retained by the assessee was liable to service tax under the category of 'Support Service' on the ground that such fees were retained due to infrastructural support provided.
- The tribunal held that the share of clinical establishments was not liable to service tax under the category of 'support service' on the mere fact that they had supported the commerce or business of doctors by providing infrastructural support.

### **MAYA APPLIANCES (P.) Ltd. Vs. Addl. CCT (2018) 90 Taxmann.com 317**

- The assessee had allowed quarterly discount to its dealers on the basis of his sales turnover in every quarter of the financial year.
- It gave the discount to the dealer in the sales invoice raised in the subsequent quarter and claimed the deduction of discount from the total turnover for calculating the taxable turnover.
- The department disallowed the quarterly discount given by the assessee to its dealer on the ground that the discount was not relatable to the sales effected by the relevant tax invoices.
- The Supreme Court held that the discount could be claimed as deduction when such discounts were made in the regular trade practice.
- Therefore, all trade discounts were permissible deductions.

### **SHAILU TRADERS Vs. CCE, INDORE (2018) 92 Taxmann.com 381 ( New Delhi)**

- The assessee had entered into agreement with a client for undertaking the activities of material handling and shifting within the premises of such client.
- The department held that the services provided by the assessee would fall under the category of 'Manpower recruitment or supply agency service'.
- The tribunal held that the employees deployed for executing the assigned task were under the control and supervision of the assessee.
- The assessee was not connected with any recruitment or supply of manpower to the client, therefore such service would not fall under the category of 'Manpower recruitment or Supply agency service'

### **K.K. Polymers (Prop. Advantage Agency (P.) Ltd., (2018)100 Taxmann.com 17 (AAR-Raj)**

- The applicant is a Del Credere Agent (DCA) of supplier of goods.
- It takes order from the customers and places these orders with the principal and is responsible to collect payment from customers
- For this purpose, DCA gets the commission from principal if payment is received by such principal from DCA or directly from customers within 10days, then early payment incentive would be given to DCA or customers, as the case may be.
- And when the payment is made by the DCA to principal on behalf of customers within 10days, then DCA gets additional bonus as incentive.
- The applicant filed an application for Advance Ruling to determine whether amount passed on to the customer by DCA would amount to supply?
- The Authority for Advance Ruling held that the additional discount relates to the supply which has already been made by the principal. Therefore, the passing on such bonus to the customers by DCA is in the nature of Pure Agent.
- Hence, passing of such additional bonus is not a supply.

### **Enmarol Petroleum India (P.) Ltd. [2018] 100 taxmann.com 124 (AAR - MAHARASHTRA)**

- Applicant engaged in the business of the trading in marine fuel additives is an authorized dealer of UK company Innospec selling the marine fuel additive chemicals of Innospec to shipping lines in and outside India.
- An Indian Shipping Company 'AZA Shipping', placed a purchase order on the applicant for fuel additive for vessel M T CHAFA and was to be delivered at Singapore Port.
- The applicant placed purchase order on the Innospec UK which delivered the goods through its Singapore Logistics Partner to the vessel MT Chafa at Singapore Port.
- The applicant has sought an advance ruling, that whether the supply of goods to a customer located outside India to a customer within India without physically bringing the good to India is liable to pay GST and whether the out & out supplies in the present case will be considered as export supplies or exempted supplies.
- It's held that the applicant would not be liable to pay GST on supply of goods located outside India to customers within India without physically bringing goods to India.
- Further, the 'out & out' supplies would be "non-taxable supply" which means a supply of goods or services or both which is not leviable to tax under CGST or IGST Act.

### **Northern coal field ltd. Vs. CCE (2018) 92 Taxmann.com 219 (CESTAT – All.)**

- The assessee is engaged with several transporters for transport of coal from coal face to coal stock yards.
- The transporters had not generated the consignment notes and payments were made only on the basis of particulars generated during weighment.
- The department held that the said services received by the assessee would fall under the category of 'Goods transport agency services'.
- The tribunal held that the definition of 'Goods transport agency services' clearly specifies the person who provides the service in relation to transport of goods and issues a consignment note.
- Therefore, such services could not be classified as 'Goods transport agency services' as no consignment notes were issued by the transporters to the assessee.

**Safa Mill Stores Vs. Assistant State Tax Officer, Karukutty [2018] 99 taxmann.com 308 (Kerala – HC)**

- The petitioner, a partnership firm, transported certain goods ostensibly from Bombay to Perumbavoor.
- But when the petitioner tried to unload the goods at Malamury, Perumbavoor, the authorities checked the documents carried along with the goods and found that they did not correctly reflect the destination point.
- Suspecting tax evasion, the authorities detained the goods and demanded penalty as well as tax.
- Further the assessee had furnished bank guarantee for tax and penalty imposed and had goods released
- The High Court held that, where Competent Authority had detained goods of assessee under transport and demanded tax as well as penalty and assessee furnished bank guarantee for tax and penalty imposed and had goods released, Competent Authority was restrained from invoking bank guarantee till assessee exhausted statutory remedy.

**Emco Ltd., [2018] 100 taxmann.com 225 (AAR - MAHARASHTRA)**

- The applicant was engaged in business of manufacturing and selling various products and solutions as required in Power Transmission and Distribution sector .
- The applicant, as part of its activities had entered into two contracts with Power Grid Corporation of India Limited (PGCIL), one for supply of towers and transmission line products and another contract was entered into with PGCIL in respect of various services.
- The applicant had filed instant application for advance ruling to determine as to whether GST was leviable on such freight charges being recovered from PGCIL and if so at what rate.
- Even though, two contracts were entered into between parties but in nutshell it was only one contract. The subject contracts are for commissioning of immovable property wherein transfer of property in goods is involved in execution of said contracts.
- The impugned supply of transportation service is not supply of stand alone service but integral component of composite supply in the nature of works contract.
- Therefore, GST is leviable on the value including the transportation charges levied by the applicant on PGCIL at 18 per cent.

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