



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:

- Transportation of goods after loading into trucks couldn't be classified as 'Cargo Handling Services' : Swayam Shipping Services (P.) Ltd. Vs. CCE & ST (Ahd. – CESTAT)
- Supply of UPS & battery if supplied under single contract at combined price is Mixed supply : Switching Avo Electro Power Ltd. (West Bengal – AAR)
- Value of certain reimbursable activities included as a part of service : Union Of India Vs. Intercontinental Consultants And Technocrafts Pvt. Ltd (S.C)
- CENVAT Credit couldn't be denied as capital assets were used at other premises : CCE Vs. Bharath Sanchar Nigam Ltd (Mad. – HC)
- Hotel accommodation services to employees & guests of SEZ units, outside SEZ are taxable as 'Inter-State' services : Gogte Infrastructure Development Corporation Ltd (Karnataka – AAR)
- ITC of GST paid on freight for transportation of non-taxable goods to another unit not available : Indian Oil Corporation Ltd., (AAR – West Bengal)
- Conveyance details in Part-B of the E-way bill not required : SBGC Logistics Vs. State Of UP (HC – Allahabad)
- Assessee entitled to rebate of duty paid on export of capital good by reversing ITC : Union Of India Vs. Sterling Industries (I) Ltd. (H.C - Bom.)

SWAYAM SHIPPING SERVICES (P.) Ltd. Vs. CCE & ST (2018) 93 taxmann.com 259 (Ahd. – CESTAT)

- The assessee was involved in loading and unloading of timber logs into the truck and transporting the same to the location of the importer.
- It was issuing consignment note for transportation and discharged its duty under the category of 'Goods transport agency service'.
- The department held that the services provided by the assessee would fall under the category of 'Cargo handling service'.
- The tribunal held that the ancillary activity undertaken with main contract of the transportation would not change the activity of the service provider.
- Therefore, the services provided by the assessee would not fall under the category of 'Cargo handling service'.

SWITCHING AVO ELECTRO POWER LTD., (2018) 92 Taxmann.com 223 (AAR-WEST BENGAL)

- The assessee supplies UPS along with the battery
- The assessee filed an application for Advance Ruling on the classification of the supply when it is supplies UPS along with the battery.
- The assessee supplies UPS along with the battery.
- 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.

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

- 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, earthmoving 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.
- The department alleged that the value of the said reimbursable activities is also to be included as a part of service provided.
- The Supreme court dismissed the appeal 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.

CCE Vs. BHARATH SANCHAR NIGAM Ltd. (2017) 84 taxmann.com 13 (Mad.)

- The assessee is in the business of providing telephone services throughout India and it has created Secondary Switching Areas in various parts of the country.
- The capital equipment, which was received by a zone SSA was used for provisioning of telephone services by other SSA's and claimed the Cenvat Credit on such equipment.
- The department issued a notice and raised demand along with interest and penalty.
- The High Court held that the assessee could not be denied Cenvat credit as there consist nothing in rule 3(1)(i) which suggested that Cenvat Credit would be available to an output service provider only if, capital goods were used in the very same premise

GOGTE INFRASTRUCTURE DEVELOPMENT CORPORATION LTD., In Re (2018) 93 Taxmann.com 201 (AAR – Kar.)

- The applicant provides hotel accommodation and restaurant services to the employees and guests of SEZ units and were charging GST at applicable rates.
- The SEZ units contended that the services has been supplied to SEZ and hence the rate of GST would be NIL and therefore filed an application seeking advance ruling on ‘whether such services would be treated as supply of goods & services to SEZ units or not.
- The authority of Advance ruling held that the place of supply of the services by way of lodging shall be the location of immovable property and incase of restaurant and catering services shall be the location where the services are actually performed.
- Hence the services provided to the employees and guests of SEZ units could not be treated as supply of goods and services to SEZ units.

Indian Oil Corporation Ltd., [2018] 97 taxmann.com 384 (AAR WEST BENGAL)

- Applicant exports High Speed Diesel (HSD), Aviation Turbine Fuel (ATF) and other refined petroleum products to Nepal under terms and conditions laid down in an agreement between Indian Oil Corporation and Nepal Oil Corporation.
- It has been paying GST on input service of Railway Freight for above transportation.
- It is seeking advance ruling on whether GST paid on railway freight for transportation of goods from its Haldia Refinery to its export warehouse at Raxaul can be availed as Input Tax Credit under GST Act.
- It is observed that transfer of ATF and other non-taxable supplies from Refinery to Depot are not export of as per IGST Act, but exempted supplies from West Bengal Unit to Bihar Unit of applicant, who are distinct persons in terms of GST Act.
- Therefore, not applicable and, thus, applicant cannot claim credit of GST paid on input services like railway freight on ATF and other non-taxable supplies from West Bengal to his Bihar Unit.

SBGC LOGISTICS Vs. STATE OF UP 2018 TIOL 106 (HC – Allahabad)

- The assessee is engaged in the business of transportation of goods.
- For the purpose of transportation, the consignor, after duly filing in the requisite information, had downloaded the e-way bill. However, in the absence of vehicle details, part B of the e-way bill was not filed.
- The goods were first transported from the place of business of the consignor to the godown of the assessee whose distance is less than 50km.
- The vehicle was intercepted and the goods were detained on the ground that the goods were not accompanied with Part B of the E-way bill.
- The court held that the seizure proceedings carried out was illegal and carried out without jurisdiction.
- Therefore, both the seized goods and vehicle were directed to be released as goods were transported within the state upto a distance of 50km..

UNION OF INDIA Vs. STERLING INDUSTRIES (I) Ltd. (2017) 87 Taxmann.com 201 (H.C - Bom.)

- The assessee imported used aluminum casting machines as capital goods.
- It availed credit of duty on those capital goods that were exported on payment of duty by reversing the input tax credit availed.
- Subsequently, the assessee claimed rebate of duty paid on export of capital goods.
- The department rejected the rebate claim of the assessee.
- The High Court held that the duty paid by debiting the credit entry, rebate claim was allowable and it was not open to the department authorities to argue to the contrary.
- Therefore, the assessee was entitled to rebate of duty paid on export of capital goods by reversing the input tax credit

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