



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:

- Assessee entitled to deduction of all trade discounts for computing taxable turnover : Maya Appliances (P.) Ltd. Vs. Addl. CCT (SC)
- Ancillary services related to transportation of goods were taxable under 'cargo handling service' : Diamond Shipping Agencies (P.) Ltd. Vs. CCE (Chennai – CESTAT)
- Goods manufactured by job worker liable to excise duty unless exempted by Government: Thermax Babcock & Wilcox Ltd. Vs. CCE (Mumbai – CESTAT)
- Notice demanding ST was invalid if department failed to give breakup of amount taxable under different heads : Dharambir Singh and Company Vs. CC,CE & ST (Allahabad. – CESTAT)
- Determination of place of supply is out of purview of AAR : Utility Powertech Ltd., (Chhattisgarh – AAR)
- Assessee not liable to pay interest for delayed payment of duty on issuing supplementary invoice : Indo Alusys Industries Ltd. Vs. CCE (New Delhi – CESTAT)
- Transportation services without consignment note to be considered as GTA service : Northern Coal Field Ltd., Vs. CCE (All. CESTAT)
- No contravention of anti-profiteering rules as they have passed on benefit of reduced rate : Dinesh Mohan Bhardwaj Vs. Vrandavaneshwree Automotive (P.) Ltd. (NAA)

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.

DIAMOND SHIPPING AGENCIES (P.) Ltd. Vs. CCE (2017) 87 Taxmann.com 177

- The assessee was registered under customs house agency service and was engaged to transport break-bulk cargo from one port to another.
- In course of assessment, the department held that the assessee was providing cargo handling service as it was involved in transportation, storage, security, loading, unloading at yard.
- The Tribunal held that the essential character of activity carried out by assessee was only transportation of goods.
- Mere fact that it also performed ancillary activities of loading, unloading of goods, etc., same would not be classified under category of 'Cargo Handling Service'.

THERMAX BABCOCK & WILCOX Ltd. Vs. CCE (2018) 90 Taxmann.com 60

- The assessee manufactured the intermediate goods on job work basis for principal manufacturer and supplied such goods to him.
- The principal manufacturer cleared the final product without payment of duty availing exemption under a Notification No. 214/86 CE
- The department held that the job worker was liable to pay excise duty on intermediate goods manufactured by it.
- The Tribunal held that the principal manufacturer had neither cleared the said goods on payment of duty nor used such goods in the manufacture of dutiable final products.
- Therefore, the assessee being manufacturer of excisable goods was liable to pay on the intermediate goods manufactured by him on job work basis.

DHARAMBIR SINGH AND COMPANY Vs. CC,CE&ST (2018) 90 Taxmann.com 417

- The assessee provided services under different heads, namely, 'site formation & clearance services' and 'supply of tangible goods services' without getting registered under the service tax law.
- The Department issued a Show Cause Notice on the assessee demanding service tax on the amount of gross receipts without giving any breakup of amount taxable under the different heads.
- The assessee had filed an appeal before the tribunal.
- The Tribunal held that the Show Cause Notice was vague and unsustainable as it failed to give the breakup under the different heads of service.
- Therefore, the impugned order was to be set aside.

UTILITY POWERTECH LTD., (2018) 95 TAXMANN.COM 88 (AAR – Chhattisgarh)

- The assessee is registered in the state of Chhattisgarh and received a contract for supply of manpower from NTPC BHEL Power Project Pvt. Ltd. (NBPPL), Andhra Pradesh.
- It procured and deputed the manpower in the state of Andhra Pradesh
- It filed an application for Advance ruling on the issue whether it is required to charge IGST or CGST and SGST and if IGST is charged, will the credit of IGST be available to NBPPL against output tax liability.
- The Authority for advance ruling, Chhattisgarh is not the proper authority to pronounce the ruling regarding the availability of ITC to a firm outside the state of Chhattisgarh.
- Therefore, it is held that the determination of place of supply has been kept out of the purview of AAR.

INDO ALUSYS INDUSTRIES Ltd. Vs. CCE (2018) 94 Taxmann.com 273 (New Delhi – CESTAT)

- The assessee, a manufacturer, had sold the goods and paid duty on the value of such goods.
- Subsequently, it raised the supplementary invoice due to price variation and paid the duty and it did not pay interest on delayed payment of duty on account of supplementary invoice.
- The department held that the assessee was liable to pay interest on delayed payment of duty on account of supplementary invoice.
- The assessee filed an appeal in the tribunal
- The Tribunal held that both the parties were not aware of escalated price at the time of removal of goods.
- Therefore, the supplementary invoice couldn't be a ground to charge interest on delayed payment of duty.

NORTHERN COAL FIELD Ltd., Vs. CCE (2018) 92 Taxmann.com 219 (All. – CESTAT)

- The assessee engaged 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 'GTA' 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' service as no consignment notes were issued by the transporters to the assessee.

DINESH MOHAN BHARDWAJ Vs. VRANDAVANESHWREE AUTOMOTIVE (P.) Ltd. (2018) 92 taxmann.com 360 (NAA)

- The assessee entered into a contract for supply of Honda Car through an authorized dealer of M/s. Honda Car India Ltd for Rs. 9,13,300, such amount included the excise duty @35%, CST @2% and UP VAT @14% i.e., 51%
- The assessee has taken delivery of the car in the GST regime by paying Rs. 8,98,750.
- The assessee alleged that the dealer had not passed the benefit of reduced rate of tax which amounted to profiteering.
- The Director General of Safeguard found that the total pre-GST tax incidence was 31.254% instead of 51%.
- The National Anti-profiteering Authority held that the benefit of Rs.10,550 on account of reduction of tax by 2% (i.e., 31.254% to 29%) has already passed on to the assessee.
- Therefore, no additional benefit on account of ITC was required to be paid by the car dealer and thus the appeal was rejected.

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