



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:

- Mere loading and unloading does not confirm the activity to fall under the category of 'cargo handling service'
: Swayam Shipping Services (P.) Ltd. Vs. CCE & ST (CESTAT – Ahmedabad)
- Procurement of purchase orders on commission basis couldn't fall under 'clearing & forwarding agent service'
: CCE Vs. Tehri Pulp & Paper Ltd. (H.C – All.)
- Commission received on ticket sales exempted from Service Tax : Arafaath Travels (P.) Ltd. Vs. CST
(CESTAT - Chennai)
- Services rendered by one govt. authority to other govt. authority is exempt from GST : It Development Agency
(ITDA), (AAR - Uttarakhand)
- Charges collected for activities other than CHA are not liable under Service Tax : Bax Global India Ltd. Vs.
Commissioner Of Service Tax (CESTAT - Bangalore)
- Service tax liability on hiring of dredges/vessels from the foreign company : International Seaport Dredging
Ltd. Vs. Commissioner Of S.T., Chennai (CESTAT - Chennai)
- Taxability on recovery of food expenses from employees for the canteen services provided by the company :
CALTECH POLYMERS PVT. LTD. (A.A.R. – GST)
- Warehousing charges paid under protest can't be refunded : Principal CC. Vs. Suren International Ltd. (H.C. -
Delhi)

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

- 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'.

CCE Vs. TEHRI PULP & PAPER Ltd. (2017) 88 taxmann.com 280

- The assessee has entered into a contract for procurement of purchase orders on commission basis.
- Also includes dispatch of goods, pursuing the customers regarding early payment, raising debit notes for payment of commission and supervising dispatches.
- The department held that the contract was of 'clearing and forwarding agent services' under service tax law.
- The High court held that such activities were only ancillary or supplementary to the activity of commission agency.
- Therefore, such services would not fall under the category of 'clearing and forwarding agent service' as alleged by revenue.

ARAFATH TRAVELS (P.) Ltd. Vs. CST (2017) 88 Taxmann.com 207 (Chennai – CESTAT)

- The assessee is a general sales agent (GSA) for Saudi Arabian Airline and was registered under the category of 'Air Travel Agent Service'.
- In terms of the agreement made between the assessee and Airline, the assessee was entitled to receive overriding commission at a fixed percentage.
- The department held that the overriding commission received by the assessee was liable to service tax .
- The tribunal held that the service rendered by the assessee to Saudi Arabian Airline was 'export of business auxiliary services'.
- Therefore such service is exempt from service tax.

IT DEVELOPMENT AGENCY (ITDA), (2018) 94 taxmann.com 329 (AAR)

- The assessee is an Information Technology development Agency (ITDA) of Uttarakhand Govt.,
- An application was filed on the issue 'whether the goods or services received by it from Indian Institutes of Technology (IIT) are exempt from GST
- The Authority for Advance Ruling held that the local authority means any authority authorized by any state Govt and thus, ITDA is a local authority under the control of Uttarakhand Govt.
- Further, the IIT's also falls under the definition of Govt.
- Therefore, the services are provided by one Govt. authority to other Govt. authority and hence, such services would be exempt from GST

BAX GLOBAL INDIA LTD. Vs. COMMISSIONER OF SERVICE TAX

- The assessee is a customs house agent and discharged service tax liability on the same.
- The assessee had also undertaken work as freight forwarders and other activities related thereto and collected charges for that, viz., air freight, cartage revenue, MSIL/JWG charges, due carrier, documentation charges, etc.
- In all these cases, services were rendered by third party and assessee initially made payment for these activities on behalf of clients and later collected amount from them.
- The department demanded service tax on all such charges collected by the assessee.
- Since charges collected by assessee for activities undertaken by it were not related to activity of CHA, therefore assessee was not liable to pay service tax.

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

- The appellant are engaged in Dredging, reclamation of seaports and allied activities.
- 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.
- 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.

CALTECH POLYMERS PVT. LTD. 2018 (12) G.S.T.L. 350 (A.A.R. – GST)

- The applicant is a Private Limited Company engaged in the manufacture and sale of footwear and they are providing canteen services exclusively for their employee's.
- They are incurring the canteen running services and are recovering the same from its employees without any profit margin.
- An application was filed for advance ruling on whether recovery of food expenses from employees for the canteen services provided by the company falls under the definition of outward supplies and is taxable under Goods & Service Tax Act.
- The AAR held that, as there is no profit as claimed by the applicant on the supply of food to its employees, there is "supply" and since the applicant recovers the cost, there is consideration too.
- Therefore it is hereby clarified that recovery of food expenses from the employees falls under the definition of 'outward supply' and taxable as a supply of service under GST.

PRINCIPAL CC. Vs. SUREN INTERNATIONAL Ltd. (2017) 84 Taxmann.com 192 (Delhi)

- The department seized the goods of the assessee, an importer
- The assessee had kept such goods in warehouse of central warehousing and thereafter it required assessee to deposit warehousing charges.
- The assessee paid said charges under protest and made an application before department seeking refund of warehousing charges.
- The tribunal allowed the refund of warehousing charges and the revenue filed an appeal in the High Court.
- The High Court held that there was no provision in the Customs Act or any other law which contemplated refund of warehousing charges.
- Therefore the tribunal was not justified in granting relief to the assessee.

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DAA | CHENNAI

#13/L, 3rd Floor, Bhagawathi Palace, J Block,
3rd Avenue, Anna Nagar (East),
Chennai 600 102

DAA | BANGALORE

#46/3, Lakshmi Nivas, 1st Floor, 6th Main Road,
Opp. Adhyatma Prakasha Karyalaya, Tata Silk Farm,
Bangalore 560 028

DAA | HYDERABAD

#311, H.No 1-7-79/A & B, Legend Crystal,
Above Indian Overseas Bank, Paradise,
Secunderabad 500 003

DAA | NASIK

Flat No.1, Rajkamal Residency, Plot No.83,
Opp. Burkule Lawns, Shravan Sector D, CIDCO
Nasik, MH 422 009

DAA | MUMBAI

#306-308, Bonanza, Sahar Plaza,
Next to Kohinoor Hotel, J.B. Nagar, Andheri (E),
Mumbai 400 059

DAA | COIMBATORE

#466, CPC Corporate Hub, 3rd Floor,
Thadagam Road, RS Puram,
Coimbatore 641 001

DAA | PUNE

#91 Spring Board, Sky Loft, Creaticity,
Opp. Golf Course, Off Airport Road, Shastrinagar,
Yerwada, Pune, MH 411 006

DAA | DELHI

#16, Nehru Apartment, Outer Ring Road, Kalkaji,
New Delhi, 110 019

+91 98407 95565 / +91 80561 02618



www.daa-india.com