



ERNAKULAM BRANCH

OF SIRC OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

Vol: XI Issue No: 105



Shri Pallela Nageswara Rao, Principal Chief Commissioner, Central Tax & Central Excise, Thiruvananthapuram Zone, inaugurating the One Day CPE Seminar on Goods and Services Tax at Gobulam Convention Centre, Kallur organised by Ernakulam Branch of SIRC of ICAI.



Shri Gulab Chand Yadav, Registrar of Companies inaugurating the 53rd Formation Day of Ernakulam Branch of ICAI.



Shri Raji John, MLA inaugurating the Investor Awareness Programme under the aegis of Investor Education & Protection Fund of the Ministry of Corporate Affairs, Government of India, organized by the Ernakulam Branch of SIRC of ICAI at Angamaly

Shri T.J. Vinod, MLA inaugurating the Investor Awareness Programme under the aegis of Investor Education & Protection Fund of the Ministry of Corporate Affairs, Government of India, organized by the Ernakulam Branch of SIRC of ICAI at Rama Varma Club, Ernakulam.



INSIDE

Chairman's Message
Judicial Decisions on Direct Taxes
Judicial Decisions on Indirect Taxes



Chairman's Message



Dear Professional Colleagues,

Year 2020 has ushered in with a lot of hope and happiness. Wish you all a very Prosperous, Peaceful and Purposeful Year-2020. May the Almighty bless us with new opportunities and help us face all challenges with greater vigour, passion and professionalism.

The economy is opening up with many opportunities for Chartered Accountants such as Insolvency Practice, Systems Audit, Risk Based Internal Audit, Forensic Audit, Valuation and much more. With the application of the latest technology in Information Technology, such as Block Chain and Artificial Intelligence in finance, accounts and audit we are likely to see spectacular changes in these fields. Let's embrace the new things for better practice and for a better future.

The month of December was buzzing with activities at Ernakulam Branch. We had conducted very useful programmes like two Investor (Public) Awareness Programmes, programme for emerging trends in technology and opportunities for young professionals and a one day CPE workshop on Internal Audit and Ethical Standards organized by the Internal Audit Standards Board of

ICAI. In addition to that we also conducted seminars on 'Ease of doing business' and RoC compliances with simplified forms, Accounting Standards, Professional Ethics for CAs and Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. Special sessions were conducted on new Code of Ethics, Stress Management and how to face challenges for young professionals.

All the activities were very well attended and ICAI Ernakulam also got a very good media coverage for its activities. I thank all the members of the Branch for supporting us in all our activities. We celebrated the 53rd formation day of the branch which fell on Dec 01, 2019. The illustrious founders of the branch and the past leaders were remembered with gratitude on the occasion.

It has always been our endeavour to provide more and better services to our members. We released the Member's Directory for the period 2019-2022. The printing is in process and we would soon be distributing the same to our members. We launched a new mobile app for Ernakulam Branch of ICAI, which would help our members to keep abreast with the activities of the Branch. We request all members to make use



of the same. Our renovated library was inaugurated by CA. Jomon K George, Chairman, SIRC at the annexe building of the Branch. Along with the same, we have commenced an 'e-library' facility for members and students. We request all members and students to make use of the same.

Our students wing, SICASA conducted various activities. The all Kerala CA Students Cultural Fest 2019 – 'EKAH 2019' was conducted at Renewal Centre, Kaloor. Various competitions and cultural programmes were conducted at the cultural fest. ICAI Commerce Champ was conducted for students of higher secondary schools. Apart from these, industrial visits, workshop on various important subjects (GST, TDS provisions, due diligence, etc.) were also conducted. The intra-branch football tournament was organized at Ambedkar Stadium, Ernakulam. Our SICASA team participated in the All Kerala CA Students football tournament held at Calicut and emerged winners. Hearty congratulations to our team for winning the tournament! We also had another very proud moment as our student Mr. Aloshin Joseph bagged the First Position in violin in the "National Talent Hunt" of ICAI held in December 2019. Hearty congratulations to Mr. Aloshin Joseph.

As the CA final results are published I congratulate all the newly qualified Chartered Accountants. Very special appreciations from us to the rank holders who made us proud! Ms. Alena Alwyn got the All India 12th rank and Ms. Nayana Roy got 44th rank; heart congratulations to Ms. Alena Alwyn and Ms. Nayana Roy. The newly qualified CAs and the rank holders will be honoured in the upcoming installation ceremony of the newly elected office bearers of the branch for the year 2020-21 to be held on February 29, 2020 at Gokulam Convention Centre, Kaloor.

We are organizing a seminar on RERA & GST on

24th January, 2020. Shri P H Kurian, Chairman, Kerala Real Estate Regulatory Authority will be inaugurating. The technical sessions will be taken by CA. Mohan R Lavi, Adv. Preetha Menon, Member, KRERA and Adv. Vaitheeswaran K. On 27th we will be having a seminar on Code of Ethics, 2019 in which CA. G. Rengarajan will be handling the session. We request all members to attend the same and make it a grand success.

Union Budget for 2020-21 is all set to be presented on Saturday, February 1, 2020. After 2015-16, this year the budget would be presented on a Saturday. This is the second Union Budget of the hon'ble Finance Minister Smt. Nirmala Sitharaman. We all look forward for path-breaking changes in Income Tax and GST. Many reformative changes are expected by the industry in the budget. Understanding the importance of the same, Ernakulam branch has scheduled a seminar on Union Budget on 8th February, 2020 at Hotel Avenue Centre, Panampilly Nagar, Ernakulam. Eminent speakers will be taking the session on general budget overview, proposals in direct taxes and indirect taxes.

Myself and the entire managing committee is thankful to each one of you for giving us a wonderful year 2019. We seek your continued support and patronage in 2020 too.

Jai Hind! Jai ICAI!

CA.Sreenivasan P.R

Chairman



Reported Judicial Decisions

CA.P.M Veeramani FCA

Statute:
Income Tax Act-Sec.10(37)-Compulsory acquisition

Decision in favour of : Assessee

Title :
ITO , Trivandrum vs G S Lekha

Citation: 177 ITD 1 TM

Bench: ITAT Cochin

Where tree standing on an agricultural land are transferred along with land as its integral part in one transaction, said land would be regarded as agricultural land and not a separate capital asset; Section 10(37) is meant to remove hardship to a land holder whose lands are situated in an urban area , if such land is compulsorily acquired for public purpose subject to condition that two years prior to their acquisition , land was used for agricultural purposes

Statute:
Income Tax Act – Sec.32 - ATM is computer

Decision in favour of : Assessee

Title :
Financial Software and Systems Private Ltd vs ACIT

Citation: 73 ITR Trib SN 14

Bench: ITAT Chennai

Automated Teller Machine are nothing but computers and hence entitled to higher depreciation of 60%

Statute:
Income Tax Act – Sec.80 JJA - Software employees eligible

Decision in favour of : Assessee

Title :

Financial Software and Systems Private Ltd vs ACIT

Citation: 73 ITR Trib SN 14

Bench: ITAT Chennai

Employees in companies engaged in software development satisfy eligibility condition for deduction and hence eligible for deduction . Audit report to be submitted to AO before completion of assessment

Statute:
Income Tax Act – Sec.145A(b), 56(2)(viii) – Interest on compensation

Decision in favour of : Revenue

Title :
Puneet Singh vs CIT

Citation: 415 ITR 215

Bench: Punjab & Haryana HC

Cumulative effect of section 145A(b) and section 56(2)(viii) would be that where land has been acquired compulsorily by the Government , any interest on compensation / enhanced compensation would be taxable as income from other sources in the year of receipt. Section 145A(b) is substituted by section 145B with effect from 1.4.2017

Statute:
Income Tax Act – Sec.194 I – Rent for exhibition stall

Decision in favour of : Revenue

Title :
Appasamy Associates vs ACIT

Citation: 73 ITR Trib SN 33



Bench: ITAT Chennai

Though charges paid for using stall at exhibition or conference may be not rent in the strict sense, but certainly it was a license fee for use of the premises. In view of explanation to section 194 I, the assessee was liable to deduct tax on the amount paid for usage of premises in the exhibition / conference

Statute:

Income Tax Act – Sec.201, 201(1A) – TDS only on estimated salary

Decision in favour of : Assessee

Title :

ITO (TDS) vs Mahatma Gandhi University

Citation: 73 ITR Trib 44

Bench: ITAT Cochin

Deduction of TDS on salary under section 192 by an employer is always a tentative deduction subject to regular assessment in the hands of recipient. If there is no observation that estimate of estimate of income was not honest or fair, deduction would not treated as assessee in default

Statute:

Income Tax Act – Sec.254(2) – Time limit not applicable

Decision in favour of : Assessee

Title :

Vijaya Hospitality & Resorts Ltd vs CIT

Citation: 180 DTR 305

Bench: Kerala HC

Applications filed by the appellant for recalling the exparte order of the Tribunal dismissing the appeal for non-prosecution, ought to have been treated as application filed for setting aside the exparte order and appeals ought to have been heard on merits. Tribunal erred in treating these applications as rectification application and time

limit permitted had elapsed. Appeals are restored and the same shall be considered on merits

Statute:

Income Tax Act – Sec.271(1)(c) – Giving up claim

Decision in favour of : Assessee

Title :

B.Loganathan vs ITO

Citation: 180 DTR 272

Bench: Madras HC

Giving up claim of depreciation on assets purchased on the last day of the year does not mean that assessee admitted the guilt of giving a wrong / false explanation or having concealed particulars of income or filed inaccurate particulars. The burden is on the Revenue to prove mensrea . Tribunal was not justified in setting aside order of CIT(A) deleting the penalty

Statute:

Income Tax Act – Sec.271C – Penalty for belated TDS payment

Decision in favour of : Revenue

Title :

CIT(TDS) vs Eurotech Maritime Academy Private Ltd

Citation: 415 ITR 463

Bench: Kerala HC

Assessee being a trust registered under section 12A paid the TDS late to the credit of the Government and claimed it was not liable to deduct TDS under section 194 I since it was not liable to tax audit under section 44AB. Held, Proviso exempting TDS proviso was not applicable to assessee it was not an individual or HUF . No reasonable cause for delay in deposit of TDS and hence penalty upheld



RECENT ADVANCE RULINGS UNDER GST AND JUDICIAL DECISIONS ON INDIRECT TAXES

CA.P.J.Johney FCA

RECENT ADVANCE RULINGS UNDER GST

Statute: Goods and Service Tax
Decision in favour of: Assessee

Title: Chennai Port Trust, Jn

Ms. Manasa Gangotri Kata and MS. MANASA GAN-
GOTRI KATA AND
THIRU KURINJI SELVAAN V.S., MEMBER

Citation: [2019] 76 GST 374/108 485 (AAR - Tamil Nadu)
Bench/Court: Authority for Advance Ruling, TAMIL NADU

Where Applicant Is Engaged In Supply Of Port Services And Is Maintaining An In-House Hospital For Providing Health And Medical Cover Exclusively To Its Employees And Pensioners, Wherein All Services And Medicines Are Provided Free, Applicant Is Not Entitled To Take Credit Of Input Tax Charged On Inward Supply Of Medicines Used To Provide Medical Facilities To Employees And Pensioners In In-House Hospital Section 17 Of The Central Goods And Services Tax Act, 2017/Section 17 Of The Tamil Nadu Goods And Services Tax Act, 2017 - Input Tax Credit - Credit And Blocked Credits, Apportionment Of - Applicant Is Engaged In Supply Of Port Services And Incidental Supply Of Goods Like Disposal Of Discarded Assets - It Is Maintaining An In-House Hospital For Providing Health And Medical Cover Exclusively To Its Employees And Pensioners - This Is A Free Center Where All Services And Medicines Are Provided Free To Employees - Whether Applicant Is Entitled To Take Credit Of Input Tax Charged On Inward Supply Of Medicines Used To Provide Medical Facilities To Employees And Pensioners In Hospital - Held, No [Para 9][In Favour Of Revenue]

Statute: Goods and Service Tax
Decision in favour of: Assessee

Title: Bharat Electronics Ltd.

HARISH DHARNIA AND DR. RAVI PRASAD M.P., MEM-
BER

Citation: [2019] 76 GST 593/109 (AAR - Karnataka)
Bench/Court: Authority for Advance Ruling, KARNATAKA

Various systems, sub-systems and onboard spares sup-

plied by applicant for use in warships, vessels and submarines meant for Indian Navy and Shipbuilders (excluding consumables and raw materials) are appropriately covered under SI. No. 252 of Notification No. 1/2017-Central Tax (Rate), —dated 28-6-2017, and will, accordingly, attract 5 per cent GST, Where equipments/systems supplied by applicant are custom-made for, warships and applicant alone is qualified to install and commission them and also to train recipients, two supplies, i.e., that of supply of goods and supply of related services, are naturally bundled and, hence, will qualify as Composite supply

Statute: Goods and Service Tax
Decision in favour of: Assessee

Title: FERMI SOLAR FARMS PRIVATE LIMITED, In re

SMT. SUNGITA SHARMA AND RAJIV JALOTA (MEM-
BERS)

Citation: [2019] 69 GSTR 387 (AAAR)
Bench/Court: Before the Authority for Advanced Ruling, Ma-
harashtra

Goods And Services Tax—Classification— Rate Of Tax— Agreement For Setting Up And Operation Of A Solar Photovolt *IC Plant—Is “Works Contract” In Terms Of Section 2(119) — Treated As Supply Of Services Under Schedule li—Rate Of Tax Governed By Entry No. 3(li) Of Notification No. 8 /2017-Integrated Tax (Rate) Under IGST Act, 2017 Or Notification No. 11/2017 Central Tax/State Tax (Rate) Under CGST Act And MGST Act—Taxable At 18 Per Cent. Under IGS Act And 9 Per Cent. Each Under CGST Act An MGST Act—Whether Parts Supplied On Standalone Basis When Supplied Without PV Modules) Would Also Be Eligible To Concessional Rate Of Five Per Cent. As Parts Of Solar Power Generation System And Whether Benefit Of Concessional Rate Of Five per Cent. Of Solar Power Generation System And Parts Thereof Would Also Be Available To Sub-Contractors Cannot Be Answered In Absence Of Any Agreement Or Documents— Central Goods And Services Tax Act (12 Of 2017), S. 2(119).

JUDICIAL DECISIONS ON INDIRECT TAXES

Statute: Service Tax
Decision in favour of: Assessee



Title: TUBE INVESTMENT OF INDIA LTD.
v UNION OF INDIA AND OTHERS

T. S. SIVAGNANAM J.

Citation: [2019] 69 GSTR 78 (Mad)
Bench/Court: In the Madras High Court

Service Tax—Procedure—Show-Cause Notice—Pre Show-Cause Notice Consultation In Cases Involving Demands Of Duty Above Rs. 50 Lakhs Except For Preventive /Offence Related Show-Cause Notices—Circulars Issued By CBEC Making Procedure Mandatory—Show-Cause Notice Issued To Petitioner Without Adhering To Procedure— Reply Given By Petitioner To Superintendent, While Forwarding Audit Slip With Direction To Petitioner To File Reply To Audit Slip Not Considered—Notices Set Aside—Matter Remitted—Finance Act (32 Of 1994).

Service Tax—Writs Under Constitution — Procedure— Show- Cause Notice—Pre Show-Cause Notice Consultation In Cases Involving Demands Of Duty Above Rs. 50 Lakhs Except For Preventive/Offence Related Show-Cause Notices— Procedure Made Mandatory By Circulars Issued By CBEC—Show-Cause Notice Issued To Petitioner Without Adhering To Procedure—Reply Given By Petitioner To Superintendent, While Forwarding Audit Slip With Direction To Petitioner To File Reply To Audit Slip Not Considered—Writ Petition Against Show-Cause Notice Issued To Petitioner Maintainable—Constitution Of India, Art. 226—Finance Act (32 Of 1994).

Statute: Service Tax
Decision in favour of: Assessee

Title: AMADEUS INDIA PVT. LTD. v
PRINCIPAL COMMISSIONER, CENTRAL EXCISE,
SERVICE TAX AND CENTRAL TAX COMMISSIONER-
ATE

Dr. S. MURALIDHAR and PRATEEK JALAN JJ.

Citation: [2019] 69 GSTR 82 (Delhi)
Bench/Court: IN THE DELHI HIGH COURT

Service Tax—Show-Cause Notice— Master Circular Of Board Making Pre Show-Cause Notice Consultation By Adjudicating Authority Mandatory In Cases Involving Demands Of Duty Above Rs. 50 Lakhs —Exception Where It Is Related To Offence— Mere Possibility That At End Of Adjudication Process, Assessee May Have To Face Consequences For Offence Would Not Per Se Render Show-Cause Notice Offence Elated — Instructions Issued By Board Binding On Officers Of Department—Show-Cause, Notice Set Aside And Parties Relegated To Stage Prior

To Issuance Of Notice— Master Circular Dated March 10, 2017.

Statute: Goods and Services Tax
Decision In Favour Of: Assessee

Title: SHRI VARALAKSHMI COMPANY
v STATE OF TAMIL NADU AND OTHERS

M. SUNDAR J.

Citation: [2019] 69 GSTR 158 (Mad)
Bench/Court: IN THE MADRAS HIGH COURT

Goods And Services Tax—Central Sales Tax—Inter-State Sale—Registered Dealers—Concessional Rate Of Tax— High Speed Diesel—Commencement Of Goods And Services Tax Regime— Dealer Entitled To Use C Form For Purchase Of High Speed Diesel From Suppliers Outside State—Central Sales Tax Act (74 Of 1956).

Statute: Sales Tax
Decision in favour of: Assessee

Title: VULCAN ENGG. CORPORATION
v COMMISSIONER, COMMERCIAL TAX, U. P., LUCKNOW

ASHOK KUMAR J.

Citation: [2019] 69 GSTR 167 (All)
Bench/Court: IN THE ALLAHABAD HIGH COURT

Central Sales Tax— Penalty —Offences— Mens Rea — Registered Dealer—Certificate Of Registration—Business Of Manufacture And Sale Of Tractor Parts And Diesel Engine Parts—Levy Of Penalty On Ground That Dealer Purchased C. I. Casting When Authorised To Purchase "Rough C. I. Casting" —Finding By First Appellate Authority That "Rough C. I. Casting" And "C. I. Casting" Same Items And That Dealer Not Misused Form C Not Falsely Represented While Effecting Purchase Of C. I. Casting — Admittedly -C. L Casting Purchased Utilized For Manufacture Of Machines And Tractor Parts—Penalty Not Warranted— Set Aside— False Representation—Meaning Of—Central Sales Tax Act (74 Of 1956), Ss. 10(B), 10a.

Statute: VALUE ADDED TAX
Decision in favour of: Assessee

Title: MAHAVIR MULTI MEDIA v
ASSISTANT COMMISSIONER (CT),
CHINTADRI PET ASSESSMENT CIRCLE, CHENNAI

M. SUNDAB J.



Citation:[2019] 69 GSTR 271 (Mad)
Bench/Court:IN THE MADRAS HIGH COURT

Value Added Tax— Assessment — Revised Assessment Order Notice Issued Pursuant To Inspection And Dealer Filing Reply— Second Notice Issued Pursuant To Same Inspection For Same Period And Dealer Filing Reply — Revised Assessment Order Passed 'Without Adverting To First Notice And Reply Thereto — Subsequently, Revised Assessment Passed Pursuant To First Notice And Reply Thereto Without Adverting To Second Notice And Reply Thereto —Writ— High Court—Second Assessment Order Set Aside Matter Restored For Facilitating Personal Hearing And Disposal Thereafter— [Tamil Nadu Value Added Tax Act (32 Of 2006).

Statute: Goods And Services Tax
Decision in favour of: Assessee

Title: SOUTHERN COTSPINNERS COIMBATORE PRIVATE LIMITED v STATE OF TAMIL NADU AND OTHERS

Dr. ANITA SUMANTH J.

Citation:[2019] 69 GSTR 155 (Mad)
Bench/Court: IN THE MADRAS HIGH COURT

Goods And Services Tax—Central Sales Tax—Inter-State Sale Registered Dealers— Concessional Rate Of Tax— High Speed Diesel— Commencement Of Goods And Services Tax Regime— Dealer Entitled To Use C Form For Purchase Of High Speed Diesel From Suppliers Outside State—Central Sales Tax Act (74 Of 1956).

Statute: Goods And Services Tax
Decision in favour of: Department

Title:
Global Associates vs Union of India and Others

Mrs. S. SUJATHA J.

Citation:[2019] 69 GSTR 161 (Karn)
Bench/Court:IN THE KARNATAKA HIGH COURT

Goods And Services Tax— Writs Under Constitution— Supply Of Services— Construction Activity—Petitioner Engaged In Construction Activity Filing Writ Petition Challenging Validity Of Entry 5(B) Of Schedule II To CGST Act, 2017, Entry 3(l) Read With Para 2 Of Notification No. 11/2017-Ct(R) Dated June 28, 2017 To Extent It Covered Entry 3(l) And Clarification Dated January 9, 2018—No Cause Of Action—Writ Court Would Not Determine Institutional Question In Vacuum — Petition Dismissed — Central Goods And Services Tax Act (12 Of 2017), Scp. II, Entry

5(B)—Notification No. 11/2017-Ct(R) Dated June 28, 2017 —Clarification Dated January 9, 2018—Constitution Of India, Arts. 226, 227.

Statute: Service Tax

Title: SHRIRAM LIFE INSURANCE COMPANY v C. C, C. E. AND Ss. T., HYDERABAD-IV (and vice versa)

M. V. RAVINDRAN (Judicial Member) and
P. VENKATA SUBBA Rao (Technical Member)

Citation:[2019] 69 GSTR 295 (CESTAT-Hyd)

Service Tax—Charge Of Tax —Condition Precedent — Provision Of—Service—Service — Definition — Exclusion Of Actionable Claims Assessee Rendering Insurance Services— Unit Linked Insurance Plan—Surrender Or Discontinuance Charges Levied Upon Termination Of Policy Prior To Term Of Policy—Nott Consideration For Any Service Rendered By Assessee But Amount Retained By It On Insured Exercising His Right To Receive Insurance Money — Actionable Claim—Not Taxable—Not Covered Under Any Specified Taxable Head Even Prior To July 1, 2012— Finance Act (32. Of 1994), 65(105)(Zx), 65b(44)— Insurance Regulatory And Development 'Authority (Treatment Of Discontinued Linked Insurance Policies) Regulations, 2010. Service Tax—Delay In Payment Of Tax — Interest — Assessee Not

Debiting Cenvat Register For Period June, 2012—Liable To Pay Interest On Amount Till Date Debit Entry Made In Cenvat Registration—Finance Act (32 Of 1994), S. 75. Service Tax—Charges Towards Policy Administration, Premium Allocation And Surrender Charges Attributable To Management Of Unit Linked Insurance Plan Taxable— Part Of Value Of Services Subjected To Tax—Compliance With Rule 6(3)(li) Sufficient — Finance Act (32 Of 1994), Ss. 65(105)(Zx), 65b(44)—Cenvat Credit.

Statute: Sales Tax
Decision in favour of: Department

Title: PONNAPPAN AND OTHERS v STATE AND OTHERS

T. RAVINDRAN J.

Citation:[2019] 69 GSTR 253 (Mad)
Bench/Court:IN THE MADRAS HIGH COURT

Sales Tax—Suit— Penal Interest— Delay In Payment Of Tax—Death Of Dealer—Legal Representative Paying Balance Of Tax Outstanding Without Dispute— Liability To Pay Penal Interest For Late Payment Of Tax—No Separate Notice Required—Suit Against Order Calling For Payment



Of Penal Interest— Not Maintainable—Tamil Nadu General Sales Tax Act (1 Of 1959), Ss. 15, 51.

Statute: SALES TAX

Decision in favour of: (Matter Remanded)

Title: CENTRODORSTROY V COMMISSIONER OF TRADE TAX, U. P., LUCKNOW

SAUMITRA DAYAL SINGH J.

Citation:[2019] 69 GSTR 149 (All)

Bench/Court:IN THE ALLAHABAD HIGH COURT

SALES TAX—INTER-STATE SALE—GOODS PROCURED FROM STATE FOR USE IN EXECUTION OF CONTRACT— TRANSACTION TO NOTED AS INTER-STATE SALE— MATTER REMANDED—U. P. TRADE

Statute:Service Tax

Decision in favour of:Assessee

Title: MANOJ JAIN v. UNION OF INDIA AND OTHERS

SANJAY YADAV and VIVEK AGARWAL JJ

Citation:[2019] 69 GSTR 233 (MP)

Bench/Court:[IN THE MADHYA PRADESH HIGH COURT — GWALIOR BENCH]

Service Tax—Liability To Tax—Advertising Agency — Individual Carrying On Business As Proprietor Of Concern— Obtaining Registration As Individual In 1997—Substitution Of “Commercial Concern” By “Any Person” —Effect— Does Not Mean Assessee As Individual Not Liable To Tax Prior To Amendment-Commercial Concern Includes Individual –Finance Act (32of 1994) S.65(3),(105)(E) Service Tax rules1994,r.4

Statute: SERVICE TAX

Decision in favour of:Assessee

Title : SIDDESH TOURS AND TRAVELS v COMMISSIONER OF SERVICE TAX, 1 MUMBAI VII COMMISSIONERATE, VASHI

Ms. HARSHA DEVANI and BHARGAV D. KARIA JJ.

Citation:[2019] 69 GSTR 216 (Bom))

Bench/Court:IN THE BOMBAY HIGH COURT

Service Tax— Appeal To Commissioner (Appeals) — Pre-Deposits Tax And Penalty— Requirement To Deposit Duty Or Penalty To Be Fulfilled “Pending Appeal” And Not “Pending Filing Of Appeal Party Can File Application

For Dispensing With Pre-Deposit As Long As Appeal Not Disposed Of—No Period Of Limitation To File Application For Dispensing With Pre-Deposit— Dismissal Of Appeal For Failure To Deposit Tax And Penalty Before Filing Appeal, Sustainable—Dismissal Of Appeal On Ground Stay Applying Filed Within Stipulated Period Of Three Months For Filing Appeal,-Improper-Finance Act(32 Of 1994),S.85-Central Excise Act(1 Of 1944),S.35f.

Statute: Goods And Services Tax

Decision in favour of:Assessee

Title: SWASTIK TRADERS v STATE OF U. P. AND OTHERS

ANIL KUMAR and SAURABH LAVANIA J

Citation:[2019] 69 GSTR 145 (All)

Bench/Court:IN THE ALLAHABAD HIGH COURT — LUCKNOW BENCH

Goods And Services Tax — Appeal— Seizure Or Goods And Vehicle Penalty— Levy Of Tax And Penalty By Mobile Squad Officer— Appeal To Additional Commissioner (Appeals) _ Disposal Of Appeal Without Allowing Assessee Opportunity To Be Heard—Not Sustainable — Order Set Aside And Matter Remanded For Disposal Afresh — Uttar Pradesh Goods And Services Tax Act (1 Of 2017), S- 129.

Statute: Goods And Services Tax

Decision in favour of:Assessee

Title: AAP AND CO. v UNION OF INDIA AND OTHERS

J. B. PARDIWALA and A. C. RAO JJ.

Citation:[2019] 67 GSTR 221 (Guj)

Bench/Court:IN THE GUJARAT HIGH COURT

Goods And Services Tax— Input Tax Credit— Transition Period— Form GSTR-3B Introduced For Initial Period Not A Return In Lieu Of Return Required To Be Filed In Form GSTR-3B—Return In Form Gstr-3BA Temporary Arrangement Till Due Date For Filing Return In Form GSTR-3B Notified— Press Release Dated October 18, 2018 Purporting To Clarify That Last Date For Availing Of Input Tax Credit Relating To Invoices Issued From July 2017 To March 2018 Is Last Date For Filing Return In Form GSTR-3B—Illegal— Central Goods And Services Tax Act (12 Of 2017), S. 16(4)—Gujarat Goods And Services Tax Act (25 Of 2017), S. 16(4)—Central Goods And Services Tax Rules, 2017, R. 61—Gujarat Goods And Services Tax Rules, 2017, R. 61—Notification No. 44 Of 2018-Central Tax dated September 10, 2018—Notification No. 10 Of 2017-Central Tax Dated June 28, 2017—Notification No. 17 Of 2017-Central Tax.