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NEWSLETTER





Chairman's Message

Dear Members and Students,

It gives me immense pleasure to note the continued vibrancy and professional enthusiasm of our Ernakulam Branch of SIRC of ICAI. Each initiative undertaken by the Branch reflects our collective commitment to knowledge enhancement, professional growth, and service to society.

Our Branch has successfully organized a series of impactful seminars and workshops covering diverse and contemporary topics such as Forensic Accounting, Information Systems Audit, Company Law, Skill Enrichment, and Capital Markets. The active participation of members and the presence of eminent speakers from across the country have significantly enriched the professional learning experience.

The study circle meetings have continued to serve as a valuable platform for sharing updates on taxation, compliance, and technology, fostering peer learning and interaction. The ongoing coaching classes and mandatory training programmes have witnessed encouraging participation, reflecting our firm commitment to nurturing future Chartered Accountants with the right blend of technical knowledge and ethical grounding.

Our students' association, SICASA, remains a strong pillar of engagement and energy, organizing cultural, sports, and academic events that promote holistic development. The remarkable enthusiasm and leadership demonstrated by our student members are truly commendable.

Equally noteworthy are our social outreach activities and collaborations, which underline the profession's responsibility beyond the balance sheet — serving the community and upholding the values that define us as Chartered Accountants.

I extend my sincere appreciation to all committee members, resource persons, and volunteers for their unwavering support. Together, let us continue to uphold the ideals of excellence, integrity, and continuous learning, which remain the cornerstone of our great profession.

Warm regards

CA. Anand A.S
Chairman

CA Day Family Get-together





CA Day – Blood Donation



One Day CPE Seminar



One Day Seminar



One Day Seminar at Thodupuzha



World Youth Skills Day



One Day Conference on Capital Markets



AI Certification Course



Reported Judicial Decisions

CA. P. M.Veeramani FCA

Statute: Income Tax Act

Sec.32, 43(6) – WDV of Block

Decision in favour of : Assessee

Title : 3A Composites India Private Ltd vs ACIT

Citation: 210 ITD 272

Bench: ITAT Mumbai

Assessee sold a factory building forming part of block of assets and claimed depreciation on the WDV after crediting the sale value. AO could not have substituted the sale consideration received by stamp duty value while computing WDV for allowing depreciation. Legal fiction under section 50 C cannot be extended to work out WDV for the purpose of depreciation .

Statute: Income Tax Act

Sec.36(1)(iv) – Excess contribution

Decision in favour of : Assessee

Title : ACIT vs Syama Prasad Mookerjee Port

Citation: 210 ITD 421

Bench: ITAT Kolkatta

Excess contribution beyond the limits specified under Rule 87 of Income Tax Rules towards approved gratuity fund and approved superannuation fund to bring gap between actual contribution and actuarial valuation is allowable as expenditure

Statute: Income Tax Act**Sec.50 – Rate of tax****Decision in favour of : Assessee****Title : SKF India Ltd vs DCIT****Citation: 210 ITD 1 SB; 121 ITR Trib 307****Bench: ITAT Mumbai SB**

Capital gains arising out of sale of depreciable asset under section 50 even though deemed to be capital gain arising from transfer of a short term capital asset, that fiction was to be confined only to section 50 and could not convert short term capital asset into a long term capital asset and vice versa for other purpose of the act and thus, rate of tax would be in terms of section 112 @ 20%

Statute: Income Tax Act**Sec.69 – Photocopy of agreement****Decision in favour of : Assessee****Title : PCIT vs Rashmi Rajiv Mehta****Citation: 474 ITR 97****Bench: Delhi**

The addition towards undisclosed income was made based on the photocopy of the alleged agreement to sell. No addition can be made based on photo copy when the original of the document has not been produced and no other evidence available to support the veracity of recitals in the agreement

Statute: Income Tax Act**Sec.69A – Applicability****Decision in favour of : Revenue****Title : Mrs.R.Chithra vs NFAC****Citation: 474 ITR 78****Bench: Madras HC**

In the case of an assessee who is not required to maintain books of accounts, but the income tax department receives information that such person is the owner of unexplained money or other article

, such assessee would be called upon to provide an explanation and the same consequences would follow if the assessee does not reply or if the reply of the assessee is not satisfactory.

Statute: Income Tax Act**Sec.92 B – Transactions with PE****Decision in favour of : Revenue****Title : TBEA Shenyang Transformer Group****Company Ltd vs DCIT****Citation: 210 ITD 53 SB****Bench: ITAT Ahmedbad SB**

Transactions between a Foreign Enterprise and its PE in India can be considered as international transaction for the purpose of section 92B and accordingly, be subject to 'arms length price' adjustment

Statute: Income Tax Act**Sec.144C – Remand by Tribunal****Decision in favour of : Assessee****Title : Exxonmobil Company India Private****Ltd vs DCIT****Citation: 474 ITR 142****Bench: Bombay HC**

In the case of order consequent on remand by the Tribunal under section 144C, even in partial remand proceedings from tribunal, the AO is obliged to pass draft assessment order under 144C(1). Passing of final order without following the procedure is a clear case of jurisdictional error and assessment order is required to be quashed

Statute: Income Tax Act**Sec.154 – No merger****Decision in favour of : Revenue****Title : Areca Trust vs CIT****Citation: 117 ITR Trib 264****Bench: ITAT Bangalore**

There is no merger of intimation under section 143(1) with the regular assessment under 143(3) unless the issue has been

discussed and adjudicated in the regular assessment under section 143(3) of the Act. Section 246A provides for an appeal against intimation under section 143(1) and there is no mistake apparent on the records for the AO to rectify an order u/s 143(3) in respect of adjustment made in the intimation

Statute: Income Tax Act**Sec.154 – No mistake****Decision in favour of : Assessee****Title : Sanjay Kumar vs ITO****Citation: 117 ITR Trib 324****Bench: ITAT Delhi**

Rectification to disallow belated payment of PF based on SC decision in Checkmate Services Pvt Ltd not sustainable as the law favoured the assessee at the relevant time and divergent views of high court could not be considered as mistake apparent on the records

Statute: Income Tax Act**Sec.194 A – TDS on interest****Decision in favour of : Assessee****Title : KD Lite Developers Private Ltd vs****DCIT(TDS)****Citation: 210 ITD 384****Bench: ITAT Mumbai**

Group company took loan from bank and assessee company in turn borrowed the same from group company and paid interest on the same; Such interest was merely reimbursement of interest to principal borrower who had paid in turn to the bank and hence there was no liability to deduct TDS on the interest paid

RECENT ADVANCE RULINGS UNDER GST AND JUDICIAL DECISIONS ON INDIRECT TAXES AND OTHERS



CA. P. J. Johney FCA

RECENT ADVANCE RULINGS UNDER GST

Statute: GOODS AND SERVICES TAX
Decision in Favour of: NOT APPLICABLE
Title: M/S. MAHA CRITICAL SPECIALITY DIVISION
Citation: 12/ARA/2025, Dated 29.04.2025
Bench/Court: AUTHORITY FOR ADVANCE RULING, TAMIL NADU

M/s. Maha Critical Speciality Division, No.37, 2nd Floor, MTH Road, Ambattur, Chennai 600 053 (hereinafter called as the "Applicant") are registered under the GST Act with GSTIN 33AAWFM5910H1Z2

The applicant are providing health care services in the category such as Emergency care, preventive care, healthcare consultancy and corporate services to both inter-state and intra-state patients. Inter-state consultancy services are provided online without any travel assistance. They established pharmacy Unit and supplies medicine to in-patients and out-patients. Pharmacy charges GST on MRP basis against all the supplies provided to patients including supplies to in-patients. Currently the pharmacy unit forms part of the clinical establishment and have common registration within Tamil Nadu in the name and style of Maha Critical Speciality Division.

The Applicant has sought advance ruling on the following question;

1. Whether the supply of medicines and consumables used in the course of providing health care services to In-patients by pharmacy unit of Maha

Critical Speciality Division for diagnosis or treatment during the patients admission in hospital would be considered as "Composite Supply" of health care services as under GST and consequently avail exemption under Notification No.12/2017 CT (Rate) read with Section 8(a) of GST?"

The applicant has stated that the supplies of medicines and consumables used in the course of providing health care services to in-patients by pharmacy unit is a composite supply of health care services. They also state that as per circular No.32/06/2018 dated 12.02.2018 foods supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care and not separately taxable. Other supplies of food by hospital to out-patients (not admitted) or their attendants or visitors are taxable. They stated that here the word 'food' can also be extended to other similar supplies such as medicines, implants, room rent etc. The health care services provided to in-patients includes continuous monitoring of patient health, doctor consultancy, room services, nursing services, implants etc., which are rendered in a given point of time say, during the period patients are admitted to hospital. This is clearly covered by the definition of composite supply under GST and can be said to be a composite health care services. All these services are bundled together in providing the primary service of health care and it is billed as one single invoice though the hospital provides detailed breakup of the service fee, it is charged

as bundled service. The pharmacy also supplies medicine to the patients as a part of the said service. In view of the above facts, the applicant contends that in- patients treatment including pharmacy supplied to them is composite health care services under GST and exempted by Sl.No.74 of Notification No.12/2017 CT(Rate), dated 28.06.2017.

The applicant has submitted that the supplies of medicines and consumables used in the course of providing health care services to out-patients by pharmacy unit is a composite supply of health care services. The applicant has made references to the definition of health care services, clinical establishment under the notification 12/2017. The applicant have also placed reference on the definition of composite supply and mixed supply under the GST Act. The applicant has compared the supplies made by them with definition of composite supply and concluded that the supplies made by them is a composite supply. The definition of mixed supply is a residuary one which includes all combination of supplies which is not a composite supply. Hence, the applicant is of the view that their supplies are composite supply.

The applicant falls within the administrative jurisdiction of 'STATE', and the State Jurisdictional Authority vide their letter dated 28.08.2024 have informed that the Authority for Advance Ruling of Tamil Nadu has already taken a view in the case of Be Well Hospital, Chennai and Royal

Care Speciality Hospital, Coimbatore that supply of healthcare services or inpatient services are exempted from CGST and SGST as per Sl.No.74 of the Notification No.12/2017 CT (Rate), dated 28.06.2017. The healthcare services to outpatients are held as not exempted in the above rulings. The same view may be taken for this applicant also. Further, the State Jurisdictional Authority has stated that the applicant is not in arrears of tax as on this day, which goes to show that there are no pending proceedings against the applicant as on date. And no remarks have been received from the Central Jurisdictional Authority, and hence, it is construed that there is no pending proceedings on the question raised by the applicant in their advance ruling application.

The submissions made by the applicant in their advance ruling and personal hearing and also the further submissions were carefully examined. The question on advance ruling being an applicability of notification and determination of liability to pay tax on any goods or services or both, are found to be falling within the purview of Section 97(2) of the CGST Act, 2017 and is admitted for consideration.

The pharmacy unit and the clinical establishment is registered under one GSTIN within Tamil Nadu in the name and style of Maha Critical Speciality Division. Further, they have stated that they render health care services to two different categories of patients classified based on their purpose of visit and period of stay in the hospital. First category of health care service is for In-patients, the patients are admitted in their hospital as in-patient. The patients are treated for the illness or injury for which they are admitted. During the process of providing health care services, the patients are also provided medicines, regular health monitoring, foods, implants etc. The second one is Out-Patient consultancy. The old patient visits the hospital for follow up to avail consultancy related to his/her health. Doctors may prescribe some sample blood test, scans etc., to investigate the illness in detail. The patients can purchase the medicines prescribed by the Doctors at the hospital pharmacy or from any other outside pharmacy of their choice.

On perusal of the sample invoice copies for inpatient submitted by the applicant vide bill No.B8919, dated 08.04.2024, it is observed that they have raised bill for health care charges, investigation charges, medicines and consumables charges for a

value of Rs.1,52,422/- without charging any GST. On perusal of sample invoice copies for outpatient submitted by the applicant vide bill No. D01000170 dated 07.04.2024, D01000172 dated 07.04.2024, D01000174 dated 07.04.2024, D01000178 dated 08.04.2024, D01000185 dated 08.04.2025 and D01000186 dated 08.04.2024, they have sold medicine from their pharmacy and collected GST on the sale of medicines.

In the instant case, the healthcare services rendered to in-patients is first taken up for discussion. The inpatient services means services provided by hospitals to inpatients under the direction of medical doctors aimed at curing, restoring and/or maintaining the health of a patient and the service comprises of medical, pharmaceutical and paramedical services, rehabilitation services, nursing services and laboratory and technical services till the patient gets discharged. A complete gamut of activities required for well-being of a patient from admission till discharge, provided by a hospital under the direction of medical doctors is a composite supply of service and is covered under Inpatient services' classifiable under SAC 999311.

Health care services provided by a clinical establishment or an authorized medical practitioner or paramedics are exempted vide Sl.No.74 of Notification No.12/2017 - C.T(Rate) dated 28.06.2017 as amended and Sl.No.74 of Notification No.II(2)/CTR/532(d-15)/2017 vide G.O.(Ms.) No.73, dated 29.06.2017.

From a joint reading of the Explanation of service' pertaining to Inpatient services' and the clarification above, it is evident that the exemption is applicable to a "Clinical Establishment", when services by way of diagnosis or treatment or care for illness, etc., are undertaken by such establishment under the directions of a medical doctor. The applicant hospital is a Clinical Establishment and for the health care services provided as defined in the Notification above provided to inpatients from admission till discharge including the supply of medicines, implants and consumables, they are exempt under Sl.No.74 of Notification No.12/2017-C.T. (Rate) dated 28.06.2017 as amended and Sl.No.74 of Notification No. II(2)/CTR/532(d-15)/2017 vide G.O.(Ms.) No.73, dated 29.06.2017.

The was offered personal hearing to appear in person on applicant 27.03.2025 which was sent through RPAD on 18.03.2025 and the same was duly acknowledged by the

applicant. Shri N.Srinivasa Varadan, FCA and Shri Vidyanath Agnihotri, FCA appeared for the personal hearing as the Authorised Representatives (AR) and reiterated the submissions made in their application for advance ruling. They further stated that at Maha Critical Speciality Division, they attend to only emergency/trauma cases, and that almost all the cases fall under the 'in-patient' category. They however stated that in most of the cases, the patients may have to re-visit the hospital for further follow-up as advised by the medical team.

They clarified further that they are not paying GST on all other charges involving surgery, procedures etc. for the in-patients, as they are clearly exempt under the Healthcare Services' category. They further added that apart from other charges, the value of medicines and consumables used for the patient also form part of the final bill raised on the patient. The members then requested the Authorised Representatives to furnish copies of the sample bills raised on in-patients and out-patients, which the Authorised Representatives undertook to furnish within a couple of days' time.

As per ruling;

Question: - Whether the supply of medicines and consumables used in the course of providing health care services to In-patients by pharmacy unit of Maha Critical Speciality Division for diagnosis or treatment during the patients admission in hospital would be considered as "Composite Supply" of health care services as under GST and consequently avail exemption under Notification No.12/2017 CT (Rate) read with Section 8(a) of GST?"

Answer: - Supply of medicines and consumables used in the course of providing health care services to In-patients by pharmacy unit of Maha Critical Speciality Division having common registration within Tamil Nadu for diagnosis or medical treatment or procedures till discharge is a composite supply of in-patient healthcare service as defined in Para 2(zg) of Notification No.12/2017, CT (Rate), dated 28.06.2017 as amended and Notification No. II(2)/CTR/532(d-15)/2017 vide G.O.Ms. No.73, dated 29.06.2017, as amended and the same is exempted from CGST and SGST as per Sl.No.74 of the above notifications respectively.

Statute: GOODS AND SERVICES TAX
Decision in Favour of: NOT APPLICABLE
Title: M/s. ARTSANA INDIA PRIVATE LIMITED
Citation: GST-ARA-47 / 2024-25/2025-26/

B-203, Mumbai Dated.28.04.2025
Bench/Court: MAHARASHTRA AUTHORITY
FOR ADVANCE RULING

M/s. ARTSANA INDIA PRIVATE LIMITED, the applicant, is a registered company under The Companies Act, having registered address at 7th Floor, Paras Twin Tower Golf Course Road, Sector -54, Gurgaon, Haryana, India, 122002. The Applicant is also registered under the Maharashtra Goods and Services Tax Act from 1st July 2017 vide GSTN27AAHCA9155G1ZH, having registered place of business at Bldg. no. 46/53, Indian Corporation Warehousing Complex, Mankoli Naka, Bhiwandi, Thane, Maharashtra, 421302.

The applicant is a wholesaler / trader of baby and child-care products. The products of applicant are designed to support the health and well-being of infants and children. The applicant also supplies toys, baby carriages, baby chairs etc. One of the products supplied by the company is a baby chair. This baby chair is used in cars for the safety of children while driving. This baby chair can be affixed with the help of a clip on the main seat of the car without making any structural change in the design of the car seat. Moreover, this baby chair is not permanently fixed in cars, rather it is used as an attachment over and above the main seat of the car and can be fastened easily as and when required.

As the name suggests, it is a baby chair and can be used for babies only and there is no additional use of the said chair other than the safety and comfort of the child in the car while travelling. The photos of the baby chair are enclosed with this application. The applicant is importing the baby chair from Italy under the HSN code 94018000. The company is paying the duties of customs under the said HSN. Since the applicant has imported the baby chair in HSN code 94018000 and therefore the applicant is supplying the said baby chairs to its Indian customers by mentioning the same HSN i.e., 94018000 on the Tax Invoice issues under CGST Act.

The company is also discharging its GST liabilities under the said HSN only and payment of the said GST liability is not disputed by the GST department till the date of filling of this application. The applicant came to know that such kind of baby chairs are treated as safety equipment for cars, which creates a doubt in mind of applicant whether applicant is using the correct HSN of the said baby chair.

The applicant, seeking an advance ruling in respect of the following questions;

1. Whether the product namely baby car seat is correctly classified under 94018000?
2. If the above question is negative, then,
 - a. Whether the product can be classified as baby carriage and the HSN 87150010 OR
 - b. Whether the product can be considered as Safety Equipment under accessory of vehicle and can be classified under the HSN Chapter 87089900?
 - c. Whether the entry 210A of Notification No 5/2024- Central Tax (Rate) dated 08th October 2024, applicable on applicant?

In the instant case, the baby chair is a seat for children which is designed to be placed & fastened over car seats. As mentioned above, Chapter 94 shall be applicable to furniture including seats therefore the baby chair should be covered under chapter 94.

Further Note 2 to chapter 94 clarifies that articles referred to in heading 9401 to 9403 shall be classified under these headings if they are designed to place on ground. However, seats shall be classified under these heads even if they are not designed to be placed on the floor or ground. Since the baby chair is a kind of seat therefore it can be classified under chapter 94 and further, as per broader category of chapter 94 the baby chairs can be classified under heading 9401.

The heading 9401 includes the specialized seat for various kind like aircraft seat, motor vehicle seat garden seat, seat of cane, bamboo etc. The baby seats cannot be classified under any of these categories of Heading 9401 except 94018000. The baby seat should be classified under 94018000 as the said other category covers all type of seats other than specialized seats referred in 9401. In view of the explanation, the applicant is of the view that the baby car seat should be categorized under heading 94018000.

Without prejudice to the above submission, the baby seat can also be categorized as baby carriage under Chapter 87. The Chapter 87 covers the Vehicles other than railway or tramway rolling stock, and parts and accessories thereof. The baby car seat is not an integral part of vehicle, however same is used for proper carriage of the child during the travel. Additionally,

the baby car seat has been essentially designed by keeping in mind that the child while travelling since it is not safe to carry the baby in the lap.

Since it is not an integral part of vehicle, therefore it is an accessory used in the car for carrying a child in car with safety. In other words, it is a baby carriage used in the car for carrying a child safety while travelling. The baby carriage is covered under the heading 8715 i.e., Baby carriage and parts thereof. The said baby chair or baby carriage is covered in tariff heading 87150010. If a baby seat is not covered under 94018000, the applicant is of the view that such baby seat should be classified under 87150010 as baby carriage used vehicle.

Alternatively, the applicant is also of a viewpoint, the baby car seat can also be classified as accessory of vehicle typically designed for carrying the baby. Since the baby car seat is placed above the car seat and can be attached and detached and changed as per the need and requirement of the end user. Thus, the baby car seat can also be referred to as accessory of car and the heading 8708 covers the parts and accessories of the motor vehicles of headings 8701 to 8705. Therefore said baby seat can also be classified under HSN 87089900. By inferring the above ideology behind design of a baby seat car, the applicant is of a view that the same is to be classified as a part or accessory to the car and HSN 87089900 is applicable attract 18% GST rate on its supply.

We have gone through the records of the case and the submissions made by the applicant from time to time. As per the applicant, the baby chair is not permanently fixed in car, rather it is used as an attachment over and above the main seat of the car and can be fastened easily as and when required. There is no additional use of the said chair other than the safety and comfort of the child in the car while travelling. The applicant is seeking the proper classification of this product through this application.

We find that the applicant is importing these baby chairs from Italy under HSN code 94018000 and that there is no dispute pending against them with the Customs Department as per the applicant. Further, they are supplying the same to their customers under 9401800 and no dispute has been raised against them by the GST Department, as per their submissions. And also find that the goods sold by the applicant

are baby seats which are attached to the seat of a motor vehicle for safe carriage of the baby in the motor vehicle.

Though, they are designed specifically for use in a motor vehicle, they cannot be classified under 94012000 as seats of a kind used for motor vehicles because these seats are not used for motor vehicles but are used in addition to the normal seats which are attached to a motor vehicle. Such seats are attached on to the already existing seats of a motor vehicle. The heading 94012000 covers the basic seats which are used for a motor vehicle whereas the goods in the instant case, i.e. baby seats are not affixed to a motor vehicle and used as a primary seat. This is an additional special attachment which is affixed to the seat of a motor vehicle for safe carriage of the baby while driving the vehicle.

The Preliminary e-hearing in the matter held on 24.01.2025. Mr. Deepak Joshi, C.A. appeared, and requested for admission of the application. Jurisdictional Officer Mr. Gopal Nivrrutinath Kshirsagar, Deputy Commissioner of SGST is available. The application was admitted and called for final e-hearing on 03.04.2025. Mr. Deepak Joshi, C.A. Authorized Representative, appeared made oral and written submissions. Jurisdictional Officer Mr. Gopal Nivrrutinath Kshirsagar, Deputy Commissioner of SGST appeared. We heard both the sides.

With reference to the applicability of entry 210A of Notification No.5/2024 Central Tax (Rate) dated 8.10.2024, we find that the said entry covers Tariff item 94012000 i.e., seats of a kind used for motor vehicles. We have already discussed hereinabove, that the goods i.e., baby seats are classified under 94018000 and therefore, the said notification would not be applicable to the subject goods i.e., baby seats supplied by the applicant.

As per ruling;

Question 1: - Whether the product namely baby car seat is correctly classified under 94018000?

Answer: - Yes

Question 2: - If the above question is negative, then,

a) Whether the product can be classified as baby carriage under HSN 87150010 Or

b) Whether the product can be considered as safety equipment under accessory of vehicle and can be classified under the HSN Chapter 87089900?

Answer: - Not applicable in view of answer to Question 1.

Question 3: - Whether the entry 210A of Notification No.5/2024 Central Tax (Rate) dated 08th October, 2024, applicable on applicant?

Answer: - No

Statute: GOODS AND SERVICES TAX
Decision in Favour of: NOT APPLICABLE
Title: M/S.FAIRMACS SHIPSTORES PRIVATE LIMITED
Citation: 15/ARA/2025, Dated 07.05.2025
Bench/Court: AUTHORITY FOR ADVANCE RULING, TAMIL NADU

M/s. Fairmacs Shipstores Private Limited, located at No.31, Moore Street, Chennai -600 001, (hereinafter called as the "Applicant") is a company who are wholesale traders in liquor, frozen meat products, food products. They make supplies to hotels, other institutional customers and also to ships, consulates etc. They have branches at Bangalore, Vizag and Kakinada. The applicant is mainly supplying frozen meat like fish, chicken, etc., and they also make supplies on branch transfer basis from Chennai to their Bangalore branch for which they have a GST registration in Bangalore. They are selling products packed in individual packs of 1Kg, 2Kg, 3Kg etc., to distributors with the marking For Institutional sale only'. They are registered under GST with GSTIN 33AAACF1406C1ZK.

The Applicant has filed this application seeking Advance Ruling on the following questions;

1. Whether hotels qualify as industrial/institutional consumers as per Rule 2bb and 2bc of the Legal Metrology (Packaged Commodities) Rules, 2011?

2. As supply to institutions is not classified as 'pre-packaged and labelled', as per Rule 3(b) of the Legal Metrology (Packaged Commodities) Rules, 2011, the applicant is of the opinion that such supplies are Nil' rated. Whether the applicant's understanding that ITC cannot be availed, as such supplies are Nil' rated, is correct?

3. Supply to Bangalore branch is wholly done by Chennai Head Office, and at Bangalore, they sell the products only to hotels or institutions. So, there will not be any output tax and they cannot claim ITC on

inter-branch transfer. Whether GST is to be charged on inter-branch transfer?

4. The frozen meat products packed in individual packs of 1Kg, 2Kg, 3Kg etc., are sold to distributors with the marking 'For Institutional sale only', which means distributors can sell these products only to hotels/Institutions. Whether the applicant should charge GST on such supplies to distributors?

The Applicant submits that the present application is maintainable under Section 97 of the CGST/TNGST Act, 2017:

a) Classification of any goods or services or both;

b) Applicability of notification issued under the provisions of this Act;

c) Determination of the liability to pay tax on any goods or services or both

As per discussion and findings, it may be noted that prior to 18th July 2022, GST was not leviable on packaged but unbranded goods, and GST was levied on branded goods where the actionable claim or enforceable right over such brand name was not foregone. However, with effect from 18.07.2022, a major change in applicability of GST on packaged goods involving the term 'pre-packaged and labelled' took place by way of issue of two notifications, viz., Notification No.06/2022-Central tax (Rate) dated 13.07.2022 and Notification No.07/2022-Central tax (Rate) dated 13.07.2022, whereby GST was made applicable on supply of such "pre-packaged and labelled" commodities attracting provisions of Legal Metrology Act, 2009.

At this juncture, it becomes imperative to understand the crucial distinction between the terms 'chilled' and frozen', before proceeding further. In common parlance, a chilled product is normally understood to be a refrigerated product, where the products retains the shape and texture, and where the temperature is less than the room temperature, but it does not get into the 'minus' category, i.e., not below zero degrees centigrade. On the other hand, a frozen product is understood to be a hardened product, kept under freezing temperatures at much less than zero degrees centigrade. Here, the distinction between chilled and frozen cargo needs to be discussed.

Frozen cargoes are carried in a hard frozen state at a temperature of around minus 8 degrees centigrade to minus 12 degrees centigrade, to prevent the growth of bacteria, e.g., meat, butter, poultry, and

fish. Then Chilled cargo, these cargoes are carried at the temperature of 6 degrees centigrade to minus 2 degrees centigrade. Maintaining the right temperature is more critical with chilled cargoes than with frozen cargoes as condensation of moisture due to variation of temperature encourages bacterial growth. e.g., cheese, eggs and fresh vegetables.

It could be understood from the above, that when the chicken meat or fish meat are to be delivered at doorstep or across the counter, they are normally done at fresh or chilled state. On the other hand, when the shelf-life is required to be maintained in respect of the said products in order to enable delivery at a much later date to destination afar, or for export consignments, or to be kept at the shelf of departmental stores over a period of time, the products concerned are required to be maintained at a frozen state, often in pre-packaged mode.

As per the Notification No.01/2017 - CT (Rate) dated 28.06.2017, meat of chicken (HSN 0207), or of fish (HSN 0304) 'other than fresh or chilled', i.e., frozen products, get covered under entries at Sl. Nos. 1 and 2 respectively, provided they fall under the category of 'pre-packaged and labelled' commodities. Accordingly, the rate of duty for the impugned pre-packaged and labelled products is leviable to CGST at 2.5%, and SGST at 2.5% (totalling 5%) in case of intra-state supply, and to IGST at 5% in case of inter-state supply, subject to adherence of the conditions as stipulated under the Legal Metrological Act, 2009, and the Legal Metrology (Packaged Commodities) Rules, 2011.

On the other hand, the exemption Notification No.02/2017-CT (Rate) dated 28.06.2017, as amended, discusses inter-alia about the goods in respect of HSN 0202 (Meat of bovine animals, frozen), 0204 (Meat of sheep or goats, fresh, chilled or frozen), 0207 (Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen) and 0304 (Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen), as seen at Sl. Nos. 8 & 9, and at Sl. Nos. 21 & 22.

It could be seen that fresh or chilled meat of chicken (HSN 0207), or of fish (HSN 0304) are exempted from GST by way of entries in Sl.Nos. 8 and 21 straightaway. Apart from the same, it could also be seen that even those goods pertaining to the above

referred HSN 'other than fresh or chilled', i.e., frozen products, also stand exempted from GST by virtue of entries at Sl.Nos. 9 and 22, if they do not fall within the ambit of 'pre-packaged and labelled' category.

Accordingly, on a combined reading of the rate Notification No.01/2017- CT (Rate) dated 28.06.2017 as amended, and the exemption Notification No.02/2017- CT (Rate) dated 28.06.2017, as amended, it becomes clear that the supply of goods satisfying the following conditions, would attract GST, viz.,

- a) The goods are labelled and supplied in pre-packaged condition.
- b) The goods in pre-packaged condition are required to bear the declarations under the provisions of the Legal Metrology Act, 2009 and the rules made thereunder.

From the facts of the case and the questions raised by the applicant as enumerated in Sl.No.14 of the application for advance ruling filed by the applicant, we find that a declaration For institutional sale only', is reported to be affixed on the packages. However, in this regard we observe that the requirement under the first condition, demands in specific terms that the packaged commodities should bear the declaration Not for retail sale'. Further, when the Members raised a specific query during the personal hearing held on 16.04.2025, as to whether the marking 'Not for retail sale' is present in such packages meant for hotels, the authorised representative for the applicant stated that such marking is not done, and instead such packages carry the marking For Institutional sale only'. Hence, we are of the opinion that the first condition is not fulfilled in the instant case.

As regards the second condition, we notice that from the additional submissions made during 'the personal hearing and from the sample copies of invoices furnished therein, that the Applicant is neither a manufacturer nor an importer of the impugned goods. However, since they purchase frozen products in pre-packaged form and fresh products in bulk quantities, and undertake resale of such goods, we find that they act as a wholesale dealer of the goods in question.

Coming to the last condition, as discussed already in detail in para 7.10 above, hotels being considered as 'institutional consumers', is effectively ruled out in view

of the fact that the resultant output ends up as an outward supply on commercial basis. Hence, we find that such sale of packaged commodities to hotels by the Applicant, is to be considered as a supply made to 'industrial consumer', and that the same should be for use by that hotel/industry.

Accordingly, we observe that while the other two conditions appear to have been fulfilled in the instant case, the first and primary condition, viz., the declaration of Not for Retail Sale', has not been fulfilled in the instant case. Hence, for supplies to be made to institutional or industrial consumers, we find that the exemption from GST as claimed by the Applicant would be available, if and only if, it fulfils all the conditions envisaged under Rule 2(bb) and Rule 2(bc) of the Packaged Commodities Rules, 2011.

Mr. J. Martin Joseph Selvaraj, Consultant and a Partner in M/s. J. Martin & Associates, appeared for the personal hearing as the authorized representative (AR) of M/s. Fairmacs Shipstores (P) Ltd. The AR reiterated the submissions made in their application for advance ruling.

He further explained that the applicant is into purchase and sale of frozen meat (chicken, fish, etc.,) and other products, mainly to hotels who use the same for cooking the dish for supply to the customers. He stated that since they are under the impression that such supplies to hotels falls under the Institutional sale' category, all such packages carry the marking For Institutional sale only'. He also stated that they carry out inter-branch transfer to their Bangalore unit and also to their Andaman & Nicobar unit, which are also meant for onward sale to hotels or institutions from the respective branches. To a specific query by the Members as to whether they make sales to retail outlets, he replied that they are normally not making sales to retail outlets and almost all the sale transactions are effected to hotels or institutions. When the Members raised another query as to whether the marking Not for retail sale' is present in such packages meant for hotels, he stated that such marking is not done, and instead such packages carry the marking For Institutional sale only'.

As per ruling;

Question 1: - Whether hotels qualify as industrial/institutional consumers as per

Rule 2bb and 2bc of the Legal Metrology (Packaged Commodities) Rules, 2011?

Answer: - Hotels qualify as an industrial consumer' as per Rule 2(bb) of the Legal Metrology (Packaged Commodities) Rules, 2011, in view of the detailed discussions as in para 7.10 above.

Question 2: - As supply to institutions is not classified as 'pre-packaged and labelled', as per Rule 3(b) of the Legal Metrology (Packaged Commodities) Rules, 2011, the applicant is of the opinion that such supplies are Nil' rated. Whether the applicant's understanding that ITC cannot be availed, as such supplies are Nil' rated, is correct?

Answer: - The declaration Not for Retail Sale' is reportedly not affixed/printed in the packages, and therefore, such supplies are not exempted from payment of GST. However, on fulfilment of the requisite conditions, if such outward supplies are treated as Nil' rated, ITC on the inward supply involved in such cases cannot be availed.

Question 3: - Supply to Bangalore branch is wholly done by Chennai Head Office, and at Bangalore, they sell the products only to hotels or institutions. So, there will not be any output tax and they cannot claim ITC on inter-branch transfer. Whether GST is to be charged on inter-branch transfer?

Answer: - With regard to inter-branch transfers, since the requirement of affixing/printing the declaration Not for Retail Sale' is reportedly not made in the packages, such supplies do not fall under the exempted category.

Question 4: - The frozen meat products packed in individual packs of 1Kg, 2Kg, 3Kg etc., are sold to distributors with the marking For Institutional sale only', which means distributors can sell these products only to hotels/Institutions. Whether the applicant should charge GST on such supplies to distributors?

Answer: - Since the mandatory requirement of declaration Not for Retail Sale' is not available in the packages instant case, and since the status of the distributor as a wholesale dealer is not clear/confirmed, the applicant should charge GST on such supplies to distributors.

B. JUDICIAL DECISIONS ON INDIRECT TAXES

Statute: GOODS AND SERVICES TAX

Decision in Favour of: APPELLANT

Title: M/S. SRI VIJAYA VISAKHA MILK PRODUCERS COMPANY LTD., REP. BY ITS MANAGING DIRECTOR, MR. S.V. RAMANA, AKKIREDDYPALEM, VISAKHAPATNAM-530 012 AND

1. ASST. COMMISSIONER OF CENTRAL TAX, 45-57-21, 2ND FLOOR, SRIYA COMPLEX, NARASIMHA NAGAR, VISAKHAPATNAM - 530 024.

2. JOINT. DIRECTOR, O/O. THE DIRECTORATE GENERAL OF GST INTELLIGENCE, VISAKHAPATNAM ZONAL UNIT, VISAKHAPATNAM.

3. THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI - 110001.

4. THE UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI - 110 001.

5. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, REVENUE (CT-II), SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT., ANDHRA PRADESH.

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO AND THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

Citation: WP.No.254 of 2024 dated 10/12/2024

Bench/court: IN THE HIGH COURT OF ANDHRA PRADESH AMARAVATI

Gst-The Petitioner,- Sri Vijaya Visakha Milk Producers Co. Ltd- Challenged A Tax Order- Reclassifying "Flavoured Milk"- Under Gst Tariff Heading 2202 Instead Of 0402- The Tax Department- Claimed The Product Is- A "Beverage Containing Milk"- And Imposed A Higher Gst Rate (12%)- And Penalty For- Alleged Misclassification- The Petitioner Argued- Flavoured Milk Is Still "Milk With Sweetening Matter,"- Falling Under 0402 (5% Gst)- The High Court Held That- Addition Of Badam Flavour- Does Not Remove The Product- From The Definition Of- Milk Under 0402- It Noted The Product- Contains Over 90% Milk- And Cited Fssai- And Madras High Court- Precedent Supporting 0402 Classification- The Court Rejected- The Claim Of Tax Evasion- And Quashed The Impugned Order- And Penalty- The Writ Petition Was- Allowed With No Costs.

Statute: GOODS AND SERVICES TAX

Decision in Favour of: APPELLANT

Title: ASSISTANT COMMISSIONER OF CENTRAL TAX & ORS VERSUS M/S SRI VIJAYA VISAKHA MILK PRODUCERS COMPANY LTD. & ANR

HON'BLE THE CHIEF JUSTICE HON'BLE MR. JUSTICE SANJAY KUMAR

Citation: WP No. 254/2024 dated 10-12-2024

Bench/court: THE SUPREME COURT OF INDIA

Gst-The Assistant Commissioner- Of Central Tax- Filed A Special Leave Petition (Slp)- Against The Andhra Pradesh High Court's Judgment- Dated 10-12-2024- In Wp No. 254/2024- The Case Involved- The Gst Classification Of- Flavoured Milk By Sri Vijaya Visakha Milk Producers Company Ltd- The Supreme Court- Condoned The Delay- In Filing But Found No Reason- To Interfere With- The High Court's Judgment- Consequently- The Slp Was Dismissed- All Pending Applications- Were Also Disposed Of.

Statute: GOODS AND SERVICES TAX

Decision in Favour of: APPELLANT

Title: THE UNION OF INDIA VERSUS M/S HERITAGE FOODS LIMITED & ANR

HON'BLE MR. JUSTICE PANKAJ MITHAL AND HON'BLE MR. JUSTICE PRASANNA B. VARALE

Citation: WP No. 27108/2021 dated 29-01-2025, WP No. 22055/2021 dated 29-01-2025 and WP No. 21998/2021 dated 29-01-2025

Bench/court: THE SUPREME COURT OF INDIA

Gst-The Delay Of 30 Days- In Filing The Present Petitions- Is Condoned In The Facts- And Circumstances- Of The Case- Accordingly- I.A. No.157639/2025 Is Allowed- The Issue In These Petitions- Is Whether Flavoured Milk- Has To Be Classified- As Item 403 Taxable- At The Rate Of 5%- Or As Item 9930 Taxable- At The Rate Of 12%- This Issue Has- Already Been Decided By This Court- The Writ Court Has- Held That It Has To Be- Classified As Item 04030000- And Has To Be Taxed- At The Rate Of 5%- The Special Leave Petition- Against One Such Decision- Bearing Slp(C) (D) No. 17602 Of 2025- Has Already Been Dismissed By- This Court Vide Order Dated 09.05.2025- In View Of The Above- The Present Petitions- Also Stand Dismissed- Pending Application(S)- If Any- Shall Stand Disposed Of.

Statute: GOODS AND SERVICES TAX

Decision in Favour of: APPELLANT

Title: UTHAPURAM KANMOI PASANA VIVASAIGAL SANGAM VERSUS COMMISSIONER OF COMMERCIAL TAXES, CHENNAI AND OTHERS
VIVEK KUMAR SINGH, J.
Citation: (2025) 143 GSTR 1: 2025 SCC OnLine Mad 3174
Bench/court: IN THE HIGH COURT OF MADRAS

Gst – Assessment – Returns – Limitation – Assessment For Non-Filers Of Returns – Deemed Withdrawal Of Assessment If Return Furnished Within Sixty Days Of Service Of Order – Limitation Of 60 Days Period Directory In Nature – Right To File Return Not Extinguished On Expiry Of Sixty Days If Delay For Valid Reasons – Proper Officer May Condone Delay And Permit Filing Of Return – Limitation In Section 62(2) Not Mandatory – Return Filed Beyond Sixty Days Can Be Accepted If Delay Justified – Assessing Officer Entitled To Pass Best Judgment Assessment Order Within Five Years From Date Specified For Furnishing Annual Return – Right To File Return Not To Be Denied Merely Because Assessment Order Passed Earlier – Legal Right Under Section 62 Preserved Until Expiry Of Five-Year Period – Assessee May Seek Condonation Even If Assessment Order Passed Early – Direction To Assessee To File Application For Condoning Delay In Filing Returns For Consideration By Assessing Officer Of Reasons And Permit Assessee To File Revised Returns – Central Goods And Services Tax Act (12 Of 2017), Ss. 39, 62.

Statute: GOODS AND SERVICES TAX
Decision in favour of: APPELLANT
Title: SHRI LAXMAN DAS JAISINGHANI VERSUS UNION OF INDIA AND OTHERS
SANJEEV SACHDEVA AND VINAY SARAF, JJ.
Citation: (2025) 143 GSTR 7: 2025 SCC OnLine MP 4928
Bench/Court: IN THE HIGH COURT OF MADHYA PRADESH

Gst – Writ – Appeal – Limitation – Pre-Deposit – Payment Of Pre-Deposit Through Gst Electronic Cash Ledger Before Filing Appeal – Held Valid In Absence Of Order Upload On Gst Portal Enabling Electronic Appeal Filing – Rejection Of Appeal For Procedural Delay Despite Bona Fide Compliance With Statutory Requirements – Order Set Aside – Central Goods And Services Tax Act (12 Of 2017), S. 107.

Statute: GOODS AND SERVICES
Decision in favour of: APPELLANT

Title: PUSHKAR GURUNG VERSUS DEPUTY COMMISSIONER OF REVENUE, COMMERCIAL TAXES (SGST), DARJEELING CHARGE AND OTHERS
HIRANMAY BHATTACHARYYA, J.
Citation: (2025) 143 GSTR 12: 2025 SCC OnLine Cal 3950
Bench/Court: IN THE HIGH COURT OF CALCUTTA

Gst – Suppression Of Turnover – Writ Petition By Assessee Against Order Of Authority On Ground Notices Directing Production Of Documents Issued But No Date Of Hearing Fixed – Order Set Aside Directing Authority To Grant Fresh Opportunity To Produce Documents As Directed By Authority – Matter Remanded.

Statute: GOODS AND SERVICES TAX
Decision in favour of: APPELLANT
Title: ITI LIMITED VERSUS JOINT COMMISSIONER, CENTRAL TAX AND CENTRAL EXCISE, KOZHIKODE AND ANOTHER
BECHU KURIAN THOMAS, J.
Citation: (2025) 143 GSTR 14: 2025 SCC OnLine Ker 2086
Bench/Court: IN THE HIGH COURT OF KERALA

Gst – Writs Under Constitution – Alternative Remedy input-Tax Credit Ineligible Input-Tax Credit Availed And Utilised Challenge To Order Under Section 73(9) Imposing Amount Towards Ineligible Input-Tax Credit Allegation That Documents Not Considered By Proper Officer – Opportunity Of Hearing Granted And Authorized Representative Heard Contentions Of Assessee Considered In Impugned Order Findings Of Fact Requiring Appreciation Of Documents Not Fit For Exercise Of Extraordinary Jurisdiction Under Article 226 Writ Petition Dismissed With Liberty To Pursue Statutory Remedies Central Goods And Services Tax Act (12 Of 2017), S. 73(9) Kerala State Goods And Services Tax Act (20 Of 2017), S. 73(9) Constitution Of India, Art. 226.

Statute: GOODS AND SERVICES TAX
Decision in favour of: APPELLANT
Title: ITI LIMITED VERSUS JOINT COMMISSIONER, CENTRAL TAX AND CENTRAL EXCISE, KOLZHICODE AND ANOTHER
DR A.K. JAYASANKARAN NAMBIAR AND EASWARAN S., JJ.
Citation: (2025) 143 GSTR 17: 2025 SCC OnLine Ker 4881
Bench/ Court: IN THE HIGH COURT OF KERALA

Gst – Input-Tax Credit – Natural Justice – Writs Under Constitution – Challenge To Single Bench Dismissal Of Writ Petition On Ground Of Alternative Remedy – Order Demanding Ineligible Input-Tax Credit Passed Without Proper Reconciliation Of Documents – Proper Officer Admitting Inability To Reconcile Data Presented By Assessee With Goods And Services Tax Portal – Failure To Afford Opportunity To Explain Discrepancies – Clear Violation Of Principles Of Natural Justice – Exceptional Circumstances Justifying Bypass Of Alternative Remedy – Appellate Court Setting Aside Impugned Order – Matter Remanded For Fresh Hearing And Decision Central Goods And Services Tax Act (12 Of 2017), S. 73- Kerala State Goods And Services Tax Act (20 Of 2017), S. 73.

Statute: SALES TAX AND VAT
Decision in favour of: APPELLANT
Title: JALALUDEEN VERSUS COMMISSIONER OF STATE TAXES, TRIVANDRUM
DR A.K. JAYASANKARAN NAMBIAR AND SYAM KUMAR V.M., JJ.
Citation: (2025) 143 GSTR 22: 2024 SCC OnLine Ker 2423: (2024) 4 KLT 319: (2024) 4 KHC 79
Bench/Court: IN THE HIGH COURT OF KERALA

A. Sales Tax And Vat – Value Added Tax – Suppression Of Turnover – Penalty – Revision – Jurisdiction – Input-Tax Credit – Revisional Authority ‘S Order Stating That Tax Element Allegedly Evaded Relates Only To Value Addition – And Penalty Should Be Limited To Actual Amount Of Tax Evaded On Value Addition Unsustainable – Input-Tax Credit Cannot Be Permitted Unless Claimed As Per Statutory Provisions And Prescribed Procedural Requirements – Commissioner Has Power To Suo Motu Revise Order Passed By Revisional Authority Where Such Order Is Prejudicial To Interest Of Revenue – Assessee Precluded From Raising Jurisdictional Challenge Against Revisional Authority For First Time At Appellate Stage – Kerala Value Added Tax Act, 2003 (30 Of 2004), Ss. 58, 59. Value Added Tax
 B. Maxim – “Nullus Commodum Capere Potest De Injuria Sua Propria”.

Statute: GOODS AND SERVICES TAX
Decision in favour of: APPELLANT
Title: K.N.R. SRIRANGAM INFRA PVT. LTD VERSUS STATE TAX OFFICER, TRICHY
C. SARAVANAN, J.
Citation: (2025) 143 GSTR 30: 2024 SCC OnLine Mad 8431: (2024) 89 GSTL 87

Bench/Court: IN THE HIGH COURT OF MADRAS

Gst - Provision Of Service To National Highways Department Of India Where 40 Per Cent., Of Consideration Received During Execution Of Work And 60 Per Cent. Of Consideration Received Annually Over 14 Years - Liability To Tax - To Be Determined In Light Of Circular No. 221/15/2024-Gst, Dated June 26, 2024 Prima Facie Assessee's Tax Liability Arises When Either Invoice Issued Or Payment Received - Availment Of Full Input-Tax Credit On Tax Paid By Sub-Contractor Irrelevant - Central Goods And Services Tax Act (12 Of 2017).

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: EASTERN MACHINE BRICKS AND TILES INDUSTRIES VERSUS STATE OF U.P. AND OTHERS

SHEKHAR B. SARAF, J

Citation: (2025) 143 GSTR 38: 2024 SCC

OnLine All 191: (2024) 82 GSTL 14

Bench/Court: IN THE HIGH COURT OF ALLAHABAD

A. Gst - Natural Justice - Voluntary Cancellation Of Registration By Assessee - Subsequent Uploading Of Show-Cause Notice Under Section 74 On Web Portal Despite Knowledge That Assessee's Registration Cancelled Prior To Date Of Issuance Of Show-Cause Notice - Action Of Authority In Preventing Assessee From Appearing In Hearing Of Original Proceeding - Constitutes Violation Of Natural Justice - Authority Obligated To Provide Assessee With Copies Of Materials Relied Upon Enabling Assessee To Adequately Respond To Them - Action Taken Without Proper Intimation And Service Of Show-Cause Notice Vitiating And Bad In Law - Authority Directed To Grant Opportunity Of Hearing To Assessee - Central Goods And Services Tax Act (12 Of 2017), S. 74. B. Natural Justice - Principles Of Audi Alteram Partem - Ensures No One Condemned, Penalized, Or Deprived Of Rights Without Fair And Reasonable Opportunity Of Hearing.

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: NEHRU FOUNDATION FOR DEVELOPMENT CENTRE FOR ENVIRONMENT EDUCATION SOCIETY VERSUS UNION OF INDIA

BHARGAV D. KARIA AND NIRAL R. MEHTA, JJ.

Citation: (2025) 143 GSTR 53: 2024 SCC

OnLine Guj 4380

Bench/Court: IN THE HIGH COURT OF GUJARAT

Service Tax - Reimbursement Of Expenditure - Charitable Trust To Promote Nationwide Environmental Awareness - Expenditure Incurred For Various Projects - Reimbursable Expenditure Shown In Income And Expenditure Accounts Only For Internal Allocation Of Expenditures - Cannot Be Taxed Unless Recovered By From Recipient Of Service - Amount Of Expenditure Should Not Only Be Incurred By Service Provider But Should Also Be Charged - Finance Act (32 Of 1994), Ss. 66b, 67 (After Amendment W.E.F. May 14, 2015) - Service Tax (Determination Of Value) Rules, 2006, R. 5.

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: SCHNEIDER ELECTRIC INDIA PVT. LTD VERSUS COMMISSIONER OF SERVICE TAX, DELHI (AND VICE VERSA)

S.S. GARE, MEMBER (JUDICIAL) AND P. ANJANI KUMAR, MEMBER (TECHNICAL)

Citation: (2025) 143 GSTR 64: 2023 SCC

OnLine CESTAT 2693

Bench/Court: IN THE CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

A. Service tax - Intellectual property rights service - Transfer of technical know-how - Intellectual property right prescribed under Indian law in force - Chargeable to tax - Transfer of technical know-how - Know-how not an intellectual property right - Royalty paid for transfer of technical know-how not taxable under intellectual property rights service - Finance Act (32 of 1994), s. 65(55a), (55b), (105)(zzr) - Circular No. 80/10/2004-ST dated September 17, 2004.

B. Service tax - Reverse charge mechanism - Intellectual property right service - Exemption from payment of service intellectual property right service tax to extent research and development cess paid - Available for service tax paid under reverse charge - Finance Act (32 of 1994), s. 66A - Notification No. 17/2004-ST dated September 10, 2004.

C. Service tax - Limitation - Assessee under bona fide belief no service tax exigible on acquisition of know-how - Issue related to interpretation - Entire proceedings revenue neutral - Demand invoking extended period of limitation unsustainable - Finance Act (32 of 1994).

D. Service tax - Cum-tax benefit - Available even in reverse charge scenario

E. Precedent - Mere filing of appeal not ground for not following passed by High Court and Tribunal on identical issue.

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: ORBIT RESEARCH ASSOCIATES PRIVATE LIMITED VERSUS COMMISSIONER OF SERVICE TAX (APPEALS-I), NEW DELHI DILIP GUPTA, (PRESIDENT) AND HEMAMBIKA R. PRINA, MEMBER (TECHNICAL)

Citation: (2025) 143 GSTR 81: 2023 SCC

OnLine CESTAT 305

Bench/Court: IN THE CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

A. Service Tax - Export Of Service - Business Auxiliary Service - Market Promotion Services To Foreign Principal Receiving Commission In Convertible Foreign Exchange - Constitute Export Of Service - Supply Of Goods By Foreign Principal To Customers In India Based On Market Survey Conducted By Assessee - Does Not Imply Services Rendered By Assessee To Indian Entity - Finance Act (32 Of 1994), S. 65(105)(Zzb) - Export Of Services Rules, 2005, R. 3(2) - Place Of Provision Of Services Rules, 2012, Rr. 3, 19 -Service Tax Rules, 1994, R. 6a - Circulars Dated May 13, 2011 And February 24, 2009.

B. Service Tax - Limitation - Returns Filed By Assessee Showing Whole Commission Earned During Relevant Period - Assessee Believing Received Amount Not Chargeable To Service Tax Not Required To Seek Clarification From Jurisdictional Authority - Demand Invoking Extended Period Of Limitation - Unsustainable.

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: BAHETI AGRI LINKS VERSUS COMMISSIONER, CUSTOMS AND CENTRAL EXCISE, INDORE

DILIP GUPTA, (PRESIDENT) AND P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)

Citation: (2025) 143 GSTR 98: 2023 SCC

OnLine CESTAT 5008

Bench/Court: IN THE CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

Service Tax - Export Of Service - Provision Of Business Auxiliary Service To Foreign Parties Acting As Commission Agent To Facilitate Sale Of Their Goods To Indian Customers - Qualifies As Export Of Service - Location Of Ultimate End-User Of Service In India Inconsequential - Export Of

Services Rules, 2005, R. 3.

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: REEBOK INDIA COMPANY VERSUS COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX, PANCHKULA (SERVICE TAX APPEAL NO. 56241 OF 2013) AND REEBOK INDIA COMPANY VERSUS COMMISSIONER OF SERVICE TAX, DELHI (SERVICE TAX APPEAL NO. 57195 OF 2013)

S.S. GARG, MEMBER (JUDICIAL) AND P. ANJANI KUMAR, MEMBER (TECHNICAL)

Citation: (2025) 143 GSTR 104: 2023 SCC OnLine CESTAT 3655

Bench/Court: IN THE CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

A. Service Tax - Intellectual Property Rights Services - Transfer Of Know How - Intellectual Property Rights Not Recognised Under Indian Laws Excluded From Intellectual Property Right Services - Finance Act (32 Of 1994), S. 65(55a), (55b).

B. Service Tax - Business Auxiliary Service - E Commission Received For Identifying And Negotiating With Indian Exporters - Cannot Be Taxed Under "Business Auxiliary Service" - Service Used Outside India Not Liable To Be Taxed - Finance Act (32 Of 1994).

C. Service Tax - Technical Inspection And Certification Service - Exigible To Service Tax Unless Provided By Agency Involved In Testing And Certification - Finance Act (32 Of 1994), Ss. 65(105) (Zzi), (108), (109).

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: ARCELOR MITTAL PROJECTS INDIA PVT. LTD VERSUS COMMISSIONER OF SERVICE TAX, MUMBAI-II

DR SUVENDU KUMAR PATI, MEMBER (JUDICIAL) AND ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

Citation: (2025) 143 GSTR 126: 2023 SCC ONLINE CESTAT 589

Bench/Court: IN THE CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

Service Tax - Export Of Service - Assessee Functioning As Sub-Agent Of Overseas Main Agent Acting As A Commission Agent For Steel Mills Situated Outside India - Assessee Providing Necessary Details Of Customers In India To Foreign Steel Mills Which Then Directly Supplying Goods To Indian Customers - Part Of Commission Received By Overseas Main Agent From

Foreign Steel Mills Paid To Assessee In Convertible Foreign Exchange Based On Volume Of Sales - Transaction Qualifies As Export Of Services - Export Of Services Rules, 2005, R. 3.

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX, DELHI VERSUS GLAXO SMITHKLINE ASIA PVT. LTD

S.S. GARG, MEMBER (JUDICIAL) AND P. ANJANI KUMAR, MEMBER (TECHNICAL)

Citation: (2025) 143 GSTR 131: 2023 SCC OnLine CESTAT 964

Bench/Court: IN THE CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

Service Tax - Export Of Service - Clinical Trial Services Rendered To Overseas Company For Its Research Purposes - Constitute Export Of Services - Services Utilized By Company Situated Outside India And Used Outside India - Routing Of Payment Or Consideration Through Third Party Does Not Change Position - Export Of Services Rules, 2005, R. 3(1)(C).

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: BAXTER INDIA PRIVATE LIMITED VERSUS COMMISSIONER OF SERVICE TAX, DELHI

S.S. GARG, MEMBER (JUDICIAL) AND P. ANJANI KUMAR, MEMBER (TECHNICAL)

Citation: (2025) 143 GSTR 140: 2024 SCC OnLine CESTAT 322

Bench/Court: IN THE CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

A. Service Tax - Export Of Service - Services Performed In India Can Be Considered As Export Of Services If Beneficiary Of Services Located Abroad -Finance Act (32 Of 1994)- Export Of Services Rules, 2005 - Circular No. 111/05/2009-St, Dated February 4, 2009.

B. Service Tax - Business Support Services - Management Consultancy Service- Export Of Service - Service In Nature Of Providing Information Rather Than Offering Management Advice- Falls Under Business Support Services- Not Under Management Consultancy Service - Service Classification Irrelevant As It Constitutes Export Of Service - Finance Act (32 Of 1994).

C. Service Tax- Intellectual Property Services - Franchise Services License To Use Intellectual Property Rights - Service

Rendered Falls Under Intellectual Property Services - Does Not Constitute Franchise Service Since No Representational Rights Granted- Finance Act (32 Of 1994), S. 65(47), (55b).

D. Service Tax- Reverse Charge Mechanism- Service Tax On Reverse Charge Mechanism Not Payable Prior To April 18, 2006- Finance Act (32 Of 1994), S. 66a.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: SHASHI RANJAN CONSTRUCTIONS PRIVATE LIMITED VERSUS UNION OF INDIA AND OTHERS

RAJEEV RANJAN PRASAD AND ASHOK KUMAR PANDEY, JJ.

Citation: (2025) 143 GSTR 154: 2025 SCC OnLine Pat 2382

Bench/Court: IN THE HIGH COURT OF PATNA

Gst - Property Development Agreement - Construction Services - Taxability Under Reverse Charge Mechanism - Challenge To Time Extension Notifications - Pre-Gst Agreement - Consideration Received Before Completion Certificate - Construction Services Covered Under Notification No. 11/2017- Schedule Ii, Paragraph 5(B) - Transfer Of Development Rights - Assessment Order Within Limitation - Writ Petition Dismissed - Central Goods And Services Tax Act (12 Of 2017), Ss. 7, 73(9), (10), 168a - Bihar Goods And Services Tax Act (12 Of 2017), S. 73(9), (10) - Constitution Of India, Art. 226.