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ERNAKULAM BRANCH

NEWSLETTER



Chairman's Message

Dear Members and Students,

As we approach the culmination of another year marked by significant achievements and steadfast dedication to the profession, it is with great pleasure that I share with you the December 2025 edition of the Chairman's Communiqué.

The preceding month has been a period of considerable significance for our Ernakulam Branch, characterised by a series of impactful initiatives, enriching learning experiences, and notable milestones that collectively underscore our unwavering commitment to upholding the highest standards of professional excellence and advancing the interests of our members.

December was a truly fulfilling month, packed with enriching events and meaningful celebrations! Our Ernakulam Branch hosted a thought-provoking panel discussion on Filing of GSTR 9 and 9C, offering expert insights into GST compliance, followed by a CPE Seminar on GSTR 9 & 9C Filing and Code of Ethics, equipping members with practical knowledge and skills.

We also organised a CPE Workshop on Valuation and Insolvency, addressing key industry concerns and emerging trends.

As part of our 'We Care' initiative, we honoured senior members of the profession in Ernakulam during the 59th Formation Day Celebrations, acknowledging their contributions and dedication.

Additionally, a one-day Training Programme for Peer Reviewers enhanced professional standards, empowering reviewers with best practices and updates.

The crowning glory of the month was the ICAI Convocation 2025, celebrating newly qualified Chartered Accountants in Kerala on December 29,



2025 – a milestone event marking the second convocation in the state's history, and a testament to the Institute's commitment to excellence.

Best Wishes to CA Students To our diligent and aspiring CA Students appearing for examinations in January 2026, my best wishes are with you.

Stay focused, stay confident, and trust your preparation. The entire fraternity is cheering for your success. Let us continue to uphold the values of the profession, strive for excellence, and contribute to the growth of our Branch, the Institute, and the nation.

Together, let us welcome 2026 with renewed energy and purpose.

Warm regards,

CA. Anand A. S.

Chairman

Ernakulam Branch of SIRC of ICAI

Reported Judicial Decisions

CA. P. M. Veeramani FCA

**Statute: Income Tax Act – Sec.2(15) –
cultural events**

Decision in favour of : Assessee

Title : CIT (E) vs United way of Baroda

Citation: 478 ITR 530

Bench: Gujarat HC

Income from ticket sales by organizing dance events and food stalls did not constitute business activity and exemption u/s 11 cannot be denied. SLP against the order dismissed by supreme court in 478 ITR 535 SC with the remark “ we see absolutely no reason to interfere with the order of High Court “

Statute: Income Tax Act – Sec.28(i) –

Date of setting up business

Decision in favour of : Assessee

Title : DCIT vs Aricent Technologies (Holding) Pvt Ltd

Citation: 213 ITD 378

Bench: ITAT Delhi

Actual commencement of revenue generating activity does not have any bearing for determining the date of setting up of business and expenses incurred after date of setting up of business till revenue is earned are eligible for deduction

Statute: Income Tax Act – Sec.40A(3) –

cash payments through supervisors

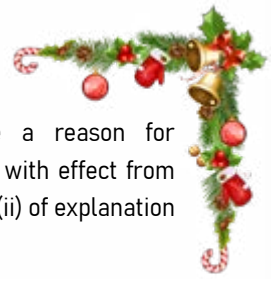
Decision in favour of : Assessee

Title : SK Jaynal Abddin vs CIT

Citation: 477 ITR 95

Bench: Calcutta HC

Assessee's supervisors acting as agent of the assessee and accounting to him for the amount received and disbursed to individual employees. Such supervisors are not sub contractors and payments made by them to the labourers on assessee's behalf does not attract disallowance



Statute: Income Tax Act – Sec.41(1) – Cessation of liability
Decision in favour of: Assessee
Title : ITO vs N Kumar Housing and Infrastructure Pvt Ltd
Citation: 125 ITR Trib 401
Bench: ITAT Nagpur

Lease deposit from tenants, booking advance for property outstanding in books for many years and remaining as opening balances during the year could not be taxed under section 41(1) as cessation of liability when such liability continued to be reflected in the books

Statute: Income Tax Act – Sec.56(2)(viib) – allotment of shares against unsecured loan
Decision in favour of: Assessee
Title : PCIT vs I A Hydro Energy Pvt Ltd
Citation: 477 ITR 344
Bench: Himachal Pradesh HC

Conversion of unsecured loan received in earlier years to shares in assessment year would not fall under definition of “any consideration for issue of shares received in previous year” and hence provisions of section not attracted

Statute: Income Tax Act – Sec.80G – Incorrect clause selected
Decision in favour of: Assessee
Title : Aatman Foundation vs CIT (E)
Citation: 213 ITD 8
Bench: ITAT Ahmedmad

Due to an inadvertent error in filing of Form 10AB, application was made under incorrect sub clause (B) of clause (iv) of first proviso to section 80G(5) instead of clause (iii) of first proviso to section 80G(5), matter was to be remanded to CIT(E) for de novo consideration of the application

Statute: Income Tax Act – Sec.115 JB – Provision for CSR **Decision in favour of: Assessee**
Title : DCIT vs J & K Power Development Corporation Ltd
Citation: 125 ITR Trib 556
Bench: ITAT Amritsar

Provision made for CSR expenditure in accordance with Companies Act 2013 need not be added back for computation of book profit and AO is not empowered to recomputed book profits by disallowing the same

Statute: Income Tax Act – Sec.143(2) – E mail Id not updated
Decision in favour of: Revenue
Title : Lakeshore Hospital and Research Centre Ltd vs NFAC
Citation: 477 ITR 337
Bench: Kerala HC

Failure of assessee to update Email ID resulting in non-receipt of notices resulting in not able to utilize the opportunity of being heard was due to its own fault. There was no violation of principles of natural justice and assessment order held valid. Assessee could pursue alternate remedy of appeal provided in statute

Statute: Income Tax Act – Sec.144B – Providing video link not enough
Decision in favour of: Assessee
Title : Phari Projects Pvt Ltd vs ITO
Citation: 482 ITR 253
Bench: Calcutta HC

Mere creation of video conference meeting ID or link, does not absolve faceless assessment unit from discharging its responsibility of offering a personal hearing. Failure to provide and share effective link has resulted in not providing adequate opportunity and hence assessment order and consequent demand notice set aside

Statute: Income Tax Act – Sec.148 – Audit objection
Decision in favour of: Revenue
Title : Sree Narayana Guru Memorial Educational and Cultural Trust vs ACIT
Citation: 478 ITR 466
Bench: Kerala HC

Audit objection can be a reason for reopening of assessment with effect from 1.4.2022 in view of clause (ii) of explanation 1 of section 148

Statute: Income Tax Act – Sec.206AA – No default by buyer
Decision in favour of: Assessee
Title : Harsha Sunil Shah vs ACIT CPC
Citation: 478 ITR 413
Bench: Madras HC

Buyer of property deducting TDS and remitting sale in the name of seller in the PAN furnished which was Aadhar Linked. PAN card verified at the time of registration of property by sub registrar office. CPC not justified in demanding tax towards short deduction on ground that said PAN was invalid. Department having accepted the tax paid cannot turn around and claim it again stating invalid PAN

Statute: Income Tax Act – Sec.254(2) – Time limit for MA
Decision in favour of: Assessee
Title : Knowell Realtors India Pvt Ltd vs ACIT
Citation: 482 ITR 423
Bench: Kerala HC

The tribunal did not have jurisdiction to consider the belated rectification applications. It could not have given liberty to the Department to file rectification application to restore the appeals beyond the period of six months permitted under the statute for filing the application

Statute: Income Tax Act – Sec.263 – Revision order valid
Decision in favour of: Revenue
Title : PCIT vs R A Himmatsingka and co
Citation: 478 ITR 456
Bench: Patna HC

Penalty proceedings u/s 271(1)(c) initiated during course of assessment and by order dropped by assessing officer and such order can be subject matter of revision under section 263

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. HINDUSTAN PENCILS PRIVATE LIMITED

Citation: GUJ/GAAR/R/2025/08 dated 21.03.2025

Bench/Court: GUJARAT AUTHORITY FOR ADVANCE RULING

M/s. Hindustan pencils private Limited, plot No. 217/2, GLDC Estate, Umbergaon, valsad -396171 [for short -'applicant'] is

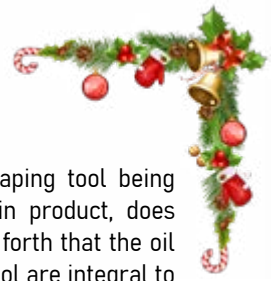
registered under GST and their GSTIN is 24AAACH040IR1ZT.

The applicant is engaged in the manufacturing and supply of stationary products like pencils, sharpeners, erasers, mathematical and drawing instruments, ball point pens, wax crayons and oil pastels and wide range of student art materials under the brand names 'Apsara' and 'Nataraj'.

The facts leading to the filing of the present application is as under;

□ They sell 'Apsara Oil Pastels' which is a pack of 12 or 26 or 51 units of oil pastels with different colour shades, which are used for colouring the sketches and drawings and the product is classified under HSN 9609 9030 leviable to GST @ 12% as per entry No. 233 of schedule-II of CGST Act, 2017.

□ The applicant intends to insert a 'Scraping Tool' in the said pack of oil pastels & re-labelled it as 'Apsara Oil Pastels with free scraping tool';



□ The scraping tool is a small tailor-made product of plastic (3x3 cms.) and comes in fancy shapes like Duck or Bird; that it can be used to scratch the surface coloured with the oil pastels to create and enrich designs, drawings, and patterns in the coloured areas by removing layers of oil pastels from a drawing and reveal a different colour or layer underneath.

□ That the scrapping tool is independently classified under 3926 9080 and taxed at 18% as per entry 1111 of schedule-III of CGST Act, 2017.

The applicant is further of the view that though the supply of oil pastels includes the scrapping tool, there is no supply of scrapping tool since they are making only one supply i.e., supply of oil pastels which is classifiable under 9609 9030 & is leviable to GST @ 12% under entry 233 of schedule-II of GGST Act, 2017.

Alternatively, in terms of section 2(30),2(90) and section 8(a) of the CGST Act, 2017, the applicant feels that even if it is held that there is a supply of the scrapping tool, when they supply of Apsara oil pastels with free scrapping tool, it would be 'composite supply' as all the conditions for a supply to qualify as composite supply are satisfied.

The applicant has sought advance ruling for the below- mentioned questions;

1. Whether inclusion of a free 'Scraping Tool' in the pack of Apsara Oil Pastels amounts to independent 'supply' of the scrapping tool under section 7 of the CGST Act,2017?

2. What will be the classification and the rate of tax on supply of the 'Apsara Oil Pastels with Free Scraping Tool' under the provisions of the CGST Act, 2017 and the GGST Act, 2017?

Personal hearing was granted on 03.01.2025 wherein Shri Parind Mehta, CA along with Shri Sanjay Gupta, CFO appeared on behalf of the applicant and reiterated the facts as stated in the application.

As per the discussions and findings, we have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

We find that the applicant intends to supply Apsara oil pastels with free scrapping tool. The primary averments raised are [a] that there is no supply of scrapping tool in the aforementioned supply, and [b] even if it is held that there is a supply of the 'scrapping

tool', it would be considered as 'composite supply' as all the conditions for the supply to qualify as composite supply are met.

Moving on to the first averment of the applicant that there is no supply of scrapping tool; that the only supply is of oil pastel since scrapping tool is supplied free of cost and that there is no consideration as far as scrapping tool is concerned. Section 7, ibid, deals with scope of supply.

As is evident, supply includes all forms of supply of goods, such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Now, applicant's contention is that the scrapping tool, included in the supply of Apsara oil pastels, since it is a free supply without any consideration, should not be considered as a supply.

The second averment of the applicant is that even if it is held that there is a supply of the 'scrapping tool', it would still be considered as 'composite supply' as all the conditions for the supply to qualify as composite supply is met. The applicant has stated that they qualify, all the condition to be considered as a "composite supply".

We find that for a supply to considered as a composite supply, the following conditions must be satisfied:

□ There must be two or more taxable supplies of goods or services or any combination thereof:

□ Such supplies of goods or services must be naturally bundled

□ Such supplies of goods or services are made in conjunction with each other in an ordinary course of business; and

□ One of such combination of supplies of goods or services is principal/predominant supply to others which are ancillary to such principal element.

While undisputedly, the first condition stands satisfied, as far as the other conditions are concerned, we are unable to agree with the applicant for the reasons depicted below.

The second & the third condition, as listed supra, that goods or services are naturally bundled & that such supplies are made in conjunction with each other in an ordinary course of business, as far as the present product is concerned, is not a plausible argument. We find that the supply of scrapping tool along with oil pastels is not an essential element. The scrapping tool at best is used for enhancing the aesthetics of the coloured area. Thus, scrapping tool and oil pastels are not naturally bundled but

are distinct to each other.

The averment of the scrapping tool being an accessory to the main product, does not fulfil the criterion set forth that the oil pastel and the scrapping tool are integral to the overall supply le if the scrapping tool is removed, the nature of the supply would be affected.

Further, we are also not convinced that the combination of oil pastels is principal/predominant supply and scrapping tool is ancillary to such principal element. This is more so since these goods are separately available in the market. The argument that other than being used along with oil pastel the scrapping tool has no utility is again not a plausible argument.

As is already mentioned the applicant supplies t*o products in a single pack/box for a single price. Further as already discussed supra such supply does not constitute composite supply. Therefore, we hold that applicant's product is covered under the category of 'mixed supply' as defined under section 2(74) of CGST Act 2017.

Now, tax liability in respect of a supply falling under the ambit of mixed supply is governed by section 8(b) of CGST Act, 2017 , which is already reproduced supra.

The above provision specifies that the tax liability of a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the higher rate of tax in the mixed supply. we therefore, hold that the product Apsara oil Pastels with free scrapping tool is classifiable under HSN 3926 and would attract GST @ 18% in terms of entry no 111 of schedule III.

As per ruling;

Question1: - Whether inclusion of a free 'Scraping Tool' in the pack of Apsara Oil Pastels amounts to independent 'supply' of the scrapping tool under section 7 of the CGST Act,2017?

Answer: - Inclusion of a free 'Scraping Tool' in the pack of Apsara Oil Pastels amounts to independent 'supply' of the scrapping tool under Section 7 of the CGST Act, 2017.

Question 2: -What will be the classification and the rate of tax on supply of the 'Apsara Oil Pastels with Free Scraping Tool' under the provisions of the CGST Act, 2017 and the GGST Act, 2017?

Answer: - 'Apsara Oil Pastels with Free Scraping Tool' is classifiable under HSN 3926 and is leviable to GST @18%.

Statute: GOODS AND SERVICES TAX
Decision in Favour of: NOT APPLICABLE
Title: M/S. KEI INDUSTRIES LTD

Citation: GUJ/GAAR/R/2025/06 dated 21.03.2025

Bench/Court: GUJARAT AUTHORITY FOR ADVANCE, RULING

M/s KEI Industries Limited, 209,212/3, 217/1, NH No.8, Jetalpur, Daskroi, Ahmedabad, Gujarat382426 (for short - 'applicant') is engaged in the manufacture and supply of Extra-High Voltage (EHV), Medium Voltage (MV) and Low Voltage (LV) power cables. The applicant has collaborated with M/s Brugg Kabel AG, a Swiss company, to upgrade its technology to manufacture EHV cables up to 400 KV. The applicant is registered with the department and their registration No. is 24AAACK0251C1ZD).

The applicant is procuring various inputs and input services in order to construct the outer square structure with concrete columns and concrete foundation to support the erection of the VCV line. They are of the view that ITC on inputs and input services is received by them for the construction of the concrete structure, used for structural and foundational support of the VCV line is available to them in terms of sections 16 & 17 of the CGST Act, 2017.

The applicant has sought advance ruling for the following question;

Question: - Whether the applicant is eligible to avail ITC on inputs and input services used for construction of concrete tower to support and erect the VCV lines at the factory of the applicant, for manufacture of EHV cables, in terms of Section 17(5)(c) and (d) of the CGST Act, 2017?

As per the discussions and findings, we have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing, additional written submissions and oral submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

To summarize, the short issue involved in the application filed seeking a ruling is regarding, eligibility of the applicant to avail the ITC on inputs and input services used for construction of concrete tower to support and erect the VCV lines at the factory of the applicant.

We find that the Hon'ble Supreme Court, while analysing section 17(5)(c), ibid, has concluded that in the case of works contract, benefit of ITC is not available in respect of services supplied for the

construction of immovable property, subject however to two exceptions [a] when the goods, services, or both, are received for construction of 'plant and machinery'; and [b] where the works contract service supplied for the construction of immovable property is an input service for further supply of the works contract.

Further, while analysing section 17(5)(d), ibid, the Hon'ble Supreme Court has concluded that it seeks to exclude from the ambit of sub sections 16(1) & 18(1), ibid, services received by a taxable person to construct an immovable property on his own account subject however, to two exceptions, where goods or services or both are received by a taxable person to;

[a] Construct an immovable property consisting of a "plant or machinery" and

[b] For the construction of an immovable property made not on his own account;

Personal hearing was granted on 04.12.2024, wherein Ms. Priyanka Kalwani, Advocate, Ms. Devanshi Sharma, Advocate, Shri Dayanand Sharma, Shri Sonu Sharma Shri Ajit Kumar Bhandari appeared on behalf of the applicant and reiterated the submission already made in the application. The Hon'ble Supreme Court further, explains that construction is said to be on a taxable person's "own account" when (i) it is made for his personal use and not for service; or (ii) it is to be used by the person constructing as a setting in which business is carried out, further stating that construction cannot be said to be on a taxable person's "own account" if it is intended to be sold or given on lease or license.

We find that the Hon'ble Supreme Court while analysing the expression plant or machinery, held that there could be a plant that is an immovable property; that the word 'plant' not having been defined under the Act, its ordinary meaning in commercial terms will have to be attached to it.

The Hon'ble Court, thereafter laid down a functionality test further concluding that, if the construction of a building by the recipient of service is for his own use, the chain will break, and ITC would not be available.

The appellant has stated that the VCV lines can be termed as apparatus and machinery, that the construction of concrete tower for erection and support of VCV lines are eligible for ITC as they are used for providing foundation and structural support. We find that the aforementioned judgement lays down the law as far as section 17(5)(d), ibid, is concerned, ITC on services received for

construction of immovable property on his own account is blocked subject however, to two exceptions, as listed supra. The Hon'ble Court further explains taxable person's "own account" to be when (i) it is made for his personal use and not for service or (ii) it is to be used by the person constructing as a setting in which business is carried out. On examining the applicant's case in light of the above, we find that the ITC on inputs and input services used for construction of concrete tower to support and erect EHV cables, is hit by section 17(5)(d), ibid and therefore ITC is not eligible on this count.

Now on examining the matter as to whether it would fall within the other exception of 17(5)(d), ibid, i.e., construction of an immovable property consisting of a "plant or machinery", we find that the Hon'ble Court has laid down a functionality test, holding that if a building qualifies to be a plant, ITC can be availed. However, even on this count, if the construction of a building by the recipient of service is for his own use, the chain will break, and therefore, ITC would not be available. We have already held that in the present dispute, the appellant has not been in a position to prove that it is not on his own account. Going by the rationale of the judgement, supra, we hold that on this ground also, the appellant would not be eligible for ITC.

As per ruling;

Question: - Whether the applicant is eligible to avail ITC on inputs and input services used for construction of concrete tower to support and erect the VCV lines at the factory of the applicant, for manufacture of EHV cables, in terms of Section 17(5)(c) and (d) of the CGST Act, 2017?

Answer: - The applicant is not eligible to avail ITC on inputs and input services used for construction of concrete tower to support and erect the VCV lines at the factory of the applicant, for manufacture of EHV cables, in terms of Section 17(5)(c) and (d) of the CGST Act, 2017.

Statute: GOODS AND SERVICES TAX

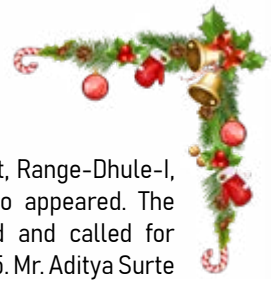
Decision in Favour of: NOT APPLICABLE

Title: M/s. NITIRAJ ENGINEERS LIMITED

Citation: GST-ARA-19/2022-23/2025-26/B-205, Mumbai Dated.28.04.2025

Bench/Court: MAHARASHTRA AUTHORITY FOR ADVANCE RULING

M/s. NITIRAJ ENGINEERS LIMITED (Applicant), s a public limited company established in the year 1989 having its registered office at 306 A, Bhabha Building,



N. M. Joshi Marg, Mumbai - 400 011 and factory at J25 & J26, M.I.D.C., Awdhan, Dhule-424006. The Applicant is engaged in the manufacture and sale of electronic weighing scales and systems under the brand name 'Phoenix'. The Applicant is registered under the Central Goods and Services Tax Act, 2017 and Maharashtra State Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act" and "MGST Act" respectively) having GSTIN 27AABCN1116EIZI.

Among the product portfolio of the Applicant are two products, namely "Infantometer PIM-101" and "Stadiometer PSM-101", which are growth monitoring devices which are manufactured using qualitative components and are integrated with advanced working mechanism, resulting in longer working life and accurate results. Infantometer diagnostic medical equipment used for measuring the recumbent length of an infant with greater accuracy by holding the infant in position securely. It is a precision scale useful for clinical and hospital purposes as well as research.

Stadiometer is a diagnostic medical equipment used for measuring height of an adult. As per Wikipedia, a Stadiometer is a piece of medical equipment used for measuring the human height. It is used in routine medical examinations and also clinical tests and experiments. Both the products under consideration, i.e., infantometer and stadiometer, are exclusively used for medical examination at medical centres / hospitals/ anganwadis. They are described as medical equipment and used exclusively for medical purposes only. Both the products are presently being classified by the Applicant under HSN code 9017 80.

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

1. Whether Infantometer, being a diagnostic medical equipment, is covered under Tariff Heading 9018 and liable to GST @ 12%?

2. Whether Stadiometer, being a diagnostic medical equipment, is covered under Tariff Heading 9018 and liable to GST @ 12%?

The Applicant is charging GST @ 18% w.e.f. 1st July 2017 under the bonafide belief that the products supplied by the Applicant are covered under Entry No. 413 of Schedule III-9% of Notification No. 1/2017-Central Tax (Rate), dated 28th June 2017.

The Applicant has recently come across two advance rulings delivered by the Authority for Advance Rulings, Haryana.

a. In the case of Medi Waves Inc., vide Advance Ruling No. HAR/HAAR/R/2018-19/52, dated 26th April 2019 reported in [2021] 125 taxmann. com 3 (AAR-HARYANA) / [2021] 48 GSTL 291 (AAR-HARYANA) [26-04-2019] the Haryana AAR has ruled that Infantometer and Stadiometer are medical instruments used exclusively for clinical and medical experimental purposes and are covered under the heading 9018 90 19 with rate of tax being 12 per cent.

b. In the case of M/s. Precision Electronic Instruments Co., vide Advance Ruling No. HR/HAAR/2021-22/17, dated 30th June 2021 the Haryana AAR has agreed with the advance ruling pronounced in Medi Waves Inc. (supra) to hold that Infantometer and Stadiometer are medical instruments used exclusively for clinical and medical experimental purposes and are not scale rods or divided scales of general nature. Hence, both the products are covered under Tariff Item 9018 90 19 (other category) with rate of tax being 12%.

This has created a doubt as to the correctness of Applicant's classification. Additionally, the Applicant has observed that its competitors are classifying the same goods under HSN code 9018 and charging GST @ 12%. Therefore, to sustain itself in this competitive market, the Applicant has filed the present application for advance ruling before the Hon'ble Authority for Advance Rulings, Maharashtra.

Applicant is of the view that its present classification of Infantometer and Stadiometer under Tariff Heading 9017 is incorrect and that classification of the said products under Tariff Heading 9018 is more appropriate.

The description of Tariff Heading 9017 is general in nature covering all types of instruments for measuring length, whereas the description of Tariff Heading 9018 is specific and restricted to instruments and appliances for medical use. As per Rule 3 of the general principles of interpretation of the tariff, the heading which provides the most specific description shall be preferred to headings providing a more general description. Therefore, the goods in question merit classification under the more specific Tariff Entry 9018.

Preliminary hearing in the matter was held on 29.05.2024 Mr. Aditya Surte, C.A. Appeared and requested for admission of the application. Jurisdictional Officer Mr.

Alok Bihari, Superintendent, Range-Dhule-I, Dhule Division, Nasik also appeared. The application was admitted and called for final hearing on 20.03.2025. Mr. Aditya Surte C.A. Authorized Representative, appeared made oral and written submissions. Jurisdictional Officer Mr. Vijay Hedawakar, Superintendent of CGST appeared. We heard both the sides.

As per the discussion and findings, we find that following tariff headings are relevant in the present case:

a) 9017: Instruments for measuring length, for use in the hand (for example measuring rods and tapes, micro meters, calipers), not specified or included elsewhere in the chapter.

b) 9018: - Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scientific apparatus, other electro-medical apparatus and sight testing instruments. Under this heading, the particular relevant tariff item referred to by the applicant is 90189019 i.e. Other Diagnostic instruments and apparatus. The applicant has stated that this is a specific entry covering their product.

We find that the applicant has relied upon the decision of the Rajasthan Advance Ruling Authority in the case of Bhawna Khandelwal (SRK Modular Furniture Co (RAJ/AAR/223-24/13) and the decision of the Haryana Advance Ruling Authority in the case of Medi Waves Inc., 9HAR/HAAR/R/2018-19/52). However, we do not agree to the findings of the said Advance Ruling Authority in respect of classification of 'Stadiometer' as they have failed to take into consideration the fact that the said product supplied by the applicant were measuring instruments which were being used by medical professionals. They were not designed or manufactured for the particular use as a medical/diagnostics instrument. The inference that the said goods are used exclusively for medical purposes in the said orders is not substantiated in this case and is different from the actual facts of this case. We would also like to place on record that an advance ruling pronounced by the Authority or the Appellate Authority shall be binding only on the applicant who had sought it, and the concerned officer or the jurisdictional officer in respect of the applicant.

As per ruling;
Question 1: -Whether Infantometer, being a diagnostic medical equipment, is covered under Tariff Heading 9018 and liable to GST

@ 12%?

Answer: - Yes

Question 2: -Whether Stadiometer, being a diagnostic medical equipment, is covered under Tariff Heading 9018 and liable to GST @ 12%?

Answer: - No, this would be correctly classified under tariff Heading 9017 and liable to GST at 18%.

B. JUDICIAL DECISIONS ON INDIRECT TAXES

Statute: GOODS AND SERVICES TAX

Decision in Favour of: APPELLANT

Title: ASHISH KUMAR SHARMA VERSUS DEPUTY COMMISSIONER, STATE TAX, BUREAU OF INVESTIGATION, SOUTH BENGAL, HOWRAH ZONE AND OTHERS

T.S. SIVAGNAM, C.J. AND HIRANMAY BHATTACHARYYA, J.

Citation: (2024) 130 GSTR 1: 2024 SCC OnLine Cal 4045

Bench/court: IN THE HIGH COURT OF CALCUTTA

GST-Penalty Detention And Seizure Of Goods And Conveyances Quantum Of Penalty Multiple Breakdowns Of Conveyance Failure To Extend Validity Of E-Way Bill No Intention To Evade Tax Statutory Quantification Of Penalty Strict And Rigid - Imposition Of Two Hundred Per Cent. Penalty Harsh Would Cause Grave Prejudice No Room For Discretion In Levying Penalty Court Entitled To Consider Facts In Entirety And Decide If Aggrieved Party Was Fairly Dealt With Adjudicating And Appellate Authorities Not Applying Their Minds Quantum Of Penalty Reduced - West Bengal Goods And Services Tax Act (28 Of 2017), S. 129.

Statute: VALUE ADDED TAX

Decision in favour of: APPELLANT

Title: AIMIL LTD VERSUS COMMISSIONER OF TRADE & TAXES

DR. S. MURALIDHAR AND CHANDER SHEKHAR, J.

Citation: (2017) 106 VST 253: 2017 SCC OnLine Del 8539

Bench/Court: IN THE HIGH COURT OF DELHI Value Added Tax- Notice Of Demand-Remand By Objection Hearing Authority To Take Forms Produced In Support Of Export Sale On File, Verify Them And Pass Orders - Failure By Assessing Authority To Act On Directions For Six Years- Thereafter Issuing Notice Of Demand And Passing

Order Without Providing Opportunity Of Hearing- Demands Quashed Delhi Value Added Tax Act, 2004 (3 Of 2005).

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: DHL LOGISTICS PRIVATE LIMITED VERSUS COMMISSIONER OF CENTRAL EXCISE, MUMBAI-LL

RAMESH NAIR, JUDICIAL MEMBER AND RAJU, TECHNICAL MEMBER

Citation: (2017) 106 VST 79: 2017 SCC OnLine CESTAT 5352: (2017) 6 GSTL 85

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

Service Tax- Customs House Agency Service- Break Bulk Fee-Not Taxable As Customs House Agency Service.

Service Tax- Business Auxiliary Service-Freight Rebate Revenue-Generated Out Of Trading Of Space In Airline Incentives-Assessee Booking Space For Its Own Trading Activities Not On Behalf Of Client-No Taxable Service.

Service Tax- Business Auxiliary Service Airline Commission And Airline Incentive Generated During Booking Of Bulk Cargo With Airline Assessee Directly Buying Space And Thereafter Selling It To Exporters Client Involved - No Taxable Business Auxiliary Service.

Service Tax-Business Auxiliary Service-Definition- "Collection Or Recovery Of Cheques, Accounts And Remittance" Specifically Covered Taxable Service - Finance Act (32 Of 1994), S. 65(19).

Service Tax Cenvat Credit - Documents In Original Name Of Assessee Receipt Of Service By Assessee Not In Doubt Credit Not To Be Denied Merely Because Different Address Shown No Credit Allowable In Respect Of Invoices Not In Name Of Assessee.

Service Tax- Penalty- Wrongful Availment Of Cenvat Credit - To Be Restricted To Credit Wrongly Availed Of.

Service Tax- Penalty- Failure To Pay Tax- Restricted To Demand Of Service Tax On CCX Fee In Respect Of Which Duty Confirmed - Finance Act(32of 1994), S. 78.

Statute: VALUE ADDED TAX

Decision in favour of: APPELLANT

Title: COMMISSIONER OF TRADE AND TAXES VERSUS CORSAN CORVIAM CONSTRUCTION S. A. SADBHAV ENGINEERING LTD. JV

B.V. NAGARATHNA AND UJJAL BHUYAN, JJ. Citation: (2024) 121 GSTR 1: 2023 SCC OnLine SC 1786

Bench/Court: IN THE SUPREME COURT OF INDIA

Value added tax Refund Interest Refund accrues in favour of assessee on expiry of sixty days from date of return Claim cannot be denied on ground application not filed in form 21 Claim embedded in return, and did not arise out of order passed by court or authority Assessee entitled to interest on amount refunded - Delhi Value Added Tax Act, 2004 (3 of 2005), ss. 38(3)(a)(ii), 42-Delhi Value Added Tax Rules, 2005, r.34(4).

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: SHANDONG TEIJUN ELECTRIC POWER ENGINEERING COMPANY LTD VERSUS STATE TAX OFFICER, CHIDAMBARAM-1 CIRCLE, CHIDAMBARAM

R. SURESH KUMAR, J

Citation: (2024) 127 GSTR 6: 2022 SCC OnLine Mad 9060

Bench/ Court: IN THE HIGH COURT OF MADRAS

A. Goods And Services Tax Rectification Of Mistake Limitation Application Time Extended By Supreme Court Owing To Covid Pandemic Filed Within Period Of Extension Rejection Of Rectification Application On Limitation Not Proper Order Aside And Matter Remanded - Tamil Nadu Goods And Services Tax Act (19 Of 2017), S. 161.

B. Goods And Services Tax - Rectification Of Mistake Notice Issued Prior To Assessment Proceedings Failure To Reply To Such Notice Not Ground To Dismiss Rectification Application Tamil Nadu Goods And Services Tax Act (19 Of 2017), Ss. 160, 161.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: VODAFONE IDEA LIMITED VERSUS UNION OF INDIA AND OTHERS

VIBHU BAKHRU AND AMIT MAHAJAN, JJ

Citation: (2024) 127 GSTR 17: 2023 SCC OnLine Del 6673: (2023) 78 GSTL 495

Bench/Court: IN THE HIGH COURT OF DELHI

A. Goods and services tax - Refund Limitation - Period commencing from March 3, 2020 to February 28, 2022 excluded for computing period of limitation Assessee's claims within period of limitation Integrated Goods and Services Tax Act (13 of 2017), s. 16(3) - Central Goods and Services Tax Act (12 of 2017), s. 54 -



Notification No. 13/2022-Central Tax, dated July 5, 2022.

B. Goods and services tax Refund Export of services Telecommunication services - Inbound roaming services and international long distance services to inbound subscribers of foreign telecom operators Recipient of services located outside India Assessee providing export of services - Entitled to refund of integrated goods and services tax paid -Integrated Goods and Services Tax Act (13 of 2017), s. 2(6) Service Tax Rules, 1994, r. 6(a) Export of Services Rules, 2005, r. 3.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: VODAFONE IDEA LTD VERSUS UNION OF INDIA AND OTHERS

SHEKHAR B. SARAF, J

Citation: (2024) 127 GSTR 25: 2024 SCC OnLine All 3215

Bench/Court: IN THE HIGH COURT OF ALLAHABAD

A. Goods and services tax- Export of service- Telecommunication service- Doctrine of comity- place of supply- Service rendered by assessee to foreign telecom office in turn rendered by latter to individual customers Service construed as one by assessee to foreign telecom office and not individuals Issue already decided by High Court to be followed in view of doctrine of comity Matter remitted to appellate authority.

B. Goods and services tax Appeal Limitation Appeal rejected for being time-barred - Supreme Court decision on condonation of delay held not appreciated by appellate authority - Proceeding further on merits not in accordance with law - Writ petition disposed of.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: BODAL CHEMICALS LTD VERSUS UNION OF INDIA

J.B. PARDIWALA AND NISHA M. THAKORE, JJ.

Citation: (2024) 127 GSTR 33: 2022 SCC OnLine Guj 297: (2022) 66 GSTL 76

Bench/Court: IN THE HIGH COURT OF GUJARAT

Goods And Services Tax - Input-Tax Credit - Transitional Credit - Error In Goods And Services Tax Network Preventing Distribution Of Credit By Assessee As Input Service Distributor - Assessee Not

To Be Denied Vested Right Due To Technical Glitches Assessee To Be Permitted To Furnish Form Manually - Central Goods And Services Tax Act (12 Of 2017) - Constitution Of India, Art. 226.

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: NUTAN WAREHOUSING COMPANY PVT. LTD VERSUS COMMISSIONER, CENTRAL TAX, PUNE-LL AND OTHERS

G.S. KULKARNI AND JITENDRA JAIN JJ.

Citation: (2024) 127 GSTR 55: 2023 SCC OnLine Bom 2635: (2024) 80 GSTL 227

Bench/Court: IN THE HIGH COURT OF BOMBAY

A. Service tax Exemption notification - Tea Agricultural produce Packaging and storing of tea after procuring in warehouse Essential characteristics not lost on processing thereof and commodity does not cease to be agricultural produce Exemption allowed Notification No. 12/2017-Central Tax dated June 28, 2013.

B. Goods and services tax Circular Validity of Circular cannot amend statutory notification under guise of clarification Tea not to be taken out of ambit of exemption which otherwise permitted - Circular No. 15 of 2017.

C. Goods and services tax - Writs under Constitution Maintainability of - Error apparent on face of record - Failure to consider legal position -Forums below not considering Supreme Court decisions supporting assessee Writ issued - Constitution of India, art. 226.

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: UNION OF INDIA AND OTHERS VERSUS ATA FREIGHT LINE (1) PVT. LTD

KRISHNA MURARI AND AHSANUDDIN AMANULLAH, J

Citation: (2024) 127 GSTR 76: 2023 SCC OnLine SC 2018

Bench/Court: IN THE SUPREME COURT OF INDIA

Service Tax Gross Show-Cause Notice Adjudication - Limitation Delay By Department In Taking Show-Cause Notices To Logical Conclusion Improper Department Cannot Be Allowed To Proceed With Notice At Belated Stage.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: SAMSUNG INDIA ELECTRONICS

PRIVATE LIMITED Versus STATE OF U.P. AND OTHERS

SHEKHAR B. SARAF, J.

Citation: (2024) 1 High Court Cases (All) 652: (2024) 127 GSTR 93: 2024 SCC OnLine All 651 Bench/Court: HIGH COURT OF ALLAHABAD

A. Gst-Input Tax Credit - Principle Of Consistency - Denial Of Despite Allowance In Prior And Subsequent Assessment Years Without Change In Legal And Factual Circumstances Held Against Principle Of Consistency Held, Fairness And Equity To Be Maintained - Writ Petition Allowed.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: SS BRIGHT STEELS (W.P. NO. 4409 OF 2020) AND ANOTHER VERSUS UNION OF INDIA, NEW DELHI AND OTHERS

C. SARAVANAN, J

Citation: (2024) 127 GSTR 121: 2022 SCC OnLine Mad 9061: (2022) 62 GSTL 20

Bench/Court: IN THE HIGH COURT OF MADRAS

Goods And Services Tax Input-Tax Credit Transitional Credit Difficulties In Uploading Form TRAN-1 Due To Technical Glitch In Goods And Services Tax Portal Direction To Concerned Authority To Consider Assessee's Representation To Reopen Portal - Central Goods And Services Tax Act (12 Of 2017), S. 140.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: HIMALAYA DRUG COMPANY VERSUS COMMISSIONER OF CENTRAL TAX (APPEALS-II) AND ANOTHER

S.R. KRISHNA KUMAR, J.

Citation: (2024) 127 GSTR 124: 2022 SCC OnLine Kar 1853: (2023) 69 GSTL 179

Bench/Court: IN THE HIGH COURT OF KARNATAKA

Goods And Services Tax Writs Under Constitution Appeal To Commissioner (Appeals) Delay In Filing Condonation Of Delay Assessee Explaining Delay Stating It Had Goods And Services Tax Registration In 24 States And Officer In-Charge Of Taxation Travelling To Complete Audit -Held Assessee Had Made Out Valid And Sufficient Cause To Condone Delay And Assessee Had A Good Case To Urge On Merits - Held Fit Case For Exercise Of Writ Jurisdiction And Condone Delay Order Of Commissioner (Appeals) Dismissing Appeal As Barred By Time Set Aside And Matter Remitted To

Commissioner (Appeals) For Consideration Of Appeal Afresh On Merits In Accordance With Law - Constitution Of India, Art. 226.

Statute: SERVICES TAX

Decision in favour of: APPELLANT

Title: ASIANET DIGITAL NETWORK PRIVATE LTD VERSUS UNION OF INDIA AND OTHERS DINESH KUMAR SINGH, J.

Citation: (2024) 127 GSTR 129: 2024 SCC OnLine Ker 1743: (2024) 3 KHC (SN 11) 56: (2024) 2 KLJ 496

Bench/Court: IN THE HIGH COURT OF KERALA

A. Service Tax Goods And Services Tax - Jurisdiction Of Authorities Taxable Services Escaping Assessment "Proper Officer" Authorised To Issue Show-Cause Notice Notification And Circular Providing Guidelines For Adjudication Of Central Excise And Service Tax Cases Show-Cause Notice Issued By Additional Director General Of Directorate General Of Goods And Services Tax Intelligence - No Irregularity Or Illegal Infirmity Final Adjudication Would Be Carried Out By Jurisdictional Central Goods And Services Tax And Central Excise Commissioner No Jurisdictional Error Central Goods And Services Tax Act (12 Of 2017), S. 73- Finance Act (32 Of 1994), S. 73(1) Central Excise Act (1 Of 1944), Ss. 2(B), 12E Service Tax Rules, 1994, R. 3 Notification No. 30/2005-ST Dated August 10, 2005 Notification No.44/2016-ST Dated September 28, 2016 Circular Nos. 994/01/2015-CX Dated February 10, 2015 And 1000/7/2015-CX Dated March 3, 2015.

B. Writs Under Constitution Show-Cause Notice Scope Of Judicial Interference Extended Period Of Limitation Whether Extended. Period Of Limitation Would Be Available To Department And Whether Jurisdictional Facts For Invoking Extended Period Of Limitation Available Mixed Questions Of Fact And Law To Be Decided After Considering Response Of Assessee To Show-Cause Notices Court Would Not Embark Upon Detailed Enquiry On Factual Aspects Constitution Of India, Art. 226.

Statute: SALES TAX

Decision in favour of: APPELLANT

Title: INDIAN OIL CORPORATION LTD. (ASSAM OIL DIVISION) VERSUS STATE OF NAGALAND AND OTHERS

MRIDUL KUMAR KALITA, J.

Citation: (2024) 127 GSTR 154: 2024 SCC OnLine Gau 1082

Bench/Court: IN THE HIGH COURT OF

GAUHATI

A. Sales Tax Revision Powers General Principles - Nagaland (Sales Of Petroleum And Petroleum Products, Including Motor Spirit And Lubricants) Taxation Act, 1967 (9 Of 1967), S. 20 Nagaland (Sales Of Petroleum And Petroleum Products, Including Motor Spirit And Lubricants) Taxation Rules, 1970, R. 18.

B. Sales Tax Revision Conditions Precedent Finding By Commissioner Based On Record That Assessment Erroneous And Prejudicial To Revenue - Additional Commissioner Mentioning Orders Required Further Inquiry And Verification And Calling For Documents From Assessee Amounts To Re-Examination And Reverification Of Returns Filed By Assessee- Revision Not Sustainable Notices Issued Under 1967 Act But Orders Determining Turnover Escaping Assessment Also Under 1956 Act Additional Commissioner Acted Beyond His Jurisdiction - Nagaland (Sales Of Petroleum And Petroleum Products, Including Motor Spirit And Lubricants) Act (9 Of 1967), S. 20- Central Sales Tax Act (74 Of 1956), S. 9(2).

C. Writs Under Constitution Existence Of Alternative Remedy By Itself Not Bar To Issue Of Writ Exceptions Dealer Challenging Jurisdiction Of Authority To Pass Order Writ Petition Maintainable Constitution Of India, Art. 226.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: SHRI MAHILA GRIHA UDYOG LIJJAT PAPAD VERSUS JOINT COMMISSIONER OF COMMERCIAL TAXES (APPEAL), BANGALURU AND ANOTHER

S.R. KRISHNA KUMAR, J

Citation: (2024) 127 GSTR 182: 2022 SCC OnLine Kar 1863

Bench/Court: IN THE HIGH COURT OF KARNATAKA

Goods And Services Tax - Audit Report - Appeal Against Audit Report To First Appellate Authority Held Wrongly Dismissed On Grounds Of Being Not Maintainable Without Appreciating Specific Provision Governing Non-Appealable Decisions All Orders Otherwise Appealable Endorsement Being Short Of Reasons Set Aside Matter Remitted Back Writ Petition Allowed- Central Goods And Services Tax Act (12 Of 2017), Ss. 107, 121.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: EPRAGATHI RECYCLING VERSUS STATE OF KARNATAKA AND OTHERS

S.R. KRISHNA KUMAR, J.

Citation: (2024) 127 GSTR 185: 2022 SCC OnLine Kar 1864

Bench/Court: IN THE HIGH COURT OF KARNATAKA

Goods and services tax Writs under Constitution Appeal Dismissal in limine holding appeal from audit observation not maintainable Endorsement arbitrary, cryptic and laconic - Order set aside and matter remanded to appellate authority for decision afresh in accordance with law Central Goods and Services Tax Act (12 of 2017), ss. 65(6), 73(1), 107 Karnataka Goods and Services Tax Act (27 of 2017), ss. 65(6), 73(1). Of 2017),S.29(2)(E).



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