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ERNAKULAM BRANCH

NEWSLETTER



Chairman's Message

Dear Members and Students,

Dear members,

Warm greetings to all of you.

The month of October 2025 wasn't filled with too many programs as the members were busy with tax audits. We just had one sports activity by way of Intra Branch Football tournament and a three day Chain seminar on Tax audit. The Ernakulam branch lost a stalwart of the profession CA. P.E.B.Menon who left us for heavenly abode in the month of October 2025. With great respect, the Ernakulam Branch remembers the yeoman service he has done to the profession and the Ernakulam Branch.

We value your feedbacks! Please share suggestions on program topics to enhance the value addition that it provides you. We also request you to volunteer yourself as speakers for the various study group and study circle meetings and the CPE seminars whereby it provides you with an opportunity to share your knowledge with the fellow members and also help you to enhance your knowledge on the topic. It will also help the branch to create a data bank of eminent speakers from our own area. Thus a Win-Win proposition for all of us.

Wishing you a joyful month ahead.

Warm regards

CA. Anand A. S.

Chairman

Ernakulam Branch of SIRC of ICAI



CPE Chain Seminar



Intra Branch Football Tournament



MSME Clinic



Reported Judicial Decisions

CA. P. M. Veeramani FCA

Statute: Income Tax Act – Sec.2(22)(e) – Deemed Dividend

Decision in favour of : Assessee

Title : PCIT vs Dwaraka Prasad Aggarwal

Citation: 471 ITR 435 SC

Bench: Supreme Court of India

Where both the Tribunal and High Court held that the assessee had provided security by way of mortgage of his personal properties so that the company could obtain bank loans, that in lieu of that security, the assessee was provided with loans and the said transaction cannot be considered as deemed dividend, Supreme Court dismissed the SLP with the remark the decision of the High Court does not warrant interference.

Statute: Income Tax Act – Sec.2(29C) – Surcharge for Trust

Decision in favour of : Assessee

Title : Araadhya Jain Trust vs ITO

Citation: 212 ITD 1 SB

Bench: ITAT Special Bench Mumbai

In case of private discretionary trust, whose income is chargeable to tax at MMR, surcharge has to be computed on income tax having reference to slab rates prescribed in Finance Act under the heading 'surcharge on income tax'

Statute: Income Tax Act – Sec.14A – Amendment is

prospective Decision in favour of : Assessee

Title : PCIT vs Keti Construction Ltd

Citation: 475 ITR 182

Bench: Madhya Pradesh HC

Amendment in section 14A by Finance Act 2022 inserting explanation clarifying that the disallowance would be attracted even if there is no exempt income is only prospective and shall apply only from assessment year 2022-23

Statute: Income Tax Act – Sec.32 – Expenditure on

leased premises Decision in favour of : Revenue

Title : Hotel and Allied Traders Private Ltd vs Addl CIT

Citation: 475 ITR 178

Bench: Kerala HC

The applicability of explanation 1 to section 32(1) has to follow an independent finding by the AO on whether the expenditure incurred by an assessee is capital or revenue in nature. Assessee having failed to demonstrate the expenditure as revenue before the lower authorities, there was no reason to interfere with order of tribunal

Statute: Income Tax Act – Sec.56(2)(viii) _ interest on refund**Decision in favour of : Assessee****Title : PCIT vs INS Finance and Investment Private Ltd****Citation: 475 ITR 83****Bench: Delhi HC**

Interest received on refund of consideration paid on auction to successful bidder, on subsequent nullification of the auction, at the direction of the court, is a capital receipt and not taxable and cannot be considered as interest on compensation

Statute: Income Tax Act – Sec.56(2)(viii) _ interest on compensation Decision in favour of : Revenue**Title : PCIT vs Inderjit Singh Sodhi****Citation: 475 ITR 294 Bench: Delhi HC**

The position with respect to the imposition of tax on interest on compensation or enhanced compensation, came into being only in the year 2010, the Tribunal's conclusion drawn from the decision of Supreme Court which was passed in the year 2009, was unsustainable

Statute: Income Tax Act – Sec.153 – Order should be communicated Decision in favour of : Assessee**Title : Mema Paul vs ITO****Citation: 475 ITR 19****Bench: Manipur HC**

It is not enough if the order is made, signed and kept in the file, because such order may be liable to change at the hands of the authority who may modify it or even destroy it, before it is made known, based on subsequent information, thinking or change of opinion. Hence, order not communicated to the assessee within the time allowed shall be time barred

Statute: Income Tax Act – Sec.156 – Notice of demand after RP order Decision in favour of : Assessee**Title : Surya Exim Ltd vs UOI****Citation: 475 ITR 306****Bench: Gujarat HC**

Claims of income tax cannot be made subsequent to approval of Resolution Plan under Insolvency and Bankruptcy Code as all claims not forming part of resolution plan stand extinguished. Demand raised by AO on re-assessment after the date of approval under IBC not valid

Statute: Income Tax Act – Sec.220(2) – Condition for stay of demand Decision in favour of : Assessee**Title : Centre for Policy Research vs DCIT****Citation: 475 ITR 96****Bench: Delhi HC**

Rejecting of stay application due to non-deposit of 20% of demand as a precondition for eligibility of stay is contrary to law and the same is set aside for fresh consideration

Statute: Income Tax Act – Sec.226 – Adjustment of Refund**Decision in favour of : Assessee****Title : Mahesh Mathrudas Ganatra vs CPC****Citation: 475 ITR 489****Bench: Bombay HC**

Adjusting of refund due for another year against demand by CPC when assessee had paid 20% of demand and preferred stay petition which was not disposed is unjustified; Direction to refund excess adjustment and expedite adjudication of the pending appeal

Statute: Income Tax Act – Sec.250(6A) – Time limit for disposal**Decision in favour of : Assessee****Title : Kulwinder Paul Singh vs CBDT****Citation: 475 ITR 371****Bench: Punjab and Haryana HC**

Section mandates disposal of appeal by JCIT (A) / CIT(A) within one year from the end of the financial year in which the appeal is filed and hence delay of ten years in disposal of appeal by the first appellate authority would defeat the objective of statutory provision

Statute: Income Tax Act – Sec.263 – Power of Commissioner in**Revision Decision in favour of : Assessee****Title : CIT vs Paradeep Phosphates Ltd****Citation: 471 ITR 422 SC****Bench: Supreme Court of India**

The finding of the Tribunal that the direction by CIT to add the sum without a direction to re-examine the issue was beyond the scope of the powers of CIT under section 263, the High Court having held that the conclusion of the Tribunal did not suffer from any legal infirmity, no substantial question of law arose for consideration. Supreme Court dismissed the SLP expressing that it was not inclined to interfere in the matter

Statute: Income Tax Act – Sec.264 – Revision against intimation**Decision in favour of : Assessee****Title : Sarda Paper Ltd vs PCIT****Citation: 475 ITR 641****Bench: Bombay HC**

For the PCIT to say that he would have no jurisdiction to entertain assessee's application for revision against an order passed by CPC because the DCIT, Centralised Processing Centre is not reporting to him is not correct. Rejection of application is not justified as CPC merely acts as facilitator and does not take away jurisdiction of the AO who holds the same under section 120 of the Act

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.SHIBAURA MACHINE INDIA PVT LTD

Citation: 31/ARA/2025, Dated 18.08.2025

Bench/Court: AUTHORITY FOR ADVANCE RULING, TAMIL NADU

M/s. Shibaura Machine India Private Limited, No.65, (P.O Box No 5), Chennai-Bangalore Highway, Chembarambakkam, Poonamallee Taluk, Thiruvallur, Chennai –600123 (hereinafter called as the "Applicant") are registered under the GST Act with GSTIN 33AAACL6155E1ZU. The Applicant has made a payment of application fees of Rs.5,000/- each under sub rule (1) of Rule 104 of CGST Rules, 2017 and SGST Rules, 2017.

The Applicant has filed this application seeking Advance Ruling on the following questions, viz.,

1) Whether Input Tax Credit (ITC) is eligible on fire-fighting system and public health equipment for expansion of factory for manufacturing activity?

2) What should be the basis to arrive the timeline to avail ITC on tax invoice raised by supplier to bill "Advance Component" of the contract?

The applicant is engaged in the business of manufacturing of injection moulding machinery and accessories. The applicant is expanding their business operation and have constructed a new factory adjacent to its existing factory. They have incurred capital expenditure towards procurements in relation to setting up of this factory. They had entered into a separate contract with the Supplier for Supply, installation, testing & commissioning of Industrial Works for the new factory. The said construction works includes Civil Works, Pre-engineered Building Works, Fire Fighting installation services, Public Health Equipment installation services, leviable to GST at the rate of 18%.

The Applicant had entered into an agreement for erection of civil works, fire-fighting systems and public health engineering for new factory (hereinafter referred to as 'Contract') with M/s. SMCC

Construction India Limited. The original Contract sum is INR 90,45,04,483/- (exclusive of GST).

The Applicant is of the bonafide intention that input tax credit (ITC) arising out of invoices being raised on them for the above-mentioned supply (FFS and PHE) are eligible. As per Section 16 of Central Goods and Services Act, 2017 ('CGST Act') & Tamil Nadu Goods and Services Act, 2017 (TNGST Act'), goods or services or both should be used or intended to be used in the course or furtherance of the business. In the light of above-mentioned provisions, it shall be noticed that in order to 'avail ITC on any inward supply', the supply should be used in the course or furtherance of business.'

The Applicant states that, when this definition is read with the provisions of Section 16(1) of the CGST Act, as reproduced below (full text in Para 14): "... Which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person,"

It can be understood that such procurements which are intended to be used in the course of furtherance of 'business' is eligible for availment of ITC. Based on the above provisions, the Applicant submits that the Contract entered is for supply, installation, testing and commissioning of the fire-fighting system and public health equipment in the new factory commissioned for expansion of business activity. That the Applicant should hence be eligible for input tax credit on the inputs & input services used in the course or furtherance of business. Further, the Applicant had also satisfied the other conditions for availing ITC as laid down in Section 16(2) of CGST Act such as possession of tax invoice, receipt of goods/ services, payment to supplier, etc.

The Applicant submits that the items procured vide above table in relation with FFS are in the nature of plant and machinery and would rather not be considered as civil works to the factory.

The Applicant submits that all the civil work related to above procurement (buildings) was considered in civil package. The procurement made vide this Contract in relation with PHE are sanitary fixtures & fittings, sewage system, water supply system, rain water harvesting system, pumps, etc. The Applicant enclosed certain images relating to fire-fighting system and public health engineering with their application to provide a comprehensive understanding of the procurement made. The applicant states that certain procurement vide this Contract such as fire extinguishers, signages, sprinkler system, fire detection & alarm system are movable in nature since the same can be removed without substantial damage and can be re-installed. Hence, this supply cannot be construed as immovable property to cover it within the ambit of Section 17(5)(c) and (d) of the CGST Act.

A group of instruments, tools, materials etc., having a particular function or intended for a specific use at the Plant. Therefore, the fire pump room equipment, hydrant system, panel protection system gets covered under the definition of plant and machinery in the context of GST Law. Accordingly, the Applicant submits that Input Tax Credit on the transaction under question does not fall under any of the categories of Section 17(5), and hence not blocked.

As per discussion and findings, we note that the applicant is engaged in the business of manufacture of injection moulding machinery and accessories. Since they are expanding their business operation, they have constructed a new factory adjacent to its existing factory, whereby they have incurred capital expenditure towards procurements in relation to setting up of this factory. We further take note of the fact that in the instant case, they have entered into a separate contract with the Supplier for Supply, installation, testing & commissioning of Works for the new factory.

It could be observed from the above, that the most crucial phrase to the entire scheme involving availment of ITC is "used or intended to be used in the course or furtherance of his business". While the said legal provision provides for entitlement of credit of input tax charged on any supply of goods or services or both which are used or intended to be used in the course or furtherance of business, it also comes up with a rider, viz., "subject to such conditions and restrictions as may be prescribed". From the scope of the contract entered into between the parties, it could be seen that the agreement is not just for installation/commissioning of Fire-Fighting System and Public Health Engineering and it is a composite one of 'Works Contract' Service, wherein the break-up of the cost involved on Supply and Installation of Fire-Fighting System and Public Health Engineering has been provided separately. In this regard, we observe that when a comprehensive installation for a new factory set-up begins, these fittings are mostly concealed into the wall/floor of the building. They are concealed or fitted on to the building through pipes as it serves the dual purpose of safety and aesthetics. Further, on installation of the above fittings meant for the factory/facility, they do not have an independent existence and it becomes part and parcel of the entire building/infrastructure and thereby a part of the immovable property. This apart, we find under the General Clauses Act, 1897, 'Immovable Property' has been defined under Section 3(26) as "Immovable Property shall include land, benefits arising out of land and things attached to the earth, or permanently fastened to anything attached to the earth." It could be seen that these installations are normally fastened to the wall or roof of the building which in turn is attached to earth. The fact

that the clause in the contract itself, which specifies the permanent and immovable nature of the executed project, viz., "(3) The Contractor shall complete the Work and deliver the Permanent Work to the owner in accordance with the Contract," proves the case in point.

As per the records furnished by the Applicant, the Contract is for installing the fire-fighting systems and public health equipment permanently to the building. These items once fitted, no longer remains movable goods as it gets assimilated in a permanent structure. As the supply and installation of fire-fighting systems and public health equipment as pointed out above, makes it an immovable property, it ceases to be a plant and machinery. Hence, in view of the above discussions, we find that the Applicant is not entitled to ITC of GST paid on Fire Safety Systems & Public Health Equipment in view of the provisions of Section 17(5)(c) of CGST /TNGST Act, 2017. As per the records furnished by the Applicant, the Contract is for installing the fire-fighting systems and public health equipment permanently to the building. These items once fitted, no longer remains movable goods as it gets assimilated in a permanent structure. As the supply and installation of fire-fighting systems and public health equipment as pointed out above, makes it an immovable property, it ceases to be a plant and machinery. Hence, in view of the above discussions, we find that the Applicant is not entitled to ITC of GST paid on Fire Safety Systems & Public Health Equipment in view of the provisions of Section 17(5)(c) of CGST /TNGST Act, 2017.

As per Ruling;

Question (i): Whether Input Tax Credit (ITC) is eligible on fire-fighting system and public health equipment for expansion of factory for manufacturing activity?

Answer: - The taxes under GST paid on the fire-fighting system and public health equipment work carried out for expansion of factory for manufacturing activity is not eligible for availment of Input Tax Credit (ITC) by the applicant, as it is blocked under Sections 17(5)(c) and 17(5)(d) of the CGST/ TNGST Acts, 2017.

Question (ii): What should be the basis to arrive the timeline to avail ITC on tax invoice raised by supplier to bill "Advance Component" of the contract?

Answer: - The question of answering the second query on the timeline to avail ITC on the 'Advance component' involved in the instant contract, does not arise, as the main query on availment of ITC on the said contract is itself ineligible.

Statute: GOODS AND SERVICES TAX

Decision in Favour of: NOT APPLICABLE

Title: M/S AADINATH AGRO INDUSTRIES

Citation: RAJ/AAR/2025-26/06 dated 23.05.2025

Bench/Court: AUTHORITY FOR ADVANCE RULING, RAJASTHAN

M/S Aadinath Agro (Industries, is a partnership firm engaged in [Spice processing unit] and is registered under GST (GSTIN:08ABXFA7290E1ZX). The firm's monthly taxable turnover exceeds 250 lakh. making it subject to Rule 86B restrictions. No individual partner has paid more than Rs.1 lakh separately, the firm and its partners together have paid well above %1 lakh in income tax.

The applicant has reproduced clarification sought in their original application and the ruling issued by the authorities as follows;

1)Whether the cumulative tax payment of the firm and its partners can be considered for the exemption under Rule 86B?

2)Whether the firm qualifies for exemption, even if no single partner has paid more than 1 lakh individually?

As per the arguments "Supporting the Cumulative Consideration of tax paid", under the heading, "Partnership Firms and Partners Are Financially Interdependent", it states the following:-

a)A partnership firm is a tax-paying entity, but its profits are ultimately distributed to partners, either through profit share or remuneration.

b)Income tax is either paid at the firm level or at the partner level, meaning the financial standing of the firm and its partners is interlinked.

c) Denying the exemption simply because no individual partner paid <1 lakh contradicts the economic reality of partnership taxation.

d)Under Partnership Act, 1932, a partnership firm is treated as an aggregate of partners, and the firm's income is ultimately taxed in the hands of partners.

e)Though a firm and its partners are distinct under the Income Tax Act, 1961, they operate as a single economic unit.

f)Just as companies and their directors are financially assessed together, partnerships should also be evaluated on a combined tax compliance basis.

g)A partnership firm and its partners are not entirely separate for tax purposes.

h)The income of a partnership firm ultimately flows to its partners, either through profit distribution or remuneration or interest on capital.

i)If a firm pays substantial income tax, it reflects the financial credibility of the partners as well, since they are the ultimate beneficiaries.

j)If a firm and its partners collectively pay substantial income tax, they are genuine tax-compliant businesses and should not face unnecessary cash restrictions. Since the firm and its partners are jointly liable for taxation. The total tax paid by all partners together should be considered for exemption, and not just the tax paid by a single partner.

Under the heading "Legislative Intent of Rule 86B – Preventing Fake ITC Claims", it states that "Rule 86B of the CGST Rules, 2017 was introduced vide Notification No. 94/2020 ~ Central Tax, dated 22nd December 2020, and became effective from 1st January 2021. The primary objective behind the introduction of Rule 86B was to curb tax evasion, fraudulent ITC claims, and bogus invoicing under GST."

Key Reasons for Introducing Rule 86B:

a)Curbing Fake ITC Utilization and Tax Evasion

Before the introduction of Rule 86B, many businesses were fraudulently utilizing 100% of their Input Tax Credit (ITC) without paying any actual tax in cash. This led to revenue leakage for the government. Bogus firms were created solely to claim ITC without real business operations. Rule 86B prevents excessive reliance on ITC by mandating at least 1% of the output tax liability to be paid in cash.

b)Discouraging Circular Trading and Fake Invoicing

Many fraudulent businesses were engaged in circular trading, where fake invoices were generated without actual supply of goods or services, solely for passing ITC. This artificial ITC was then used to reduce actual tax liability to zero. Rule 86B forces high-turnover taxpayers to make some cash payments, making such fraud more difficult.

c)Increasing Government Revenue and

Compliance

By ensuring that at least 1% of GST liability is discharged in cash. The government aims to improve cash flow in the tax system and reduce dependency on paper-based tax credits. This also ensures that only genuine businesses with real transactions can fully utilize their ITC.

d)Strengthening GST Audit and Monitoring
The rule acts as an automatic filter to flag risky taxpayers. Businesses that frequently claim 100% ITC utilization without cash payments are now subject to stricter scrutiny. This helps tax authorities detect and prevent ITC fraud early.

e)Genuine businesses that are paying substantial taxes should not be unnecessarily burdened by cash payment restrictions.

e)If a partnership firm and its partners collectively pay more than 21 lakh in Income tax, it proves their genuine tax compliance, fulfilling the spirit of the exemption provision.

Rule 86B was introduced to prevent fraud and misuse of the input tax credit. It provides that registered persons shall not use ITC to discharge more than 99% of their output tax liability if the value of taxable supply (excluding exempt and zero-rated supply) exceeds Rs. 50 lakhs in a month. Proviso to Rule 86B: Provides various exemptions, notably where the income tax paid by specified persons exceeds Rs. 100,000 in each of the two preceding financial years.

The applicant submits that the cumulative income tax paid should be considered for exemption eligibility under this rule.

Effect on the working capital requirement of firm: - Rule 86B of the CGST Rules, 2017 mandates that certain taxpayers must pay at least 1% of their monthly GST liability in cash, even if they have sufficient Input Tax Credit (ITC). This rule primarily affects our businesses as we have taxable turnover exceeding *50 lakhs in a month and we also have sufficient input tax credit balance. 'The government introduced the rule with a motive to curb tax evasion and improve compliance but it has an adverse impact on Working capital, especially when the 1% tax payment is required to be paid even if taxpayer has sufficient input tax credit balance. The rule introduced is affecting the business in following manner: -

A)Cash Outflow Despite ITC Availability: even if adequate ITC is available to offset the tax liability, we must pay 1% in cash and

this leads to blocking of funds. reducing liquidity.

b) Increased Cost of Borrowing: 'To meet the cash requirement, we may need to rely on short-term borrowing, increasing their finance cost.

c) Administrative Burden: Monthly compliance of the rule is necessary and that enhance the compliance cost and complexity.

d) Impact on Margins: In low-margin businesses, even a 1% outflow can erode a significant portion of profits if the funds aren't recovered or adjusted promptly.

Early-Stage Utilization: We have initiated the manufacturing business operations in the FY 2024-25 therefore our business is new and we have significant Input Tax Credit (ITC) accumulated on account of capital expenditure. Mostly related to the purchase of plant and machinery. As the business is still in its initial phase with limited outward taxable supplies, the utilization of the available ITC is progressing at a slower pace. Therefore, the accumulated ITC will be gradually offset against future GST liabilities based on the scale of operations and taxable turnover increases.

CBIC via official communication and social media (e.g., Twitter - (@cbic India) has clarified: "The rule provides for various exemptions like exporters, suppliers of goods of inverted duty structure, taxpayers having a footprint in the Income Tax database etc. It is expected that this rule would be applicable to less than 0.5% of total taxpayer base of 1.2 crore..." This clarification indicates that the rule is designed to target fraudsters and not compliant, tax-paying businesses such as the applicant.

As per discussion and findings, the firm is engaged in the business of spice processing and trading, contributing significantly to the supply chain in the FMCG sector. The firm's monthly taxable turnover exceeds Rs.50 lakhs, making it subject to Rule 86B of CGST Rules, 2017 restrictions.

The present application has been filed by the applicant seeking clarification whether the cumulative income tax payment of the firm and its partners can be considered for the exemption under Rule 86B ibid and whether the firm qualifies for exemption, even if no single partner has paid more than 21 lakh individually. The taxpayer has submitted that they are engaged in business of spice processing unit and their taxable turnover exceeds Rs.50 Lakh per

month due to which restrictions of rule 86B is applicable on them.

Before proceeding, it is imperative to go through the relevant provision of the Rule 86B ibid.

[Rule 86B. Restrictions on use of amount available in electronic credit ledger]

"Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:

Provided that the said restriction shall not apply where -

(a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961 in each of the last two financial years for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired: or—

(b) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of sub-section (3) of section 54: or

(c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or

(d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or

(e) the registered person is -

- (i) Government Department; or
- (ii) a Public Sector Undertaking; or
- (iii) a local authority; or
- (iv) a statutory body

Ongoing through the above rule, we found that rule 86B imposes restriction that the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent of total tax liability, where the value of taxable

supply other than exempt supply and zero-rate supply, in a month exceeds fifty lakh rupees.

In the present case, we found that the taxpayer himself submitted in his application that their monthly turnover is more than fifty lakh rupees. Therefore, as per the per Rule 86B, restriction to use amount available in electronic credit ledger upto ninety-nine percent of total tax liability is applicable on the taxpayer.

On further reading of the provision of Rule 86B, we observe that the restriction shall not apply, if any of its two partners of the firm have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years

As per Ruling;

Question 1: - Whether the cumulative tax payment of the firm and its partners can be considered for the exemption under Rule 86B?

Answer: - No, as per the provisions of Rule 86B ibid, we found that there is no provision of exemption under Rule 86B for such conditions in the said rule where exemption can be considered for total income tax paid by the partners and the firm together.

Question 2: - Whether the firm qualifies for exemption, even if no single partner has paid more than 1 lakh individually?

Answer: - No, the firm does not qualify for exemption, even if no single partner has paid more than 1 lakh individually.

Statute: GOODS AND SERVICES TAX

Decision in Favour of: NOT APPLICABLE

Title: M/S. SHENWA INFRASTRUCTURE PVT LTD.

Citation: GST-ARA-53/2022-23/2025-26/B-202,Mumbai Dtd.28.04.2025

Bench/Court: MAHARASHTRA AUTHORITY FOR ADVANCE RULING

M/s. SHENWA INFRASTRUCTURE PRIVATE

LIMITED is incorporated to execute concessioner agreement awarded by Public Works Department, Government of Maharashtra on Hybrid Annuity Basis.

In view of the aforementioned facts, the applicant has asked following question in their application for advance ruling viz;

(1) Is interest receivable on deferred payment in Equated Yearly Installment as per tender terms under Annuity Model is liable for payment of GST or Not?

(2) If Yes Classification of service and applicable rate of GST payable?

The terms of Concession Agreement requires the appellant to undertake, Construction, improvement, widening of the Project Highway together with provision of Project Facilities in conformity with the Specifications and Standards, namely at:

1)The section of Major District Road 64 commencing from km 0+000 (19°26'35.27"N73°27'0.32"E) to km 32+400 (19°12'14.43"N 73°31'58.28"E) ie. section from Shenwa to Dehari.

2)The section of Major District Road 49 Arjunoli Aamne Titwala Goveli Rayta Dahagaon Dapiwali Yeranjad Badlapur Road, (Km 0.00 to Km 32.500) commencing from km 9/670 (19°26'35.27"N73°27'0.32"E) to km 25/360 (19°12'14.43"N 73°31'58.28"E) i.e. section from Titwala to Eranjad.

Considering the section 15 of MGST Act we are of the view that the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply. Accordingly, interest received is taxable at the same rate as applicable on supply made.

As per observations and findings, M/s. SHENWA INFRASTRUCTURE PRIVATE LIMITED (hereinafter referred to as the "Concessionaire") is incorporated to execute concessioner agreement dated 08.08.2018 awarded by Public Works Department, Government of Maharashtra (hereinafter referred to as the " Authority") on Hybrid Annuity Basis.

As per the concessioner agreement, package number 06 is awarded to the Concessionaire which includes-

A. Improvement to Shenwa-Kinhawali-Nagav-Kalambe-Dehari Road MDR 64 km. 0/00 to 32/400 Taluka Shahapur and Murbad District Thane on design, build, operate and transfer along with Hybrid Annuity basis.

B. Improvement to Arjunoli-Amne-Titwada Goveli Ryata-Dahagaon-Dapiwali-Yeranjad-Badlapur Road MDR 49 km. 0/00 to 32/500 District Thane on design, build, operate and transfer along with Hybrid Annuity basis.

As per the concessioner agreement, terms for the payment of Bid Project cost (BPC) are mentioned as under:-

1)[60% (Sixty per cent)] of the Bid Project Cost, adjusted for the Price Index

Multiple, shall be due and payable to the Concessionaire in 5 (five) equal installments of [12% (Twelve percent)] each during the Construction Period in accordance with the provisions of Clause 23.4.

2)The remaining Bid Project Cost, adjusted for the Price Index Multiple, shall be due and payable in [20 (Twenty)] biannual instalments commencing from the 180th (one hundred and eightieth) day of COD in accordance with the provisions of Clause 23.6.

Upon receiving a report from the Independent Engineer certifying the achievement of the below mentioned Payment Milestones, the Authority shall disburse, within 15 (fifteen) days of the receipt of each such report, an installment equal to 12% (Twelve percent) of the Bid Project Cost, adjusted for the Price Index Multiple as applicable on the Reference Index Date preceding the date of that report.

For the purpose of this Clause 23.4, the Payment Milestone for release of payment during Construction Period shall be as under:

- a) I (first) Payment Milestone - On achievement of 20% Physical Progress
- b) II (second) Payment Milestone - On achievement of 40% Physical Progress
- c) III (third) Payment Milestone - On achievement of 60% Physical Progress
- d) IV (fourth) Payment Milestone - On achievement of 75% Physical Progress
- e) V (fifth) Payment Milestone - On achievement of 90% Physical Progress

The Completion Cost remaining to be paid in pursuance of the provisions of Clause 23.6.1 shall be due and payable in biannual instalments over a period of [10 (ten)] years commencing from COD, (the "Annuity Payments"), The 1st (first) instalment of Annuity Payments shall be due and payable within 15 (fifteen) days of the 180(one hundred and eightieth) day of COD and the remaining instalments shall be due and payable within 15 (fifteen) days of completion of each of the successive six months ("the Annuity Payment Date").

A CBIC has issued a Circular No.221/15/2024-GST, dated 26-06-2024 regarding clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI)in Hybrid Annuity

Mode (HAM) model and clarification given at para 4 is reproduced here as -

"It is also clarified that as the instalments/ annuity payable by NHAI to the concessionaire also includes some interest component, the amount of such interest shall also be includible in the taxable value for the purpose of payment of tax on the said annuity/ installment in view of the provisions of section 15(2)(d) of the CGST, Act and Classification of service and applicable rate of GST payable on the interest receivable on deferred payment in Equated Yearly Instalment shall be the same as that of the original taxable supply of "services of construction of road and maintenance"

As per Rulings;

Question: Is interest receivable on deferred payment in Equated Yearly Instalment as per tender terms under Annuity Model is liable for payment of GST or Not?

Answer: Yes. Interest receivable on deferred payment in Equated Yearly Instalment as per tender terms under Annuity Model is liable for payment of GST

Question: If Yes Classification of service and applicable rate of GST payable?

Answer: Service is classified same as that of the original taxable supply of "services of construction of road and maintenance "and applicable rate of GST shall be the same as that of original taxable supply.

B. JUDICIAL DECISIONS ON INDIRECT TAXES

Statute: SERVICE TAX

Decision in Favour of: APPELLANT

Title: EASTMAN EXPORTS GLOBAL CLOTHING P. LTD VERSUS COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX, COIMBATORE

S.S. GARG, MEMBER (JUDICIAL) AND VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

Citation: (2025) 146 GSTR 209: 2024 SCC OnLine CESTAT 3769

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

Service Tax - Export India And To Foreign Banks -Service Fees Paid To Intermediate Agent Outside Not Liable To Service Tax In Hands Of Exporter No Service Provider-Recipient Relationship Between Exporter And Intermediate Agent That Collects Payment Relating To Goods Exported And

Between Exporter And Foreign Banks That Transmit Export Sale Proceeds To Account Of Exporter Transactions Such As Payment And Transmission Of Funds Liability Of Foreign Buyer - Contract For Service Only Between Foreign Buyer, Intermediate Agent And Foreign Banks Deduction Of Three Per Cent., From Invoice Price As Indicated In Purchase Order Issued By Foreign Buyer Nothing But Trade Discount For Exporter Limitation No Lack Of Bona Fides Can Be Attributed To Exporter As Exporter Has No Contractual Relationship With Either Intermediary Or Foreign Banks And Entire Situation Revenue Neutral Invocation Of Extended Period Of Limitation And Levy Of Penalties - Unsustainable - Finance Act (32 Of 1994), Ss. 65(105)(Zm), 73(1), Proviso.

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: SKM EGG PRODUCTS EXPORT (1) LTD VERSUS COMMISSIONER OF CENTRAL EXCISE (APPEALS), SALEM

P. DINESHA, MEMBER JUDICIAL) AND VASA SESHAGIRI RAO, MEMBER (TECHNICAL))

Citation: (2025) 146 GSTR 196: 2023 SCC OnLine CESTAT 8627

Bench/Court: IN THE CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL¹

Service Tax- Liability To Tax-Assessee An Exporter- Foreign Banks Remitted Export Proceeds After Deducting Service Charges- Assessee Not Liable To Service Tax On Service Charges Finance Act (32 Of 1994).

Statute: SERVICE TAX

Decision in favour of: APPELLANT

Title: DISHMAN PHARMACEUTICALS AND CHEMICALS LTD VERSUS C.S.T. SERVICE TAX, AHMEDABAD

RAMESH NAIR, MEMBER (JUDICIAL) AND RAJU, MEMBER (TECHNICAL))

Citation: (2025) 146 GSTR 188: 2022 SCC OnLine CESTAT 4532

Bench/Court: IN THE CUSTOMS EXCISE AND SERVICE TAX APPELLATE TRIBUNAL¹

Service Tax -Banking And Other Financial Services- Export Proceeds Realisation Reverse Charge Mechanism Services Of Foreign Banks Availed Of In Process Of Realisation Of Export Proceeds From Foreign Buyers Commission Paid To Foreign Bank By Indian Bank And Indian Bank Debiting Charges To Assessee's Account No Payment Made Directly By Assessee

To Foreign Bank No Service Tax Could Be Demanded From Assessee Under Category "Banking And Other Financial Services" On Cha Paid In Respect Of Foreign Currency Transaction On Reverse Charge Basis.

Statute: SALES TAX AND VAT

Decision in favour of: APPELLANT

Title: PUNJAB CARBONIC (P) LTD VERSUS COMMERCIAL TAX OFFICER AND OTHERS R. RAGHUNANDAN RAO AND K. MANMADHA RAO. 11.)

Citation: (2025) 146 GSTR 181: 2025 SCC OnLine AP 1647

Bench/Court: IN THE HIGH COURT OF ANDHRA PRADESH

Sales Tax And VAT -Value Added Tax-Revision Limitation Extension Revision Order Passed Beyond Prescribed Period Of Limitation- Of Limitation By Supreme Court Orders During Covid-19 Period - Applies Only To Litigants And Not To Statutory Authorities - Revision Order Set Aside - Andhra Pradesh Value Added Tax Act (5 Of 2005), S. 32(3).

Statute: SALES TAX AND VAT

Decision in favour of: APPELLANT

Title: FOODS, FATS AND FERTILIZERS LIMITED VERSUS STATE OF ANDHRA PRADESH

RAVI NATH TILHARI AND HARINATH, N. JJ.

Citation: (2025) 146 GSTR 148: 2024 SCC OnLine AP 1450

Bench/ Court: IN THE HIGH COURT OF ANDHRA PRADESH

Sales Tax And VAT - Sales Tax - Natural Justice Cross-Examination -Assessee Contending Denial Of Opportunity To Cross-Examine Officers Who Prepared Enquiry Report Violated Principles Of Natural Justice - Report Based On Records And Factual Verification Cross-Examination Not Required Where Facts Could Be Controverted By Filing Material Evidence No Violation Of Principles Of Natural Justice - Tax Revision Case Dismissed Andhra Pradesh General Sales Tax Act (6 Of 1957), S. 22.

Statute: SALES TAX AND VAT

Decision in favour of: APPELLANT

Title: OFFICE OF THE ASSISTANT COMMISSIONER (CT), SALIGRAMAM ASSESSMENT CIRCLE, CHENNAI VERSUS V. RAMYALAKSHMI AND OTHERS (AND OTHER CASES)

DE ANITA SUMANTH AND N. SENTHEKUMAR, JJ.

Citation: (2025) 146 GSTR 124: 2025 SCC OnLine Mad 8488

Bench/Court: IN THE HIGH COURT OF MADRAS

A.Sales Tax And VAT- Sales Tax- Value Added Tax- Transfer To Defraud Revenue No Allegations Of Connivance Or Collusion Between Purchasers And Their Vendors - Jurisdictional Fact Of Purchasers' "Intent To Defraud" Must Be Established By Revenue - Charge By Operation Of Law Not Enforceable Against Purchaser Without Notice Purchasers Having Exercised Due Diligence By Verifying Encumbrances Prior To Purchase - No Charge Enforceable Against Transferee Auction Sale Notices Set Aside Tamil Nadu General Sales Tax Act (1 Of 1959), Ss. 24, 24A Tamil Nadu Value Added Tax Act (32 Of 2006), Ss. 42, 43- Transfer Of Property Act (4 Of 1882), Ss. 3, 100.

B. Writs Under Constitution - Transfer To Defraud Revenue Challenge By Purchaser Of Tax Defaulter's Property Against Encumbrances - Presence Of Tax Defaulter Not Required No Material Produced By Department To Establish Collusion Between Defaulter And Purchaser Of Property- Writ Petition Maintainable Even Without Impleading Tax Defaulter

Statute: SALES TAX AND VAT

Decision in favour of: APPELLANT

Title: 1.U.P. ASBESTOS LIMITED (CIVIL APPEAL NOS. 3577 OF 2008 AND 2692 OF 2013)

1.EVEREST INDUSTRIES LIMITED (CIVIL APPEAL NO. 3578 OF 2008) VERSUS STATE OF RAJASTHAN AND OTHERS

B.V. NAGARATHNA AND K.V. VISWANATHAN, J

Citation: (2025) 147 GSTR 122: 2025 SCC OnLine SC 2057

Bench/Court: IN THE SUPREME COURT OF INDIA

Sales Tax And VAT - Value Added Tax Exemption - Freedom Of Trade Discrimination Notification Exempting Manufacturers Within State Of Asbestos Cement Sheets And Bricks Containing 25 Per Cent. Or More Fly Ash Exemption Granted To Dealers Commencing Commercial Production In State By December 31, 2006 And Available Up To

January 23, 2010 Notification States No Reason For Its Issuance Other Than That "It Was Expedient In The Public Interest So To Do" Exemption Neither Granted To New Industries Nor Limited To A Specified Period Notification Does Not Require Industries Within State To Manufacture Or Procure Fly Ash Solely From Within State Absence Of Such Requirement Falsifies State's Justification That Exemption Aimed To Encourage Industries To Utilise Excess Fly Ash Produced In State Notification Held Violative Of Article 304(A) Of Constitution As Being Discriminatory Between Imported And Local Goods Notification Quashed Rajasthan Value Added Tax Act (4 Of 2003) Notification No. S.O. 377, Dated March 9, 2007 Constitution Of India 304(A).

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: R.V. ENTERPRISES AND ANOTHER VERSUS STATE OF GUJARAT AND OTHERS BHARGAV D. KARIA AND PRANAV TRIVEDI
Citation: (2025) 147 GSTR 111: 2025 SCC OnLine Guj 4780

Bench/Court: IN THE HIGH COURT OF GUJARAT

A.GST- Input-Tax Credit Reversal Under Section 16(2)(C) - Supplier's Registration Cancelled Ab Initio For Non-Payment Of Tax Input-Tax Credit Rightly Reversed - Assessee Not A Bona Fide Purchaser When Supplier Found Non-Genuine Central Goods And Services Tax Act (12 Of 2017), Ss. 16(2)(C), 155.

B. GST-Show-Cause Notice- Non-Issuance Of Intimation In Form GST DRC-01A- Not Mandatory Requirement- Section 142(1A) Amendment Clarificatory In Nature- Show-Cause Notice Not Vitiating Central Goods And Services Tax Act (12 Of 2017), S. 142(1A). C.GST Penalty Proceedings Under Section 73 Absence Of Intimation In Form GST DRC-01A - Penalty Not Leviable When No Intimation Issued To Enable Assessee To Avoid Penalty - Order Modified To That Extent Central Goods And Services Tax Act (12 Of 2017), S. 73.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: K.M. SIDDIQUE VERSUS STATE OF KERALA AND OTHERS
GOPINATH P. J.

Citation: (2025) 147 GSTR 86: 2024 SCC OnLine Ker 7715

Bench/Court: IN THE HIGH COURT OF

KERALA

GST Show-Cause Notice Limitation Invocation Of Extended Period Of Limitation Preliminary Issue Question Whether Material Exists For Invoking Extended Period Of Limitation Is Matter To Be Adjudicated By Competent Authority As Preliminary Issue- Writ Petition Disposed Of With Directions For Preliminary Consideration- Central Goods And Services Tax Act (12 Of 2017), S. 74- Kerala State Goods And Services Tax Act (20 Of 2017), S. 74.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: RAVINDRA MUTHAVARAPU VERSUS SUPERINTENDENT OF CENTRAL TAX AND OTHERS

R. RAGHUNANDAN RAO AND DR K. MANIMADHA RAO, JJ

Citation: (2025) 147 GSTR 60: 2025 SCC OnLine AP 3777

Bench/Court: IN THE HIGH COURT OF ANDHRA PRADESH

GST - Recovery Of Tax-Central Excise Dues Directors Liquidated Company - Section 88 Of Central Goods And Services Tax Act - Dues Arising Under Central Excise Act Notices Issued To Former Directors For Recovery Contention That Section 88 Applicable Only To Central Goods And Services Tax Act Dues Section 174 Of Central Goods And Services Tax Act Providing For Recovery Under Repealed Acts Recovery Of Central Excise Dues To Be Under Central Excise Act Provisions Central Goods And Services Tax Act Provisions Not Available For Recovery Of Pre-GST Dues - Notices Quashed -Central Goods And Services Tax Act (12 Of 2017), Ss. 88, 174- Central Excise Act (1 Of 1944).

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: ITTEFAQ STEELS AND SCARP TRADERS VERSUS ADDITIONAL CHIEF SECRETARY MINISTRY OF FINANCE (DEPARTMENT OF REVENUE), BANGALORE AND ANOTHER
S.R. KRISHNA KUMAR, J

Citation: (2025) 147 GSTR 43: 2025 SCC OnLine Kar 4290: (2025) 98 GSTL 504

Bench/Court: IN THE HIGH COURT OF KARNATAKA

GST- Electronic Ledger-Pre-Decisional Hearing Mandatory Before Blocking Electronic Credit Ledger Order Based On Borrowed Satisfaction - No Independent

Reasons To Believe - Failure To Comply With Procedural Requirements Order Blocking Electronic Credit Ledger Quashed Central Goods And Services Tax Rules, 2017, R. 86 Constitution Of India, Arts. 226, 227.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: KAUSHLENDRA KUMAR VERSUS STATE OF BIHAR AND OTHERS

RAJEEV RANIAN PRASAD AND ASHOK KUMAR PANDEY

Citation: (2025) 147 GSTR 16: 2025 SCC OnLine Pat 3091: (2025) 4 BLJ 325 (PHC): (2025) 3 PLJR 125: (2025) 99 GSTL 336

Bench/Court: IN THE HIGH COURT OF PATNA

GST-Input-Tax Credit Delayed Filing Of Returns Financial Years 2017-2018 To 2020-2021 Insertion Of Section 16(5) With Retrospective Effect Entitling Registered Dealers To Take Input-Tax Credit In Any Return Filed Up To November 30, 2021 Recovery Proceedings Violation Of Statutory Time-Limit Premature Recovery Within 28 Days Of Appeal Dismissal - Refund Ordered With Interest - Central Goods And Services Tax Act (12 Of 2017), Ss. 16(4), (5), 73, 78, 79 Bihar Goods And Services Tax Act (12 Of 2017), Ss. 16(4), (5), 73, 78, 79- Finance (No. 2) Act (15 Of 2024).

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: AJAY INDUSTRIES AND ANOTHER VERSUS UNION OF INDIA AND OTHERS
BHARGAV D. KARIA AND D.N. RAV, JJ.

Citation: (2025) 147 GSTR 1: 2025 SCC OnLine Guj 4781

Bench/Court: IN THE HIGH COURT OF GUJARAT

GST-Input-Tax Credit - Reversal Of Input-Tax Credit On Exempt Supplies Demand Raised Despite Prior Reversal - Show-Cause Notice Under Section 73 Violation Of Principles Of Natural Justice Failure To Provide Mandatory Personal Hearing Under Section 75(4) - Service By Uploading On Portal Delay In Filing Appeal Amended Provisions Of Section 16(5) -Double Payment Of Tax Impugned Order Quashed And Matter Remanded Central Goods And Services Tax Act (12 Of 2017), Ss. 16(5), 17(2), 39(9), 50, 73, 75(4), 107, 169(D) Gujarat Goods And Services Tax Act (25 Of 2017) -Constitution Of India, Arts. 226, 227.

Statute: GOODS AND SERVICES TAX

Decision in favour of: APPELLANT

Title: SRINIVAS TRADERS VERSUS ASSISTANT COMMISSIONER OF STATE TAX AND OTHERS

R. RAGHUNANDAN RAO AND DR K. MANIMADHA RAO, JJ

Citation: (2025) 146 GSTR 317: 2025 SCC OnLine AP 3561

Bench/Court: IN THE HIGH COURT OF ANDHRA PRADESH

GST Reasons Seizure Of Goods In Transit Seizure Memo Without Legible Printed Pro Forma With Ticked Reason Procedural Non-Compliance Under Section 129 Notice Under Section 129(3) Not Issued Within Seven Days Direct Initiation Of Proceedings Under Section 130 Violation Of Statutory Procedure - Impossibility Of Explanation Due To Lack Of Details Additional Reasons Cannot Be Supplemented After Order Goods To Be Released After Compliance With Section 129 - Need For Training Of Officers - Central Goods And Services Tax Act (12 Of 2017), Ss. 129, 130-Constitution Of India, Art. 226.

Statute: SALES TAX AND VAT

Decision in favour of: APPELLANT

Title: ORIENTAL BANK OF COMMERCE, OVERSEAS BRANCH, CHENNAI VERSUS COMMERCIAL TAX OFFICER, MOORE MARKET (NORTH) ASSESSMENT CIRCLE, CHENNAI AND OTHERS

DR ANITA SUMANTH AND G. ARUL MURUGAN, J.

Citation: (2025) 146 GSTR 116: 2025 SCC OnLine Mad 2084

Bench/Court: IN THE HIGH COURT OF MADRAS

Sales Tax And VAT - Sales Tax - Recovery Of Tax- First Charge- Under Provisions Of Act Priority Over All Other Claims Against Property Of Dealer Commences Only From Date On Which Such Charge Created Statutory Charge Under Act Not A First Charge For Determining Priority Between

Crown Debts And Other Secured Creditors Debt Created Earlier In Point Of Time Must Be Honoured Bank's Lien On Fixed Deposits Created Prior To Assessment Orders Giving Rise To Sales Tax Demand Takes Precedence Over Subsequent Statutory Charge Under Section 24 Of Act Garnishee Notice Issued To Bank By Department Seeking Recovery From Fixed Deposits Unsustainable - Tamil Nadu General Sales Tax Act (1 Of 1959), Ss. 24, 24A.

Statute: SALES TAX AND VAT

Decision in favour of: APPELLANT

Title: K. SENTHAMIL SELVAN AND OTHERS VERSUS DEPUTY COMMERCIAL TAX OFFICER, TIRUCHENGODE (TOWN) ASSESSMENT CIRCLE, TIRUCHENGODE AND OTHERS

M.S. RAMESH, J

Citation: (2025) 146 GSTR 75: 2020 SCC OnLine Mad 28456

Bench/Court: IN THE HIGH COURT OF MADRAS

Sales Tax And Vat - Sales Tax - Value Added Tax - Transfers To Defraud Revenue- Bona Fide Purchaser Property Transferred For Adequate Consideration And Without Notice Of Charge Protection Under Proviso To Section 100 Of Transfer Of Property Act Available Failure Of Purchaser To Enquire With Tax Authorities Not Wilful Abstention Or Gross Negligence Enquiry With Vendor Sufficient To Establish Due Diligence Question Of Wilful Abstention A Question Of Fact Or Mixed Question Of Fact And Law Depending Primarily On Facts And Circumstances Of Each Case Purchase Deemed Free Of Encumbrance In Absence Of Actual Or Constructive Notice No Charge Enforceable Against Transferee- No Material To Show Transfer Not Bona Fide Department Failed To Prove Fraudulent Intent To Defeat Revenue Auction Sale Notices Set Aside Matter Remanded To Authorities To Verify Existence Of

Encumbrance In Registering Office Records Between Date Of Charge Creation And Date Of Purchase Tamil Nadu General Sales Tax Act (1 Of 1959), Ss. 24, 24-A Tamil Nadu Value Added Tax Act (32 Of 2006), Ss. 42, 43 Transf Property Act (4 Of 1882), Ss. 3, 100.

Statute: SALES TAX AND VAT

Decision in favour of: APPELLANT

Title: BANKERS CARDIOGY PVT. LTD. AND ANOTHER VERSUS COMMISSIONER OF COMMERCIAL TAX AND ANOTHER BHARGAV D. KARIA AND D.N. RAY, J.

Citation: (2025) 146 GSTR 1: 2025 SCC OnLine Guj 3255

Bench/Court: IN THE HIGH COURT OF GUJARAT

Sales Tax And VAT-Value Added Tax-Composite Health Services-Works Contract-Deemed Sale-Supply Of Medicines, Stents, Implants, Consumables, Etc By Hospitals For Treatment Of Indoor Patients- Constitutes "Sale Of Goods" In Execution Of "Works Contract" And Exigible To Value Added Tax Composite Contract Though Single And Indivisible Amounts To Deemed Sale Of Goods Involved In Execution Of Works Contract No Standard Formula For Distinguishing Contract For Sale From Works Contract - Depends On Terms Of Contract, Nature Of Obligations And Surrounding Circumstances Treatment Of Patients In Clinical Establishment Is Essentially A "Service" Rendered Along With Supply Of Medicaments, Prosthetics, Etc. Falls Within Composite Service Contract Involving Both Service And Sale Of Goods Expression "Works Contract" Covers All Genre Of Works Contract Gujarat Value Added Tax Act, 2003 (1 of 2005), S. 2(23) Constitution Of India, Art. 366(29A) Constitution (Forty-Sixth Amendment) Act, 1982.