



GST

LD/69/49, [2020-TIOL-1280-HC-KERALA-GST], Devices Distributors Vs. Assistant State Tax Officer, and Ors., 23/07/2020

The reasoning that the invoices accompanying the goods are not serially number and hence there is a reason to doubt that some goods may have escaped the tax reporting cannot be the ground for detaining goods which are backed by such invoices. The Hon'ble court held that, entertainment of a doubt that the invoices carrying the missing serial numbers were possibly not reported to the authorities cannot be a justification for detaining the goods in question, especially when they were admittedly accompanied by tax invoices as also e-way bills that clearly indicated the particulars that were required by Rule 46 of the GST Rules. The Court also pointed out that in any case the doubt pertained to goods other than those that were actually detained and consequently, the detention cannot be justified under Section 129 of the GST Act.

SERVICE TAX

LD/69/50, [Gauhati High Court: W.P. No. 2264/2020], M/s Urban Systems Vs. The Union of India, 28/08/2020

There was an inadvertent mistake by assessee stating the duty payable under a wrong clause in the SVLDRS [Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019] application due to which the application was rejected by the Revenue, High Court dismissed such rejection of application, High Court stated that the assessee may make an application to the authorities to consider its claim of benefit under SVLDRS by allowing it to make necessary correction in the information provided as regards the disclosure of the dues from them and upon such application being made, the authorities would pass a reasoned speaking order thereon, High Court explained the distinction between an incurable mistake and inadvertent mistake.

LD/69/51, [2020-TIOL-143-SC-ST-LB], Commissioner of Service Tax, Ahmedabad vs Adani Gas Ltd., 28/08/2020

The "connection charges" collected from the customers at the time of providing new connection

towards the use of pipelines, measuring equipment in the provision of "transportation of goods through pipeline services" will attract service tax as it would amount to "supply of tangible goods service."

LD/69/52, [2020-TIOL-1444-HC-KAR-ST], M/s Jagdish Advertising Vs. Designated Committee, 19/08/2020

High Court held that the designated committee while processing an application under Sabka Vishwas Scheme of 2019, cannot adjudicate upon any of the contentious issues which existed between the Revenue and the Assessee before the Scheme was enacted, in the guise of verifying the accuracy of the declaration. Hence, if assessee has claimed payment by CENVAT Credit, which is otherwise disputed by the Revenue in the show cause proceedings, even then deduction in respect of payment of CENVAT Credit shall be allowed in respect of deciding application against SCN raised for disputed tax demand.

CUSTOMS

LD/69/53, [Madras High Court: W.P. No. 26324/2019], Vigneswara Exims Vs. The Asst. Commissioner of Income Tax, 28/08/2020

Assessee had claimed title of goods was transferred to assessee by Ghana exporter to it during the course of transit by way of high sea-sales, High Court noted that certain documents have been enclosed in typed set of papers however no payment has been made to foreign exporter or importer, High Court upheld the import assessment order releasing goods to original importer and rejected assessee's title claim on those goods, Further High Court stated that Revenue to retain the goods when the original documents are only with the actual importer of goods who have complied with all formalities and that keeping such goods (perishable in nature) in the custody of Revenue will only make the items lose their value.

Disciplinary Case



Complaint against Chartered Accountant for issuance of false Utilization Certificate -- Plea of Respondent that the amount in the Certificate of Utilisation was supported by the Valuer's report and books of accounts -- Held, Chartered Accountant is not expected to be expert in assessing the valuation of cost of construction and for the same he is expected to rely upon the work of report of valuers / engineers -- Held, Respondent Not Guilty of professional misconduct under Clause (7) of the Part I of Second Schedule to the Chartered Accountants Act, 1949.

Held:

In the instant case, the firm while availing the term loan for construction of the project, has filed a certificate issued by the Respondent. As per the Complainant, utilization certificate submitted by the firm was false. The Committee noted

that the valuation report brought on record by the Complainant is dated 05.09.2013 and there was nothing on record from the Complainant to establish as to how the said valuation report which is issued after 4 years is relevant to the present matter. Further, the Complainant did not bring on record copy of bank statement to show that the payment for expenses was not made through the bank account. There was nothing on record to show that the Complainant had ever challenged the genuineness of the parties to whom payments were made. It is also observed that the Complainant did not provide the copy of valuation report. The Committee also observed that a Chartered Accountant is not expected to be expert in assessing the valuation of cost of construction and for the same he is expected to rely upon the work of report of valuers / engineers. In the present case, the Respondent brought on record copy of valuer report pertaining to the period of expenses, to show that amount as mentioned in the Certificate of Utilisation was supported by the valuer report and books of accounts. Hence, in view of above facts and submissions, the Committee decided to extend the benefit to the Respondent and accordingly, decided to hold the Respondent Not Guilty of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

