



## Indirect tax newsletter

# Updates: Indirect tax judgments

We are delighted to share a few important judgments/advance rulings passed under the Goods and Services Tax (GST), customs, central excise, and service tax laws.

### Goods and Services Tax



**Assistant Commissioner of CGST and Central Excise & Others vs. Sutherland Global Services Pvt. Ltd. & Others 2020-TIOL-1739-HC-MAD-GST**

The division bench of the Madras High Court has reversed the decision of the single judge and has held that carry forward of unutilised balance of education cess, secondary and higher education cess and Krishi Kalyan Cess to the GST regime is not allowed.



**Transtonnestroy Afcons Joint Venture vs. Union of India & Others 2020-TIOL-1599-HC-MAD-GST**

The Madras High Court, while differentiating the judgment of Gujarat High Court in the case of VKC Footsteps, has held that amended provisions of CGST Rules, 2017 restricting the refund of GST paid only on inputs under inverted duty structure are constitutionally valid.



### **M/s Mahadev Trading Company vs. Union of India 2020-TIOL-1683-HC-AHM-GST**

The Gujarat High Court quashed the show cause notice (SCN) and order of cancellation of registration where the SCN was vague and no particular facts were mentioned. The Court observed that the appellant could not file a suitable reply as no particular facts were mentioned in the SCN.



### **Vertiv Energy Pvt. Ltd. 2020-TIOL-50-AAAR-GST**

The Maharashtra Appellate Authority for Advance Ruling (AAAR) reversed the ruling of Maharashtra AAR and held that supply of UPS systems by one branch and erection of systems by another branch would not be treated as composite supply under GST. The AAAR observed that presence of two taxable persons would preclude the supplies from being considered as composite supply, where one of the essential conditions is that there should be a single taxable person who is undertaking all the supplies involved in a particular transaction.

## **Customs**

### **Horticulture Produce Exporters Association and Another vs. Union of India and Others 2020-TIOL-1764-HC-MUM-CUS**

The Bombay High Court, while following the judgment of the Supreme Court in the case of M/s. G. S. Chatha Rice Mills, held that export of specified goods in respect of the shipping bills which were presented and generated prior to uploading of notification restricting the export of specified goods on the website of the Directorate General of Foreign Trade shall be allowed.

## **Central Excise**

### **M/s Koomsong Tea Estate vs. Commissioner of Central Excise 2020-TIOL-1523-CESTAT-KOL**

The CESTAT Kolkata has observed that denial of benefit of exemptions and refund on the ground of delay would cause grave injustice to appellant. It was held that non-following of procedural requirement cannot deny the substantive benefit and refund cannot be denied even though there was a delay in filing the same.

## **Service Tax**

### **Gammon India Ltd. vs. Commissioner of Service Tax – V 2020-TIOL-1526-CESTAT-MUM**

The Mumbai CESTAT observed that 'mobilization advance' is adjusted against the final payment due and is not linked to the work but as a pledge of contract between the assessee and principal. It was held that payment of mobilization advance is a separate financial transaction within the contract and cannot be subject to levy of service tax.

### **M/s Lanco Solar Pvt. Ltd. vs. Commissioner, Central Tax, Central Excise Customs 2020-TIOL-1480-CESTAT-DEL**

The CESTAT Delhi held that ab-initio exemption provided under the SEZ provisions have an overriding effect on the service tax provisions. Hence, a notification issued under service tax cannot restrict or provide a time limit for grant of refund to the SEZ unit and developer.

**For more information, contact:**

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