



# ASC Times

All India Taxes Weekly Referencer

Vol: July 20-July 26, 2015

Solving  
any **tax**  
puzzle

Tax saving advice  
across all the taxes



## From the CEO's Desk



Dear Reader,

From the time of my early childhood I loved traveling by train. It was always filled with excitement and exploration. Now Metros have changed the scene of public transportation. It is not only fast but also much convenient and eco-friendly. But there are not enough trains and metros for our population. Government tries to keep up with the increasing demand. Now plans are on to increase the no of coaches in the express trains from maximum of 24 to 26 to cope up with the demand. The trial will be done in some of the Rajdhani's if safety approvals are given. Also it will be possible only on the routes where platforms are long enough to cater to all the coaches.

Plastic bags are not recommended for the ecological balance. But when it comes to our national flags, it's not only about the ecology but also it is about the pride of the National flag. As it is been observed that after the Republic Day and Independence Day flags made out of plastic are found littering on the roads or in the trash. So Home Ministry is in the process to ban the manufacturing and selling of flags made out of plastic.

After all the gung-ho about the Government's policies the flip side is that the corporate are not very positive about the current situation of the economy and also about the future prospects. A survey, which is conducted by Assocham regularly, shows that because of the global economy going down our exports have been affected greatly. From last six months exports have been decreasing which in turn posing a problem of balance of trade and also rupee depreciation. Another problem is regarding inflow money in the form of FDI's. As Government has allowed 100% FDI in single brand showroom only it has only attracted USD 135 Million (About Rs. 700 Crore) worth of foreign direct investment in the last 9 years. On the other hand, one proposal in multi-brand retail alone has attracted an investment of USD 140.3 million (Rs. 850 crore). Industry experts say

that a lot of relaxations are required so that more FDI can come in India."There are several reasons for the corporate being less optimistic in June than in March, the principal being negative signals from the global demand resulting in continuous fall in exports and a big pressure on commodity prices, which in turn, have affected the investment scenario," Assocham Secretary General D S Rawat said.

Another problem is about the employment. On the employment front, not much seems to have changed during April to June 2015, as 51.6 per cent respondents felt so. In the short horizon also, the survey indicates that there will be no change in the employment scenario in the industry.

Alok Kumar Agarwal  
 CEO  
 ASC Group.

## TAX CALENDER

Due Date	Description	Law
20 <sup>th</sup> July	Return filing	Andhra Pradesh VAT
	Tax Payment	Andhra Pradesh VAT, Goa VAT, Karnataka VAT, Kerala VAT, Manipur VAT, Meghalaya VAT, Orissa VAT, Punjab & Chandigarh VAT, Rajasthan VAT, Tamil Nadu VAT
	Deposit of TDS	Karnataka VAT, Madhya Pradesh VAT, Tamil Nadu VAT, Telangana VAT
	Issue TDS Certificate	Karnataka VAT, Madhya Pradesh VAT
	Intimation of tax liability as nil	Uttarakhand VAT
21 <sup>st</sup> July	Return filing	Assam VAT, Maharashtra VAT
	Tax Payment	Assam VAT, Delhi VAT, Maharashtra VAT
	Deposit of WCT TDS and Issue TDS Certificate	Maharashtra VAT
22 <sup>nd</sup> July	Issue of TDS Certificate	Delhi VAT
	Monthly Return	Tamil Nadu VAT
	Tax Payment	Tamil Nadu VAT
	Deposits of WCT TDS monthly	Gujarat VAT
	Entry tax	Gujarat VAT
	Monthly/Quarterly/central sale tax payment due	Gujarat VAT, Karnataka VAT, Kerala VAT, Manipur VAT, Meghalaya VAT, Orissa VAT, Tamil Nadu VAT
Due date for issue of TDS Certificate u/s 194IA	Income Tax Law	

25 <sup>th</sup> July	Return Filing	Delhi VAT, Jharkhand VAT, Kerala VAT, Uttarakhand VAT
	Deposit of Tax	Kerala VAT
	Issue of TDS Certificate	Mizoram VAT
	Intimation of tax liability as nil	Uttarakhand VAT

## COUNTRY WIDE HOLIDAYS FOR THE WEEK

Date	Occasion/Festival	Region
20 <sup>th</sup> July	Drukpa Tsheshi	Sikkim
24 <sup>th</sup> July	Guru Rinpoche's Thrunkar Tshechu	Tripura
26 <sup>th</sup> July	Guru Rinpoche's Thrunkar Tshechu	Sikkim

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# CENTRAL TAXES

## SERVICE TAX

### COURT DECISIONS

#### FUN MULTIPLEX PVT. LTD. VERSUS THE UNION OF INDIA AND OTHERS (BOMBAY HIGH COURT)

**BRIEF:** Clarification on levy of service tax on distributors/sub-distributors of films & exhibitors of movie. Merely making a reference to some Circular would not mean that the Appellate Tribunal cannot be approached or that the Appellate Tribunal will not view the matter in its entirety and in proper perspective.

**OUR TAKE:** The Hon'ble BOMBAY HIGH COURT held that merely making a reference to some Circular would not mean that the Appellate Tribunal cannot be approached or that the Appellate Tribunal will not view the matter in its entirety and in proper perspective. In the circumstances, we are not in agreement with Mr.Dada that the Petitioner cannot approach the appellate authority.

In the event the Petitioner approaches the Appellate Authority by filing an Appeal and within a period of four weeks from today, the Appellate Authority, namely, the Tribunal shall entertain the Appeal and not dismiss it on the ground that it is barred by limitation. The Tribunal shall permit the Petitioner to raise all contentions including that the issue must be examined in the light of the arrangements, prevalent practices and customs peculiar to the film industry. Such arrangements and which are in vogue for decades together do not create any relationship and which is assumed to be created by the Revenue. The Circular therefore will have no application and would not apply. Equally, an opportunity should be given to the Petitioner to rely upon such Judgments and decisions in order to support its submissions and distinguish those referred to in the Circular as well. The Tribunal shall consider them and pass appropriate orders in accordance with law, after hearing the parties. Equally, it would be open for the Petitioner to seek such reliefs as are permissible in law and to apply for dispensation of the condition of pre-deposit of the tax amount. [**Petition disposed of**]

#### FIFTH AVENUE SOURCING (P) LTD. VERSUS COMMISSIONER OF SERVICE TAX (MADRAS HIGH COURT)

**BRIEF:** Provision of section 35F whether prospective or retrospective. Whether petitioner is allowed to file an Appeal before the CESTAT along with stay application

without making pre-deposit.

**OUR TAKE:** The Hon'ble MADRAS HIGH COURT held that the assessee's right to file an appeal and a further appeal under the earlier Act is a vested right and such a right becomes vested in the assessee, the moment he filed his return which commenced the assessment proceedings. - Decision in the case of The Deputy Commercial Tax Officer Versus Cameo Exports [2005 (12) TMI 528 - MADRAS HIGH COURT] followed.

As the amended provisions of the Act are not given retrospective effect as of from an anterior date, it has been construed that the amended provisions are prospective. Petitioner to file an Appeal before the CESTAT along with stay application, without making pre-deposit of 7.5% of the tax amount confirmed against the petitioner, within a period of two weeks. [**Decided in favour of assessee**]

#### INDSUR GLOBAL LTD. VERSUS ADDL. COMM. OF SERVICE TAX, VADODARA (GUJARAT HIGH COURT)

**BRIEF:** Assessee had recovered Service Tax periodically from the service recipient. Not only that such service tax was not deposited with the Government in the returns filed it was declared that Service Tax liability was nil. Levy of penalties u/s 77 and 78 are confirmed.

**OUR TAKE:** The Hon'ble GUJARAT HIGH COURT held that even if the provisions of Sections 76, 77 and 78 of the Act are otherwise applicable, no penalty would be imposed on an assessee for the failure referred to in such provision, if he proves that there was reasonable cause for such failure. Thus the primary duty is on the assessee to establish reasonable cause for failure. What would constitute reasonable failure in a given case would essentially be a question of fact. The Revenue authorities as well as the Tribunal concurrently came to the conclusion that the assessee failed to offer any such reasonable cause.

In particular, as noted earlier, the Tribunal recorded that the assessee had in fact recovered Service Tax periodically from the service recipient. Not only that such service tax was not deposited with the Government in the returns filed it was declared that Service Tax liability was nil. Hence, No question of law arises. [**Decided against assessee**]

#### SOLUX GALFAB PVT. LTD. VERSUS COMMISSIONER OF SERVICE TAX, KOLKATA (CALCUTTA HIGH COURT)

**BRIEF:** Tribunal should adopt a lenient approach in dealing with an application for condonation of delay. Length of delay is not material but sufficiency of the cause is.

**OUR TAKE:** The Hon'ble **CALCUTTA HIGH COURT** held that tribunal should adopt a lenient approach in dealing with an application for condonation of delay. Length of delay is not material but sufficiency of the cause is. Delay of longer period may be condoned if sufficient cause is made out but the delay of shorter period may not be condoned in absence thereof. The approach of the Tribunal should not be such to find a fault in the application seeking delay but should encourage the litigation to be decided on merit. Furthermore, when an order is passed ex parte and the defaulting litigant approaches the Tribunal showing cause of non-appearance, the Tribunal should not act harshly by simply recording that petition does not show that the petitioner was prevented by sufficient cause. Furthermore, the Tribunal has misconstrued the application to be an application for review when proviso to Rule 20 of the Customs, Excise and Services Tax Appellate Tribunal (Procedure) Rules, 1982 provides for setting aside ex parte order of dismissal provided a sufficient cause is made out. Tribunal invoked the wrong provision and therefore, the order impugned is unsustainable in law. This Court on perusing the averments made in the miscellaneous application finds that the petitioner has made out a case, which constitutes the sufficient cause. This Court finds that the petitioner was prevented by sufficient cause in not appearing on the day when his application for condonation of delay was decided ex parte. Tribunal directed to decide the matter afresh.

#### **M/S. VENTRAPATHI FINANCIAL SERVICES VERSUS THE SUPERINTENDENT OF CENTRAL EXCISE AND FOUR OTHERS (ANDHRA PRADESH HIGH COURT)**

**BRIEF:** Validity of adjudication order / order in original when service of letters at wrong address. The order was set aside giving liberty to the respondents. Authorities to pass appropriate orders after giving an opportunity of hearing to the petitioner.

**OUR TAKE:** The Hon'ble **ANDHRA PRADESH HIGH COURT** held that it cannot be said that the Department was not aware of the correct address of the petitioner and it is an admitted fact that both the show cause notice and final order were dispatched to the wrong address resulting in violation of the statutory requirement of service notice for the purpose of fastening liability of service tax on the petitioner. The procedure of service of notice and passing orders as enumerated in the Central Excise Act, 1944 has been made part of the service tax by virtue of Section 83 of the Finance Act.

In that view of the matter, the impugned order dated

30.05.2014 cannot be sustained, and accordingly, the same is set aside giving liberty to the respondents, authorities to pass appropriate orders after giving an opportunity of hearing to the petitioner. Writ petition allowed. [Decided in favour of assessee]

## CENTRAL EXCISE

### COURT DECISIONS

#### **THE COMMISSIONER OF CENTRAL EXCISE VERSUS M/S. JOY FOAM PVT. LTD., CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL (CESTAT) (MADRAS HIGH COURT)**

**BRIEF:** CENVAT Credit taken on inputs is deemed to have been consumed in the process of manufacture and since the goods are lost or destroyed due to unavoidable accident the claim of reversal of credit cannot be countenanced.

**OUR TAKE:** The Hon'ble **MADRAS HIGH COURT** held that once the goods are destroyed or lost due to natural cause, remission of duty is granted on such goods. Since the inputs are considered to be put to intended use in the manufacture of finished products, it is deemed to have been consumed in the process of manufacture and since the goods are lost or destroyed due to unavoidable accident, the claim of reversal of credit cannot be countenanced, more so, when the said provision does not provide for reversal of credit, as has been observed by the Tribunal, which we approve. [Decided against Revenue]

#### **RAJESH H. ARORA, M/S RAVI RAJ PROCESSORS PVT LTD VERSUS UNION OF INDIA AND OTHERS (BOMBAY HIGH COURT)**

**BRIEF:** Tribunal dismissed the appeal on failure to comply with the order of pre-deposit. No litigant much less placed on par with the appellant before us has the absolute right to insist on the appeal being heard even when he does not comply with the conditions imposed on him while granting him discretionary and equitable relief of interim stay of recovery of taxes.

**OUR TAKE:** The Hon'ble **BOMBAY HIGH COURT** held that the tribunal has to be specifically vested with the power to dismiss the appeal for want of prosecution. We are inclined to apply the law laid down by the Hon'ble Supreme Court of India [2014 (11) TMI 531 - SUPREME COURT] to the present case as well. However, we find that no litigant much less placed on par with the appellant before us has the absolute right to insist on the appeal being heard even when he does not comply with the conditions imposed on him while granting him discretionary and equitable relief of interim

stay of recovery of taxes. The conditions that have been imposed by the tribunal while granting such a discretionary and equitable relief have never been questioned by the appellant and rather he has accepted the same. He therefore, cannot be permitted to wriggle out of the same and by relying on the present state of law as emerging from the judgment of the Hon'ble Supreme Court of India.

The consequences of a breach of such a conditional order were also not an issue before the Hon'ble Supreme Court in the above judgment. The law laid down in the above decision cannot be stretched and applied to a situation where the conditional order is not complied with and still the appeal must be decided on merits. That was a case where the appellant and for no fault of his, was visited with a dismissal of his appeal for want of prosecution. He lost a valuable right of appeal and adjudication of the same on merits. Such is not the case before us. The appellant approached the tribunal on two occasions. Prior thereto, he approached the Commissioner (Appeals) and applied for discretionary and equitable reliefs. There was a conditional stay. He did not comply with that condition as well. Rather he did not comply with the conditions imposed by the tribunal as well. **[Decided against assessee]**

#### COMMISSIONER OF CENTRAL EXCISE, KOLKATA VI, COMMISSIONERATE VERSUS INDIAN OIL BLENDING LTD. AND OTHERS (CALCUTTA HIGH COURT)

**BRIEF:** Tribunal decided that the SERVO STEEROL C- 6 is lubricating oil and not Rolling Mill Oil (Especially Oil). If the treatise taken into account by the Tribunal is correct then it cannot be said that the view taken by the Tribunal is perverse.

**OUR TAKE:** The Hon'ble CALCUTTA HIGH COURT held that exemption is available for lubricating preparations. Mr. Bharadwaj, learned Advocate, appearing for the appellant/revenue submitted that the learned Tribunal did not consider the literature of the manufacturer itself which defines the properties of the product - The correctness of the treatise taken into account by the learned Tribunal was not assailed by Mr. Bharadwaj. If the treatise taken into account by the Tribunal is correct then it cannot be said that the view taken by the Tribunal is perverse. In that case one has to say that the view is a plausible view. **[Decided against Revenue]**

#### KRIPA FABS PVT. LTD. VERSUS THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, THE ADDL. COMMISSIONER OF CENTRAL EXCISE (MADRAS HIGH COURT)

**BRIEF:** Invocation of extended period of limitation. Subsequent information by the assessee to the

respondent/Department cannot justify a plea of no suppression. The act of suppression had already happened at the time of clearance of the exempted goods in excess of the exemption limit.

**OUR TAKE:** The Hon'ble MADRAS HIGH COURT held that there has been failure on the part of the appellant to discharge the duty liability on clearance in excess of the exempted production. The adjudicating authority, the Commissioner (Appeals) as well as the Tribunal concurrently have come to the clear conclusion that it is a case of suppression and, therefore, this Court finds no reason to differ with the well-considered finding of fact recorded by the authorities below, in the absence of any material to the contrary. The fact of suppression has been reiterated by all the authorities in their order and the Tribunal has also taken note of the same in coming to its well-considered finding. Subsequent information by the assessee to the respondent/Department cannot justify a plea of no suppression. The act of suppression had already happened at the time of clearance of the exempted goods in excess of the exemption limit and, therefore, it is not open to the assessee to plead a case of no suppression. **[Decided against assessee]**

## CUSTOMS

### NOTIFICATIONS & CIRCULARS

The Govt. of India vide Notification No. 32/2015, dated 10-7-2015 (published now) seeks to extend levy of anti-dumping duty on imports of Phenol, originating in or exported from South Africa for a period of five years.

**OUR TAKE:** Readers are requested to read the notification.

### COURT DECISIONS

#### ALSTOM INDIA LTD. VERSUS UNION OF INDIA & ORS (DELHI HIGH COURT)

**BRIEF:** Jurisdiction to claim refund is Central Excise or DGFT when refund of Terminal Excise Duty (TED) in case of deemed export. The FTP as it then existed did not debar the petitioner from seeking a refund from one of the two departments subject to fulfillment of other conditions. JDGFT to re-consider the refund.

**OUR TAKE:** The Hon'ble DELHI HIGH COURT held that insofar as the prayer (a) is concerned, the same cannot be

granted; not for the reason that the petitioner does not have a case, but for the reason that, it seeks setting aside of a file noting. It is not disputed by the petitioner before me that the impugned file noting has not been formally communicated to the petitioner. A decision, not communicated, cannot be assailed by instituting an action in court.

The common case of parties before me is that exemption was not availed of by the petitioner instead the petitioner ended paying TED. Therefore, the petitioner had two options: First, to seek refund of the Excise Duty from the Excise Department. Second is to seek refund from the respondent herein. The petitioner has chosen the latter. The FTP, as it then existed, did not de-bar the petitioner from seeking a refund from one of the two departments, subject to fulfilment of other conditions.

Joint Director General of Foreign Trade will examine the case of the petitioner and pass a suitable order thereafter.

## INCOME TAX

### NOTIFICATIONS & CIRCULARS

The **Govt. of India vide Notification No. 2/2015, dated 13th of July 2015** notified procedures data structure and standards of Electronic Verification Code (EVC) for electronically filed Income Tax Return.

**OUR TAKE:** The notification is self explanatory.

The **Govt. vide Notification No. 1/2015, dated 10-7-2015 (now published)** seeks to extend time limit for submitting ITR-V for electronically filed returns for A.Y. 2013-14 and A.Y. 2014-15, latest by 31st Oct.2015.

The **Govt. of India vide AST INSTRUCTION NO. 136, dated 10-7-2015 (now published)** instructed that no manual refund will be issued in a case which has been processed on AST. In exceptional cases manual refunds may be issued with safeguards as prescribed.

**OUR TAKE:** The Govt. has imposed restriction on issuance of manual refunds by assessing officer through this order.

### COURT DECISIONS

#### M/S. RSG FOODS PVT. LTD. VERSUS COMMISSIONER OF INCOME TAX, BATHINDA AND OTHERS (PUNJAB & HARYANA HIGH COURT)

**BRIEF:** Merely because the parties were doing business in the normal course inter se would not be a ground as such to transfer the assessment in the absence of any major financial nexus.

**OUR TAKE:** The Hon'ble **PUNJAB & HARYANA HIGH COURT** held that merely because the parties were doing business in the normal course inter se, would not be a ground as such to transfer the assessment in the absence of any major financial nexus, as such, a ground would result in transferring other assessments of assesseees who were doing business with the Narula Group of Companies (NCG). The reasoning, thus, which has been resorted to by respondent no. 1 cannot be held to be justified in any manner as the serious rights of the petitioner are involved as assessment is to be transferred for all purposes to a far off place to its detriment.

In the absence of any independent finding recorded by the authorities below that the parties were as such linked in such a manner where there was major flow of finances from one side to the other, respondent no. 1 was not justified in transferring the proceedings and the said action cannot be held to be justified. In similar circumstances, a Single Bench of this Court in Rajesh Mahajan's case [2002 (7) TMI 94 - PUNJAB AND HARYANA High Court] has held that even if the transferee is one of the Directors, it was not a valid justification for the transfer of income tax proceedings. **[Decided in favour of assessee]**

#### COMMISSIONER OF INCOME TAX-4 VERSUS M/S. HINDUSTAN ORGANICS CHEMICALS LTD. (BOMBAY HIGH COURT)

**BRIEF:** The appeal to high court are filed by the revenue mechanically without application of mind in respect of matters which are already concluded by decisions of this Court and accepted or earlier orders of the Tribunal which are accepted by the revenue.

**OUR TAKE:** The Hon'ble **BOMBAY HIGH COURT** held that we feel that the officers of revenue should keep track of the

appeals/ petitions to which they are parties before this Court till the proceedings are finally disposed of and also adopt measures to ensure that the law is equally applied across all assessees. While we are at this, we would also like to draw attention to the fact that we have noticed that many appeals are being filed in this Court which stand concluded either by earlier decisions of the Tribunal in case of some other assessee and no appeals there from are filed in this Court. The appeals are filed by the revenue mechanically without application of mind in respect of matters which are already concluded by decisions of this Court and accepted or earlier orders of the Tribunal which are accepted by the revenue.

We would like a senior officer of the Revenue to take notice of the above and put on record the steps being taken to ensure that the officers of the revenue concerned with the issue in Court would keep themselves involved in the proceedings till such time this Court finally disposes of the appeal/writ as the case may be. Besides, also point out the steps being taken to ensure that law is equally applied. In case no affidavit is filed before the next date, the Chief Commissioner of Income Tax should personally remain present and explain the steps being taken at their end. **[Adjournment granted]**

**OUR TAKE:** In the Sixth Schedule appended to the Delhi Value Added Tax Act, 2004, the entry at S.No. 10 shall be omitted with effect from 16th July, 2015.

The **Govt. of Uttarakhand vide Notification No. 604/2015/03(120)/XXVII(8)/2007, dated 14th July, 2015** notifies that the tax on entry of goods specified in column 2 of the Schedule below shall be levied and collected at the rate specified in column 3 of the Schedule of the Uttarakhand Tax on Entry Of Goods Into Local Areas Act, 2008.

**OUR TAKE:** In Rate of tax on entry of Sugar brought from other States is 5% of the value of goods.

### Haryana

The **Govt. vide Notification No. 18/ST-1/H.A.6/2003/S.59/2015, dated 15th July, 2015** amends Schedules A and D appended to the Haryana Value Added Tax Act, 2003.

**OUR TAKE:** In Schedule A, against serial number 4, under Column 3, for the figures and signs "11.5%", the figures and signs "16.4%" shall be substituted; and

In Schedule D, against serial number 3, under Column 3, for the figures and signs "11.5%", the figures and signs "16.4%" shall be substituted.

### Punjab

The **Govt. vide Notification No. S.O.30/P.A.8/2005/S.8/2015, dated 15th July, 2015** amends in Schedules "E" appended to Punjab Value Added Tax Act, 2005, with effect from 16-07-2015 by dispensing with the condition of previous notice.

**OUR TAKE:** In the said Schedule, for serial number 1 and entries relating thereto, the following serial number and entries relating thereto, shall be substituted, namely :-

"1	Diesel other than premium diesel	13.4 per cent."
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# STATE TAXES

## ALL INDIA VAT

### Delhi

The **Govt. of Delhi vide Notification No. F.3(10)/Fin.(Rev.-1)/2015-16/DSVI/547, dated 15th July, 2015** amends the Fourth Schedule appended to the Delhi Value Added Tax Act, 2004.

**OUR TAKE:** There has been amendment and insertion in the Fourth Schedule in regard to Petroleum Products.

The **Govt. of Delhi vide Notification No. F.3(10)/Fin.(Rev.-1)/2015-16/DSVI/546, dated 15th July, 2015** seeks to amend the Sixth Schedule appended to the said Act.

The **Govt. Vide Notification No. E&T/ETO(Ref)-2015/1914, dated 17th July, 2015** amends Schedule 'E' appended to the Act w.e.f. 18.07.2015.

**OUR TAKE:** In the said Schedule 'E' at Serial No. 8 and the entries relating thereto, the following rate of tax shall be substituted, namely;

"8. Diesel 16.40 %"

## COURT DECISIONS

### M/S PARRYS VERSUS THE COMMERCIAL TAX TRIBUNAL AND ANOTHER (UTTARAKHAND HIGH COURT)

**BRIEF:** While best of judgment assessment may involve an element of guess work in scope of estimation but at the same time it is settled law that it must be made bona fide and it cannot be whimsical or arbitrary.

**OUR TAKE:** The Hon'ble **UTTARAKHAND HIGH COURT** held that while best of judgment assessment may involve an element of guess work, but at the same time, it is settled law that it must be made bona fide and it cannot be whimsical or arbitrary.

Therefore, as far as the CTR No. 67 of 2011 is concerned, we would grant relief by holding that there was an element of perversity in the turnover arrived at in regard to readymade garments, instead of remanding the matter as we think that no purpose will be served by remanding the matter as the petitioner did not avail of the opportunities, which were given by the statutory Authorities to respond to the notices, which were issued and we cannot give an opportunity again. Therefore, we would, instead, fix the turnover at Rs 12 lacs in relation to readymade garments and the revision will stand allowed to that extent only and his assessment will stand modified as above on the said basis. [**Decided partly in favour of assessee**]

# OTHER UPDATES

## ALLIED LAWS

## COURT DECISIONS

### IHP-MEIL-KEEP-BRCPL-TAIPPL (JV) VERSUS ANDHRA PRADESH INDUSTRIAL INFRASTRUCTURE CORPN.LTD. (ANDHRA PRADESH HIGH COURT)

**BRIEF:** Winding up petition in regard to outstanding dues to the petitioner. If the respondent is unable to persuade its purported mentor namely the State Government concerned it is bound to suffer the peril of the consequence of non-payment of the admitted debt.

**OUR TAKE:** The Hon'ble **ANDHRA PRADESH HIGH COURT** held that the debt claimed by the petitioner is an undisputed debt and the denial of debt by the respondent can be characterised as a moonshine or a cloak, spurious, speculative, illusory or misconceived. This point is accordingly answered against the respondent.

The petitioner is not a privy, to the alleged understanding between the respondent and the State Government. There is no whisper in the contract that the respondent is a mere name lender or a facilitator for the Government to get the work executed. The respondent alone being the party to the contract between itself and the petitioner, it cannot escape from the consequences of default in payments. If the respondent is unable to persuade its purported mentor, namely, the State Government concerned, it is bound to suffer the peril of the consequence of non-payment of the admitted debt. This point is accordingly answered against the respondent.

## We may be contacted at the following offices:

### CORPORATE OFFICE

73, National Park  
Lajpat Nagar IV,  
New Delhi - 110024  
INDIA  
P: +91-11-41729056-57,  
41729656/57

### GURGAON

605, Suncity Business Tower  
Golf Course Road, Sector-54,  
Gurgaon,  
Haryana - 122002  
P: +91-124-4245110/116/117 +91-  
124-4245111

### NOIDA

C-100,Sector-2,  
Noida- 201301  
Uttar Pradesh  
M: +91- 9811481093

### MUMBAI

SitaiVihar,  
Plot No 67A, Sector New 50  
4th Floor, B- Wing  
Navi Mumbai – 400706  
Mumbai  
M: +91- 9022131399

### ASSAM

House No. 76,  
Near Godrej Interio,  
Forest Gate, P.O. Narangi,  
Guwahati – 781026  
P: +91-0361-2552302  
M: +91-9864857565

### INTERNATIONAL BRANCH

303,5th Avenue Suite 1007,  
New York, NY 10016, U.S.A

## For enquiries related to:

Service	Contact Person	Service	Contact Person
DVAT:	faiz@ascgroup.in	Maharashtra VAT:	niten@ascgroup.in
HVAT:	deepak@ascgroup.in	Service Tax:	nitin@ascgroup.in
TDS:	mayank.singhal@ascgroup.in	Transfer Pricing & PE:	shailendra@ascgroup.in
Excise:	deepak@ascgroup.in	Legal Metrology:	legal@ascgroup.in
UPVAT:	jaswant@ascgroup.in	Company Law:	legal@ascgroup.in
Income Tax:	vikash@ascgroup.in	PR/Media	socialmedia@ascgroup.in

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