



ASC Times

All India Taxes Weekly Referencer

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Solving
any **tax**
puzzle

Tax saving advice
across all the taxes



From the CEO's Desk



Dear Reader,

Jewellers are back to work after a strike of 19 days, which ended on 19th March 2016 after having a long meeting of eight hours between the ministry officials and trade associations for jewellers. The strike was to fight against the imposed excise duty of 1% on manufacturing of gems and jewellery in the current budget presented in the parliament. Though the government has not revoked the decision but an assurance has been given in regard to collecting the amount.

IT department has finally designed a new tool to identify and check the duplicate PAN cards, which not only identifies any discrepancy but also is able to 'kill' the second card, disabling it to be used in the future. The Income Tax Business Application-Permanent Account Number (ITBA-PAN) is an electronic smart platform, operational by the IT department that will help the taxman and PAN issuing intermediaries to identify any duplicate number every time a new application for generation of the fresh IT department-issued unique identity reaches their portals.

In continuation on the clarifications on the budget, I would like to bring forth another analysis, which is important. We all know that the budget for 2016-17 highlighted on fiscal deficit, boost in the infrastructure and sundry tax measures. Also, for the first time emphasis was to empower the villagers (in terms of population they are 70% in number of total population of 120 crores), and facilities provided to the lowest quarter of their population. The one thing which is addressed in the Budget is to provide healthy methods for cooking to these villagers because of which not only a lot of domestic pollution is happening causing many deadly diseases in the ladies and other family members but also it is a threat to ecological system as it involves a

lot of cutting of wood to use in the *chullahs* and also it produces carbon monoxide which is lethal. So the provisions and funds have been put in place to provide cooking gas like LPG connections to the poor villagers at subsidized rates and availability of cylinders for the same ongoingly.

Alok Kumar Agarwal
 CEO
 ASC Group.

TAX CALENDER

Due Date	Description	Law
21 March	Deposit of Tax	Assam VAT, Delhi VAT, Maharashtra VAT, Meghalaya VAT, Orissa VAT
	Return Filing	Assam VAT, Assam VAT, Maharashtra VAT, Meghalaya VAT, Meghalaya VAT, Orissa VAT, Orissa VAT.
	Deposit of TDS	Maharashtra VAT.
	Issue of TDS Certificate	Maharashtra VAT
22 March	Deposit of Tax	Gujarat VAT
	Deposit of TDS	Gujarat VAT
	Issue of TDS Certificate	Delhi VAT
	Return Filing	Tamil Nadu VAT,
25 March	Deposit of Tax	Rajasthan VAT, Uttarakhand VAT
	Issue of TDS Certificate	Mizoram VAT
	Return Filing	Jharkhand VAT

COUNTRY WIDE HOLIDAYS FOR THE WEEK

Date	Occasion/Festival	Region
23 March	Holi	Andhra Pradesh, Bihar, Chhattisgarh, Jammu, Jharkhand, Madhya Pradesh, Telangana, Uttar Pradesh, Uttarakhand, West Bengal
24 March	Holi	Bihar, Chandigarh, Daman & Diu, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Uttar Pradesh, Uttarakhand.
25 March	Good Friday	Chandigarh, Daman & Diu, Delhi, Goa, Karnataka, Kerala, Maharashtra, Manipur, Mizoram, Orissa, Puducherry, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal
27 March	Easter	Kerala

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CENTRAL TAXES

SERVICE TAX

COURT DECISIONS

M/S INDIA HOUSING VERSUS COMMISSIONER OF CENTRAL EXCISE, LUCKNOW VERSUS CESTAT NEW DELHI

BRIEF: Denial of input service credit. The appellant was not registered with the service tax department during the relevant time it has availed the input services. Whether the appellant is entitled to take Cenvat credit?

OUR TAKE: The hon'ble CESTAT NEW DELHI held that the precedent decision of the Tribunal, although the appellant was not registered with the service tax department during the relevant time it has availed the services, the appellant is entitled to take Cenvat credit. Neither in the show cause notice nor in the impugned order, it has been disputed that appellant has not availed inputs service and has not paid service tax. - Appellant is entitled to take Cenvat credit. [Decided in favour of assessee]

CONCURRENT TECH INDIA PVT LTD. VERSUS COMMISSIONER OF SERVICE TAX BANGALORE [CESTAT BANGALORE]

BRIEF: Denial of refund claim of accumulated CENVAT Credit. FIRCs received for the exports made are not in the name of the appellant. Unable to find out legal provisions which provides that in case of change in the name, refund claim is not admissible.

OUR TAKE: The hon'ble CESTAT BANGALORE held that unable to find out legal provisions which provide that in case of change in the name, refund claim is not admissible. In the case of recovery of short-levy, short collection of revenue, show-cause notices are issued and amount is collected in similar cases. In such a situation, when it comes to refund, rejection of the claim only on the ground without support of any legal provision cannot be sustained. [Decided in favour of assessee]

COMMISSIONER OF SERVICE TAX, BANGALORE VERSUS JULY SYSTEMS AND TECHNOLOGIES PVT. LTD. [CESTAT BANGALORE]

BRIEF: Denial of CENVAT Credit. A case for demand of CENVAT credit got converted to a claim for refund and was allowed by the Commissioner.

OUR TAKE: The hon'ble CESTAT BANGALORE held that the learned Commissioner (A) considered the whole issue as a claim for refund made under Rule 5 of CENVAT Credit Rules and considered each and every input service and came to the conclusion that appellant is eligible for the refund and remanded the matter. A case for demand of CENVAT credit got converted to a claim for refund and was allowed. CESTAT found substance in the appeal filed by the Revenue. Since the Order-in-Appeal has not considered the subject correctly, the impugned order is set aside. [Decided in favour of Revenue]

LARSEN & TOUBRO LTD. VERSUS COMM. OF CUS. & C. EX., HYDERABAD-III [CESTAT BANGALORE]

BRIEF: So long as an assessee is not undertaking manufacture of dutiable and exempted goods or providing taxable and exempted services, unless the credit is exclusively used for providing exempted services or manufactured goods credit cannot be denied in respect of services listed in Rule 6(5).

OUR TAKE: The hon'ble CESTAT BANGALORE held that When a manufacturer is producing dutiable in 'Consulting Engineer Services' which the service on which Cenvat credit has been taken in this case is also included in the list of services contained in Rule 6(5) of CCR. This being the position, in the absence of any finding that services have been used exclusively in the manufacture of exempted goods or providing exempted services, credit cannot be denied in respect of services listed in Rule 6(5) of Cenvat Credit Rules. Appellant has made out a strong prima facie case for waiver and for stay against realization of dues. Stay granted.

K. RAM MOHAN [AUTHORITY FOR ADVANCE RULINGS, NEW DELHI]

BRIEF: Activities of street light maintenance cannot be equated with maintenance of road, bridge, tunnel etc. Exemption not available.

OUR TAKE: The hon'ble AAR NEW DELHI held that the word 'road' is clear and it cannot be substituted by the term street light support structure. The reliance on para 13(a) by the applicant is, therefore, of no consequence. The learned representative of the Department has also correctly argued that there would be no question of applicability of Paragraph 13(a) of the aforementioned Notification. In view of the specific language of the said Paragraph 13(a), we

accept the arguments and hold that there will be no question of applicability of para 13(a) of the Notification. No exemption is available to assessee. **[Decided against the assessee]**

M/S INTAS PHARMACEUTICALS LTD. VERSUS COMMISSIONER OF SERVICE TAX, AHMEDABAD. [CESTAT AHMEDABAD]

BRIEF: Refund claim. Service tax was paid under reverse change mechanism. Technical Testing and Analysis Service, service was not partly performed in India. Period of limitation, since service was taxable, refund allowed

OUR TAKE: The hon'ble **CESTAT AHMEDABAD** held that the proviso to Rule 3(1)(ii) of Taxation of Services Rules, 2006 will be applicable in a case the service is partly performed in India. In the present case, there is no dispute that the service was provided outside of India and therefore, they are not covered under the said proviso. - Adjudicating authority directed to allow the refund to the Appellant in accordance with law. **[Decided in favour of assessee]**

M/S. LEAR AUTOMOTIVE INDIA PVT. LIMITED VERSUS COMMISSIONER OF CENTRAL EXCISE & S.T., VADODARA [CESTAT AHMEDABAD]

BRIEF: Cenvat Credit. Eligible as Input Service or not. Courier Service used by the appellants used for the movement of finished goods after the place of removal. Credit not allowed.

OUR TAKE: The hon'ble **CESTAT AHMEDABAD** held that after 01.04.2008, though the appellant would be eligible for CENVAT credit on the Courier Service used for sending/receiving documents related to the business, or for movement of inputs and finished goods up to the place of removal, they would not be eligible for credit on Courier Services used in relation to movement of finished goods, after the place of removal. **[Decided against the assessee]**

CENTRAL EXCISE

NOTIFICATIONS & CIRCULARS

The Govt. vide Notification No. 22/2016 dated 15th March 2016, amends notification no. 20/2016 dated 01st march 2016.

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

COMMISSIONER OF CENTRAL EXCISE, MYSORE VERSUS M/S TVS MOTORS COMPANY LTD. (SUPREME COURT)

BRIEF: Valuation of goods. Whether the pre-delivery inspection charges and after sales service charges are to be included in the assessable value. PDI charges and free ASS charges would not be included in the assessable value under Section 4 of the Act for the purposes of paying excise duty.

OUR TAKE: The hon'ble **SUPREME COURT** held that PDI charges and free ASS charges would not be included in the assessable value under Section 4 of the Act for the purposes of paying excise duty. The view taken by the Tribunal in favour of assessee in this behalf is correct in law and all the appeals of the Department are dismissed. On the other hand, Larger Bench view in Maruti Suzuki [2010 (8) TMI 49 - CESTAT, NEW DELHI] does not lay down the law correctly and is, therefore, overruled. **[Decided in favour of assessee]**

M/S. DELTON CABLES LIMITED VERSUS UNION OF INDIA & OTHERS [DELHI HIGH COURT]

BRIEF: Refund of Terminal Excise Duty (TED), which was erroneously paid to the excise department. DGFT directed to consider the application of the writ petitioner for refund in terms of the provisions of the FTP, 2009-2014 and pass an appropriate order in accordance with law.

OUR TAKE: The hon'ble **DELHI HIGH COURT** held that The Hon'ble Division Bench after considering the relevant provisions of the Act and the policy directed DGFT to consider the application of the writ petitioner for refund in terms of the provisions of the FTP, 2009-2014 and pass an appropriate order in accordance with law. Petition disposed of.

THE COMMISSIONER OF CENTRAL EXCISE, SURAT-II VERSUS ARVIND M. KAPOOR (GUJRAT HIGH COURT)

BRIEF: Imposition of penalty. When the main appeal has been dismissed, there is no question of interfering with the impugned order passed by the Tribunal on the question of penalty on the Managing Director.

OUR TAKE: The hon'ble GUJRAT HIGH COURT held that Tribunal took note of the fact that the revenue is against the impugned order of the Commissioner. Under the circumstances, when the main appeal has been dismissed, there is no question of interfering with the impugned order passed by the Tribunal on the question of penalty on the Managing Director. [Decided against Revenue]

COMMISSIONER, CENTRAL EXCISE VERSUS SHRI V.K. TULSIAN, CHARTERED ACCOUNTANT [ALLAHABAD HIGH COURT]

BRIEF: Imposition of penalty for abetment against the Chartered Accountant for giving wrong certificate. This action could not be described as an act to attract penalty under Rule 26 and 27.

OUR TAKE: The hon'ble ALLAHABAD HIGH COURT held that The certificate appears to have been obtained at the time of the proceedings that were initiated for the purpose of imposition of penalty and taking action against the trader. This therefore could not be described as an act to attract penalty under Rule 26 and 27, even though this may give a separate cause of action on the ground of money laundering or providing incorrect evidence in order to extend any benefit to the trader or the assessee. The penalty under Rule 26 and 27 therefore would not be attracted in the said background and accordingly we do not find any substantial question of law so as to entertain this appeal. [Decided against Revenue]

COMMR. OF CENTRAL EXCISE & CUSTOMS, SURAT VERSUS M/S SUN PHARMACEUTICALS INDS. LTD. & ORS. [SUPREME COURT]

BRIEF: Valuation of physician samples were given free of cost by the distributors and not by the manufacturer. What ultimately distributors did with these goods is extraneous and could not be the relevant consideration to determine the valuation of excisable goods. When we find that price was charged by the assessee from the distributors, the Show Cause Notice is clearly founded on a wrong reason.

OUR TAKE: The hon'ble SUPREME COURT held that when found that price was charged by the assessee from the distributors, the Show Cause Notice is clearly founded on a wrong reason. The case would squarely be covered under the provisions of Section 4(1)(a) of the Act. In view thereof, the Central Excise Rules would not apply in the instant case. - decision dated 10.11.2006 rendered by the CESTAT depicts the correct position of law and rightly holds that the case would be covered by the provisions of Section 4(1)(a) of the Act and in view thereof Rule 6(b)(ii) of the Rules would not apply. [Decided against Revenue]

COMMR. OF CENTRAL EXCISE, DELHI-III VERSUS M/S HERO HONDA MOTORS LIMITED [SUPREME COURT]

BRIEF: Valuation for inclusion of interest and gains arising out of advance received against supplies. The overall effect of the deposit on the financial position of the company or its profitability had no direct relevance to the dispute. Transaction value as the same were market driven accepted.

OUR TAKE: The hon'ble SUPREME COURT held that It is clear that each and every aspect of the issue is examined, on the basis of which finding is arrived at that the price of the motorcycle manufactured by it were market driven and it did not follow a cost of production plus reasonable profit pricing policy. These are finding of facts which are arrived on the analysis of the evidence produced before it and do not call for any interference. [Decided against Revenue]

CUSTOMS

NOTIFICATIONS & CIRCULARS

The Govt. vide Circular No. 10/2016 dated 15th March 2016, notify the procedure for implementing integrated declaration under the Indian customs single window – registration.

OUR TAKE: Readers are requested to read the said Circular. It is self-explanatory.

The Govt. vide Circular No. 11/2016 dated 15th March 2016, Govt. clarifies the status of other persons used in sub section (2) & sub section (6) of the section 28 of the customs act.

OUR TAKE: Readers are requested to read the said Circular. It is self-explanatory.

COURT DECISIONS

SHREEJI INDUSTRIES LTD. VERSUS ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE [GUJRAT HIGH COURT]

BRIEF: Fulfillment of export obligation - advance license - By merely stating that the FIR was lodged for lost documents, petitioner cannot substitute the requirement of production of documents demonstrating export obligation.

OUR TAKE: The hon'ble **GUJRAT HIGH COURT** held that when the petitioner failed to produce any documents whatsoever of having discharged the export obligation, we see no infirmity in the orders passed by the authorities below. By merely stating that the FIR was lodged for lost documents, petitioner cannot substitute the requirement of production of documents demonstrating export obligation. We may recall even this reaction from the petitioner came long after the period for filing relevant documents before the authorities had lapsed. The firm, in the meantime, was already declared defaulter for being unable to fulfill export obligation. It was only in response to show cause notice issued by the authorities that for the first time, the petitioner took the stand that the documents could not be produced since they were lost. **[Decided against assessee]**

M/S ROSHANLAL GUPTA AND SONS PVT. LTD. VERSUS UNION OF INDIA AND 2 (GUJRAT HIGH COURT)

BRIEF: Waiver of pre-deposit. Mandatory or not. Appeal was pending before 06.08.2014. The petitioner had a right to seek waiver of pre deposit. The Tribunal would, therefore, restore such appeal and decide the same in accordance with law, after first deciding the petitioner's application for waiver of pre-deposit.

OUR TAKE: The hon'ble **GUJRAT HIGH COURT** held that the amended section 129-E of the Customs Act with effect from 06.08.2014 would not apply to both the appeals of the petitioner which are pending before the Tribunal. The petitioner would, therefore, be governed by the original section 129-E as it prevailed prior to 06.08.2014. The petitioner had a right to seek waiver of pre-deposit. The Tribunal would, therefore, restore such appeal and decide the same in accordance with law, after first deciding the petitioner's application for waiver of pre-deposit. For such purpose, the impugned order is set aside. **[Decided in favour of assessee]**

M/S. OSWAL CABLES PVT. LTD. VERSUS COMM. OF CENTRAL EXCISE & CUSTOMS- SILLIGURI [CESTAT KOLKATA]

BRIEF: Evasion of education cess. In a case of assessment over a bill of entry, it is the duty of the Assessing Officer to properly assess the duty and onus cannot be shifted to the appellant for not calculating the correct rate of duty. No penalty

OUR TAKE: The hon'ble **CESTAT KOLKATA** held that appellant properly paid the duty demanded along with interest. In a case of assessment over a bill of entry, it is the duty of the Assessing Officer to properly assess the duty and onus cannot be shifted to the appellant for not calculating the correct rate of duty. Appellant promptly paid the entire amount of duty demanded along with interest. Under the present factual matrix, it is not a fit case for imposition of penalty under Section 14 (a) of the Customs Act, 1962. **[Decided in favour of assessee]**

INCOME TAX

COURT DECISIONS

FARUKBHAI MOHAMMED MAHIDA VERSUS INCOME TAX OFFICER WARD 2 (2) (5) [GUJRAT HIGH COURT]

BRIEF: Reopening of assessment. The disposal of the objections was done in a mechanical manner. Even today, the Department has not been able to bring on record anything to suggest that the petitioner's frontal assertion that he did not have any bank account in Kotak Mahindra Bank nor did he make any cash deposit in the said bank account as alleged is false.

OUR TAKE: The hon'ble GUJRAT HIGH COURT held that the Department has not been able to bring on record anything to suggest that the petitioner's frontal assertion that he did not have any bank account in Kotak Mahindra Bank nor did he make any cash deposit in the said bank account as alleged, is false. In fact, the petitioner reconciled the said amount by pointing out that this was exactly the same amount which the Kotak Mahindra Bank released by way of car loan, which was, in fact, paid over directly to the dealer. [Decided in favour of assessee]

M/S PUNJAB COMMUNICATIONS LIMITED VERSUS COMMISSIONER OF INCOME TAX, CHANDIGARH [PUNJAB & HARYANA HIGH COURT]

BRIEF: Deduction u/s 32AB. There is nothing on the basis of which it could be deduced that deduction is to be allowed only out of the profit of a unit or undertaking where machinery is installed and not out of the profits of the assessee.

OUR TAKE: The hon'ble PUNJAB & HARYANA HIGH COURT held that deduction is to be allowed only out of the profit of a unit or undertaking where machinery is installed and not out of the profits of the assessee. Nothing was urged by learned counsel for the revenue to raise any challenge to the aforesaid finding of the Tribunal. In the absence of any issue raised by the revenue, no ground for interference by this Court is made out. [Decided in favour of assessee]

SRI C.M. MAHADEVA S/O SRI MANCHE GOWDA VERSUS THE COMMISSIONER OF INCOME TAX, MYSORE [KARNATAKA HIGH COURT]

BRIEF: Reopening of assessment. Disclosure of the purchase of the property was not made in his return of income. In the absence of any legal obligation on the assessee to disclose about the purchase of property in his return of income, it cannot be said that the assessee had concealed any income

OUR TAKE: The hon'ble KARNATAKA HIGH COURT held that in the absence of any legal obligation on the assessee to disclose about the purchase of property in his return of income, it cannot be said that the assessee had concealed any income, even though when there is no dispute about the fact that he had disclosed his agricultural as well as non-agricultural income during the assessment year. In our view, the same cannot be a ground for initiating proceedings under Section 148 of the Act. It was for the Assessing Officer to take proper steps earlier by issuing notice under Section 143(2), and if the law does not now permit issuance of any such notice, then invoking some other provision, which would not be applicable, is not the correct mode. [Decided in favour of assessee]

INDUS MOTOR COMPANY PVT. LTD. VERSUS DEPUTY COMMISSIONER OF INCOME-TAX [KERALA HIGH COURT]

BRIEF: Amount expended for putting up multi-storied structures on leasehold land and refurbishing leasehold buildings. Capital or Revenue expenditure. Entitlement to depreciation. Matter referred to larger bench.

OUR TAKE: The hon'ble KERALA HIGH COURT held that there is no scope left out at all for any interpretation since by a legal fiction, the assessee is treated as the owner of the building for the period of his occupation. This means that by refurbishing, decorating or by doing interior work in the building an enduring benefit was derived by the assessee for the period of occupation and, therefore, is a capital expenditure and not revenue expenditure. Matter referred to larger bench for reconsideration.

THE PR. COMMISSIONER OF INCOME TAX-4 VERSUS JYOTINDRA INTERNATIONAL [GUJRAT HIGH COURT]

BRIEF: Revenue or capital expenditure. The expenses incurred towards pledge agreement with the bank was for borrowing working capital availed from bank and by incurring he expenditure no capital asset has come into existence.

OUR TAKE: The hon'ble GUJRAT HIGH COURT held that assessee contended that machinery had become old and without changing the core machinery, replacement of parts was carried out by way of reconditioning and the expenditure involved was for such purpose. Assessing Officer without rejecting the contention of the assessee that the core machinery remained unchanged, disallowed the expenditure and treated as capital expenditure. Here also, the Tribunal observed that merely because the cost of repair was close to written down value of the machinery, would not justify in treating as one of capital expenditure. [Decided against revenue]

STATE TAXES

ALL INDIA VAT

ANDHRA PRADESH

The Govt. vide Circular No. CCT's Ref.No. CCW/CS(1)/36/2016, dated 15th March, 2016 issued instructions related to advisory visits of business premises- Allocations to Officers, uploading the reports etc

OUR TAKE: Readers are requested to read the said Circular. It is self-explanatory.

The Govt. vide Circular No. CCTs Ref No.Enft.No.E3/421/2015, dated 14th March, 2016 issued instructions that the newly registered dealers / establishments are to be categorized based on the commodities.

OUR TAKE: Readers are requested to read the said Circular. It is self-explanatory.

DELHI

The Govt. vide Notification No. F.3(619)/Policy/VAT/2016/1671-1684 Dated 15th March, 2016 extend date for Filing From GE-II and CR-II

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

The Govt. vide Circular No. 44 of 2015-16 F.3(645)/Policy/VAT/2016/1688-93 Dated 16th March, 2016 issued instructions related to sealing and de-sealing of the premises.

OUR TAKE: Readers are requested to read the said Circular. It is self-explanatory.

GOA

The Govt. vide Notification No. CCT/12-2/15-16/5642 dated 14th March, 2016 extend the period of assessment for the financial year 2012-13 by one month with effect from 1st April, 2016. All assessments for the year 2012-13 shall accordingly be completed on or before 30th April, 2016.

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

RAJASHTHAN

The Govt. vide Notification No. F.16 (708) Tax/CCT/2015/7669 dated 15th March, 2016 makes amendment in this Department's notification No.F.16 (708) Tax / CCT / 2015 / 7307 dated 31.12.2015. For the existing expression "from 01st February 2016", the expression "from 1st March, 2016" shall be substituted.

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

WEST BENGAL

The Govt. vide Circular No. 02/2016, dated 15th March, 2016 ordered one-day registration service to all applicants

OUR TAKE: Readers are requested to read the said Circular. It is self-explanatory.

UTTAR PRADESH

The Govt. vide Circular No. 1516077, dated 18th March, 2016 issues guidelines on Builders Compounding Scheme.

OUR TAKE: Readers are requested to read the said Circular. It is self-explanatory.

COURT DECISIONS
**M/S K.S.B. PUMPS LIMITED VERSUS STATE OF TAMIL NADU
 REP. BY THE DEPUTY COMMISSIONER (COMMERCIAL
 TAXES) , COIMBATORE [MADRAS HIGH COURT]**

BRIEF: Disallowance of exemption on second interstate Sales - requirement under the statutory prescription is that an assessee should file E1 and C declaration forms. This has been done admittedly by the revision petitioner. Therefore, an obligation, which is not cast upon the assessee under the statutory prescription contained in Section 6(2) of the CST Act, 1956 cannot be imposed upon the revision petitioner by the Tribunal.

OUR TAKE: The hon'ble **MADRAS HIGH COURT** held that Tribunal was not right in non suiting the petitioner on the short ground that they ought to have produced the forms before the Assessing Officer within five years, as per the circular of the Commissioner. Requirement under the statutory prescription is that an assessee should file E1 and C declaration forms. This has been done admittedly by the revision petitioner. Therefore, an obligation, which is not cast upon the assessee under the statutory prescription contained in Section 6(2) of the CST Act, 1956 cannot be imposed upon the revision petitioner by the Tribunal. **[Decided in favour of assessee]**

**M/S A.V. THOMAS LEATHER AND ALLIED PRODUCTS PVT
 LTD VERSUS THE ASSISTANT COMMISSIONER (CT)
 [MADRAS HIGH COURT]**

BRIEF: Levy of penalty under Section 10-A of the Central Sales Tax Act. Even the exports covered by Form-H, have not been taken note of by the assessing officer. They are also packing materials, which were covered against Form-H. Levy of penalty set aside.

OUR TAKE: The hon'ble **MADRAS HIGH COURT** held that the certificate of registration shows that the wooden strips, wooden insert cap, grey board, rose board, PVC sheeting, stamping foil etc., are also included in the certificate of registration issued to the appellant. Therefore, straight-away, the very basis on which the proposals were made under Section 10-A, is found to be shallow - Even the exports covered by Form-H, have not been taken note of by the assessing officer. They are also packing materials, which were covered against Form-H - levy of penalty set aside. **[Decided in favour of assessee]**

ALLIED LAWS
COURT DECISIONS
**SHASHI JINDAL AND ORS VERSUS GOVT. OF NCT AND ORS
 [DELHI HIGH COURT]**

BRIEF: Criminal Complaint under Sections 138 of Negotiable Instruments Act, 1881 - No merit in this petition. This petition amounts to gross abuse and misuse of process of law. The petitioners have succeeded in delaying the complaint before the Metropolitan Magistrate for more than four years.

OUR TAKE: The hon'ble **DELHI HIGH COURT** held that No merit in this petition. This petition amounts to gross abuse and misuse of process of law. The petitioners have succeeded in delaying the complaint before the Metropolitan Magistrate for more than four years.

**M/S BRIDGESTONE INDIA PVT. LTD. VERSUS INDERPAL
 SINGH [SUPREME COURT]**

BRIEF: Section 142(2)(a), amended through the Negotiable Instruments (Amendment) Second Ordinance, 2015, vests jurisdiction for initiating proceedings for the offence under Section 138 of the Negotiable Instruments Act, inter alia in the territorial jurisdiction of the Court, where the cheque is delivered for collection.

OUR TAKE: The hon'ble **SUPREME COURT** held that the instant appeal is allowed, and the impugned order passed by the High Court of Madhya Pradesh, by its Indore Bench, dated 05.05.2011, is set aside. The parties are directed to appear before the Judicial Magistrate, First Class, Indore, on 15.01.2016. In case the complaint filed by the appellant has been returned, it shall be re-presented before the Judicial Magistrate, First Class, Indore, Madhya Pradesh, on the date of appearance indicated hereinabove.

COMPANY LAW
COURT DECISIONS
**JAGRAN PRAKASHAN LIMITED AND ANR Versus UNION OF
 INDIA [DELHI HIGH COURT]**

BRIEF: Exclusive employment of the company. Prohibition contained in Section 314(1)(b) of the 1956, relative of a Director of a company. The statutory mandate is that being a Director in a non-remunerative and non-executive position in other companies does not amount to being in employment of those companies or holding a place of profit in those companies.

OUR TAKE: The hon'ble **DELHI HIGH COURT** held that a Director cannot be said to hold any office or place of profit if he should receive the remuneration to which he is entitled as such Director; on the other hand he will be said to hold an office or place of profit only when, besides the remuneration to which he is entitled as such Director, he obtains from the company a remuneration such as salary, fees, commission, perquisites. Thus, though the reasoning may be correct if supported by the facts but de hors a factual finding is contrary to the statutory mandate. The statutory mandate is that being a Director in a non-remunerative and non-executive position in other companies does not amount to being in employment of those companies or holding a place of profit in those companies.

OFFICIAL LIQUIDATOR OF, M/S JUPITER BIOSCIENCE LTD (IN LIQN) VERSUS THE TAX RECOVERY OFFICER, THE ASST. COMMISSIONER OF INCOME TAX [KARNATAKA HIGH COURT]

BRIEF: Removal of the attachment orders - it is appropriate to raise the attachment and permit the Official Liquidator to take possession of property and proceed in accordance with law. It is also necessary to direct the respondents to hand over books and records, if any with them, to the Official Liquidator.

OUR TAKE: The hon'ble **KARNATAKA HIGH COURT** held that the attachment made by the Tax Recovery Officer, Raichur range, Raichur, is in force. Therefore, the Official Liquidator cannot take possession or deal with the property. The property is deemed to be in the custody of this court in view of the winding up proceedings. Therefore, it is appropriate to raise the attachment and permit the Official Liquidator to take possession of property and proceed in accordance with law. It is also necessary to direct the respondents to hand over books and records, if any with them, to the Official Liquidator.

LATEST NEWS ON PROPOSED GST

15th March, 2016, The raging fight between the government and the Congress-led Opposition over the NDA's decision to have the Aadhaar bill classified as a money bill could jeopardise political negotiations between the two on the GST bill, the Congress leadership has indicated.

15th March, 2016, Union finance minister Arun Jaitely stood firm on the government's plan to impose 1% excise duty on non-silver jewellery, saying the measure was aimed at linking gold with the Goods and Services Tax (GST) which he hoped would be rolled out soon.

17th March, 2016, Gold jewellery imports from the 10-member Association of South East Asian Nations (ASEAN) under the free-trade agreement, which have been under the scanner for some time, will face a 12.5% countervailing duty in lieu of 12.5% excise duty imposed in the budget. The duty will make imports more expensive and protect the local industry.

17th March, 2016, The Congress, which authored the original GST draft, has been demanding that a cap be set on GST at 18 per cent or 20 per cent as otherwise the tax would be too high and unbearable for ordinary citizens.

18th March, 2016, The most important reform will be GST which will bring this country as one market. Launching of GST has taken us into next very rapid phase of growth.

19th March, 2016, The rollout of Goods and Services Tax (GST) regime appears set for the long haul with the Modi government refusing to give in to the Congress demand to put a Constitutional cap on the GST rate.

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