Indirect Tax News Update

VOLUME III, ISSUE VIII

AUGUST, 2016

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Service Tax

'Tour operator' services excludes Passengers transportation at prefixed rate pre & post 2008-amendment.

CESTAT, Hyderabad in S.V.R. Tours and Travels vs. CCE & ST, Hyderabad ruled that assessee not liable to pay service tax as a 'tour operator' before as well as after the amendment to definition of "tour operator" as per Finance Act 2008. Further, CESTAT stated that assessee was transporting different persons with prefixed fare to different destinations in the same vehicle without a common contract and hence, the activity will be more akin to transport of passengers rather than operating tour, relied upon Delhi CESTAT ruling in Suresh Kumar Advani.

For pre-2008 period, CESTAT noted that assessee's vehicles were not registered as tourist vehicles and also the assessee did not operate any 'tours'. CESTAT further observed that, "… the appellants have produced evidence to the effect that though they were permitted as contract carriers they were operating more as stage carriers for passengers".

For post-2008 amendment period, CESTAT interprets the definition of tour operator and observes that "The definition implies something more than ordinary travel or transport undertaken" and holds "…as the definition of tour operator even if it is taken in two parts cannot apply to a situation where the travelling public use transport facility on payment of a fare with no other operation on the part of the appellant".

Comments: This comes as a huge relief, as travel at prefixed fare in absence of common contract, exempted.

Sale of space / time for advertisement, on bus-queue shelters and time-keeping booths leviable to Service Tax.

Recently, SC in Delhi Transport Corporation vs. Commissioner of Service Tax, dismissed Delhi Transport Corporation's SLP against HC ruling which upheld service tax liability towards "sale of space or time for advertisement" on bus-queue shelters and time-keeping booths, u/s 65(105)(zzzn) of Finance Act. HC had held that assessee being a public sector undertaking, should be more vigilant in compliance with statutory obligations and it could not take cover under the plea that since contractors had agreed to bear burden of taxation, there was no need for any further action on its part .

According to HC, even though service tax burden could be transferred onto other party by contractual arrangement, as held by SC in Rashtriya Ispat Nigam Limited ruling, Revenue could not be asked to collect tax dues from third party or to wait till amount has been recovered from contractors.

HC, further observed that Court directions under Arbitration and Conciliation Act only govern the rights and obligations arising out of contracts with agencies / contractors whereby assessee can recover amount of tax paid to Revenue, but they have no bearing insofar as Revenue's claim against assessee for recovery of tax dues was concerned.

However, HC had deleted penalty u/s 78 of Finance Act absent proof of "intent to evade payment of service tax" by Revenue and reasonable cause viz. poor financial position on account of providing highly subsidized transport facilities & dependence on Govt. grants, shown by assessee to invoke provisions of Sec. 80.

Comments: The Judgment of the SC brings clarity in the law relating to advertising on bus-que shelters.,

Mutuality-principle inapplicable, SEZ & DTA units of same company are distinct

Gujarat HC in Commissioner vs. Larsen & Toubro Ltd ruled on taxability of business support services, viz. project management, rendered by assessee-company's SEZ unit to DTA unit. HC Rejected assessee's contention that no service tax was chargeable on such activities on the basis of principle of mutuality. Further, HC observed that statutory scheme of SEZ Act indicates separate / artificially created independent existence of SEZ unit, whether company had another DTA unit or not. Furthermore, noted that Rule 19 (7) of SEZ Rules in particular, while recognizing that same legal entity might had two units, one in SEZ and another in DTA, mandates that the two would be distinct identities with separate books of accounts.

According to HC, if mutuality principle was applied, very artificial creation of treating SEZ unit separate and distinct for accounting, consumption of raw materials, production and clearance purposes would shatter. However, HC observed that "In essence…section 66 aims at collecting service tax when a certain service is provided for a value." and in present case, services were rendered from SEZ unit merely for convenience, for benefit of entire company without any charges / consideration, therefore, no service tax would be leviable thereon.

Comments: SEZ Units are artificially created deemed foreign entity. If considered similar to DTA unit, then the purpose of such deemed nature would be countered. Thus, apt interpretation.

Airport runways not analogous to 'roads', hence no exemption available on repair / maintenance of roads

CESTAT, Bombay HC in D.P. Jain and Company Infrastructure Pvt. Ltd. vs. Union of India & Anr., ruled in favour of Revenue, hold that exemption to services provided in relation to management, maintenance or repair of roads under Notification No. 24/2009-ST could not be extended to 'repair of airport runways'.

Assessee was engaged inter alia in construction of roads for NHAI, CPWD and NMC, construction of runways for Airport Authority of India Ltd, strengthening renewal of roads and improving / surfacing of runways, and Revenue demanded service tax on services of repair / maintenance of roads & airport runways / taxiways / apron ways under "Management, Maintenance or Repair Service" category for the period June 16, 2005 to July 27, 2009. HC, further Rejected assessee's contention that if services in respect of repair of roads & airports were excluded from pre-existing category of "commercial or industrial construction service", then same were not taxable as "management, maintenance or repair service" Observed that "in its wisdom, the legislature thought the services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dam would not be necessarily commercial or industrial construction and in any event repair, alteration, renovation, restoration of such utility should be excluded from the purview of the definition of the term "commercial or Industrial construction service". By this, there is no prohibition for bringing it in another category". Distinguishing judgments in Tahsildar Singh, Darshan Hosiery Works & Dr. Lal Path Lab Pvt. Ltd., HC rejected assessee's contention that term "road" was a genus of which runways was the species and hence, repair services rendered qua runways will also be exempted in terms of Sec 97 of Finance Act that provides retrospective exemption to activity of management, maintenance and repairs of road w.e.f. June 16, 2005.

Further, HC applied common parlance test since both terms were not defined in the Finance Act, stated that there was a difference in two terms as 'runways' are specially prepared surfaces for aircrafts unlike roads. Also rejected assessee's attempt to extend Sec 98 of Finance Act, which grants retrospective exemption to repair / maintenance services provided to non-commercial Govt. buildings, to repair of airports as well, stated that the issue did not pertain to whether definition of "airport" itself includes runways. Consequently, HC upholds the order of CESTAT that site formation and excavation services was not exempted under Notification No. 17/2005-ST bearing in mind the site or place where the services were rendered but its location.

Comments: Precisely, management / maintenance / repair of roads cannot be extended to 'repair of airport runways'.

Newspaper columns / anchoring on TV not 'entertainment', no Service Tax on Ganguly's pre-2010 earnings

In a recent Judgment Calcutta HC in Saurav Ganguly Vs Union of India & Ors., quashed the show-cause notice demanding service tax of Rs 1.5 crore issued on cricketer and former captain of Indian Cricket Team - Sourav Ganguly for the period from May 2006 to June 2010. HC concluded that on merits remuneration received by Saurav Ganguly for writing articles in magazines (Rs 23 lakhs), anchoring television shows (Rs 2 cr), brand endorsement (Rs 2.6 cr) and fees from Indian Premier League (IPL) franchisee (Rs 8.7 cr) not liable to service tax, neither as 'Business Auxiliary Service' nor as 'Business Support Service'.

HC hold that "Writing articles for newspapers or sports magazines or for any other form of media could not by any stretch of imagination be said to be amounting to rendering business auxiliary service", observed that the articles were meant for information and even entertainment of the general public interested in sports.

Similarly, HC hold that remuneration for anchoring of TV shows, which were meant for entertainment of viewers, not liable to service tax, HC observed that "By anchoring a TV show, a celebrity or for that matter any other person did not render service with the object of enhancing any business or commercial interest".

As regards brand endorsement, HC was of the view that definition

(Saurav Ganguly) "was a purchased member of a team serving and performing under KKR and was not providing any service to KKR as an individual" and his services were not taxable as business support services. HC quashed the CBEC instruction dated 26 July, 2010 to the extent "it stated that if composite fee received for playing matches and for participating in promotional activities could not be segregated, then service tax should be levied on the total composite amount".

HC further rejected Revenue's challenge to the writ petition against show-cause notice on the grounds of alternative remedy, HC relied on coordinate bench judgment in Simplex Infrastructures Ltd. HC, further notes that "One could not be oblivious of the fact that more often than not a considerable time period elapses between the point of time when a writ petition was admitted and the point of time when it come up for final hearing".

Comments : The clarification by HC came as a huge relief to all the print / electronic media presenters / Host.

Central Excise

CBEC: Clarifies scope of 'site', exempts it during construction work; 'Project distance' unnecessary criteria

CBEC Circular No. 1036/24/2016-CX dated July 6, 2016

CBEC issues clarification on the scope of the word 'site' used in respect of exemption to goods manufactured at construction site for use in construction work thereat (such as construction of road, laying of pipelines and laying of railway tracks), under Notification No. 12/2012-CE. CBEC Stated that as per the definition in the Notification, expression "site" could not be given restrictive meaning so long as premises under consideration for availing exemption under Sl. No. 186 of Notification fulfill stipulated conditions. These conditions were (i) said premises were made available to manufacturer by way of specific mention in contract / agreement for such construction work, (ii) goods under Chapter 68 (except 6804, 6805, 6811, 6812 and 6813) for which exemption was claimed, were manufactured at said premises, and (iii) such goods manufactured at said premises were exclusively used for construction work, as per relevant contract / agreement.

Furthermore, the distance at which goods manufactured at site were used in the project, were extraneous criteria not flowing from the language of Notification, and field formations must desist from considering same while examining eligibility. It was further Clarified that each case must be decided taking into consideration individual facts, and accordingly rescinds Circular No. 456/22/99-CX.

Comments : This is of note as exempting the goods manufactured at construction site , would settle the law and is huge relief for construction Industry.

CBEC: Instructs no recovery pending stay applications before CESTAT / Appellate Commissioner prior to August 6, 2014, and for subsequent period Circular No. 984/08/2014-CX, would apply

CBEC Circular No. 1035/23/2016-CX dated July 4, 2016

Recently, CBEC issued fresh guidelines on recovery of confirmed demand during pendency of stay applications, in light of important changes in law and HC judgments on the subject, including in cases of L&T, Karnavati Club Ltd & PML Industries Ltd. Rescinding Circular For subsequent period, instructions contained in Circular No. 984/08/2014-CX (i.e. post amendment to Sec 129E of Customs Act & Sec 35F of Central Excise Act) would continue to be followed. However, as a "measure of liberalization" and to ensure "uniformity" in practice, CBEC directs that recovery proceedings would be initiated only after a period of 60 days from the date of CESTAT or HC order confirming demand, where no stay had been granted by HC / SC respectively against such order.

Comments: The circular was in line with the rule of law / principle of natural law and the HC Judgment, thus, a welcome step.

SC affirms credit reversal against exempt goods, post-manufacture wastage irrelevant

Recently, SC in Bazpur Cooperative Sugar Factory Ltd. vs. CCE, Meerut, dismissed the assessee's SLP on ground of delay in challenge to Uttarakhand HC decision that upheld reversal of CENVAT credit attributable to inputs (molasses) used in manufacture of exempted rectified spirit, reported as wastage / storage loss, under Rule 6(1) of CENVAT Credit Rules. Further, HC rejected assessee's contention that in terms of Rule 6(3), there was no liability to reverse credit unless goods were cleared from factory, observing "Merely because it is not cleared for the reason that it cannot be cleared does not mean that the manufacture did not take place."

Further, as per HC, object of CENVAT Credit Rules was to avoid cascading effect of duties at various stages and what rule maker had provided was that final product must itself be dutiable. Since rectified spirit was assessable to nil rate, same would qualify as "exempted goods" and thus assessee could not have claimed CENVAT credit in respect thereof, while stating "It matters little that whether, after the manufacture, there was wastage or loss". In view thereof, HC held that CESTAT was wrong in applying the practice under State Excise law whereby loss was considered to be within permissible limit of 0.5%.

Comments: SC has rightly affirmed the reversal of CENVAT Credit against exempted goods.

Treatment in books inconclusive of unjust-enrichment absent final-price enhancement

Recently, CESTAT in Elantas Beck India Ltd. vs. Commissioner, CE & ST (LTU), found that assessee prima facie entitled to refund of duty paid under protest on captively consumed intermediate product viz. notional resin contents of wire enamels, holds same not hit by mischief of unjust enrichment. CESTAT Observed, question whether incidence of duty forms part of final product or otherwise could be ascertained only on the basis of whether price of final product had been enhanced due to duty burden on intermediate product. In the instant case, assessee did not explicitly charge duty to customers and price of final product remained same, this fact was sufficient to accept that unjust enrichment principle could not be invoked. Treatment of duty amount in books of account was not conclusive proof, booking same as expenditure in P&L Account would result in reduction of profit and this itself shows that incidence of duty had not been passed on to other person.

Comments: CESTAT was right in entitling the refund of duty paid under protest where there was captive consumption and no final-price enhancement.

VAT

Absent respondent's cross-objection; Tribunal's appellate jurisdiction restricted to reliefs sought by appellant

Recently, Karnataka HC in Akshay Eminence Developers Pvt. Ltd. vs. Addl. Commissioner of Commercial Taxes, Bangalore & Ors., ruled in favour of assessee, quashed Tribunal order insofar reliefs granted by first Appellate Authority were set aside despite no cross-objection / counter appeal by Revenue. It was further noted by the HC that Appellate Authority allowed deduction of consideration received towards sale of undivided share in land, but not in respect of flats sold falling in assessee's share. Tribunal inter alia failed to examine whether procedure for assessment u/s 39(1) of Karnataka VAT Act, which mandates Assessing Authority to give assessee opportunity of being heard before passing an order, was followed.

Moreover, HC was of the view that though Tribunal had jurisdiction to pass any order in exercise of appellate power u/s 63, such jurisdiction must be read to the extent of subject matter brought before it and could not be read beyond. More so, if Tribunal was of the view that order passed in favour of assessee by first Appellate Authority was without jurisdiction, then it should have put the parties to notice and thereafter further examine the same, which had not been done at all, and accordingly, remanded the matter for re-examination.

Comments: HC rightly upheld the principle that 'relief only if expressly demanded'.

Hewlett Packard's Lease transactions effected with local customers not exempted on ground that same did not constitute 'sale in course of import'

Recently, Karnataka HC in Hewlett Packard Financial Services India Pvt. Ltd. vs. State of Karnataka & Another upheld the Tribunal order denying exemption u/s 5(2) of CST Act on lease transactions effected by Hewlett Packard (assessee) with local customers on ground that same did not constitute 'sale in course of import'.

Further, HC Noted the operandi under Master Lease Agreements, whereby customers placed purchase orders on foreign vendors directly, and goods were shipped to customers but invoices rose on assessee, and right on the goods lied with customers till issuance of acceptance certificate followed by novation notice and 'Lease Schedule'. HC, further Found no reason to interfere with Tribunal's reference to propositions laid down by Apex Court to determine whether concerned sale / purchase can be deemed to take place in in course of import.

Furthermore, Tribunal found that the requirement for getting exemption was dependent upon inextricable link to the import from the foreign vendor and the customer and further with the end customer and the petitioner and same had not been established in present case. Subsequent Master Rental & Financing Agreement / Lease Schedule shows that so far as Customs Act was concerned, the customer / lessee was the person who claims benefit of duty exemption / concession as if he was the owner of goods and since he had to utilize them under EOU Scheme; Hence, stated that "the relationship was severed in as much as, the customer was shown as the owner and only the payer of the consideration was shown as the petitioner ".

Therefore, it was only after the goods cross Customs frontier of the country and accepted by customers that ownership was re-entrusted to assessee and rental lease agreement is entered into, observed the HC and accordingly, confirmed Tribunal view that concerned transactions were nothing but 'sale' u/s 2(29) of Karnataka VAT Act and turnover qualifies as 'taxable turnover' u/s 2(34); Distinguishes Madras HC ruling in Karnataka Bank Ltd, coordinate bench decision in Canara Bank as well as SC judgments in Indurev Ltd and 20th Century Finance Corporation.

Comments: The Decision is in line with the previous SC decision and rule of law, and thus, the VAT is only when there is sale.

Construction of villas / apartments by co-operative society taxable as 'works-contract'; Absent application, compounded rate unavailable

Recently, Kerala HC in Federal House Construction Co-operative Society Ltd vs. the Commercial Tax Officer (Works Contract) & Anr., dismissed the writ petitions of co-operative society (assessee), and HC observed that construction of villas / apartments for members from advances received under agreements is taxable as 'works contract' under Kerala VAT Act; Upholds levy of tax at 12.5% on total contract receipts after deducting sub-contract and labour charges allowed as per Rule 10(2)(b) of Kerala VAT Rules, absent filing of application for compounded rate by assessee u/s 8(a).

Further, HC placed reliance on SC judgment in Larsen & Toubro Ltd.

where it was held that building contracts are a species of works contract, notes that as per Sec 6(1)(e) there was liability to pay tax when during execution of works contract, there was transfer of goods.

Also, HC observed that if at all there was a contention contrary to the same or with regard to the factual aspect and it was for the petitioner to agitate the same in a proper appeal. Thus, HC Rejected assessee's contention that returns filed u/s 20(1) ought to have been rejected with opportunity to cure defects u/s 22 and not having done so within prescribed period. Assessment proceedings u/s 25 could not have been invoked.

Moreover, HC noted that Sec 25 grants special power to Assessing Officer to take action in case of escaped / under assessed turnover in any year, hence when facts give rise to situation warranting interference u/s 25(1), Sec 22 (relating to assessment in case of non-filing of return and filing of defective return) could not preclude invocation of Sec 25; Distinguishes Allahabad HC decision in Assotech Reality Pvt. Ltd. on facts, but grants assessee liberty of availing statutory appeal remedy while keeping recovery proceedings in abeyance.

Comments: This decision will impact the construction Industry badly and the decision is bit too harsh on the assessee.

VAT exemption on supply of Ready Mix Concrete to SEZ developer for authorized operations

In IJM Concrete Products Pvt. Ltd. vs. Assistant Commissioner (CT), Varadjarapuram, Madras HC allowed VAT exemption on supply of Ready Mix Concrete to SEZ developer for authorized operations in terms of Notification GOMs No. 193 dated December 30, 2006 r/w Circular No. 25 of 2014 dated May 30, 2014 under Tamil Nadu VAT law; Quashes assessment order where Assessing Officer relied on Madras HC ruling in Tulsyan Nec Ltd and Circular No. 9 of 2013 dated July 24, 2013 to observe that there was no specific provision for zero rating the sales of contractors to SEZ developers / co-developers under TN VAT Act.

Further, HC observed that Assessing Officer misdirected himself by applying Tulsyan Nec Ltd ruling when assessee had based its exemption on Notification GOMs No. 193, which was subsequently reiterated by Circular dated May 30, 2014; Notes that said Circular, in continuation of Circular No. 9 of 2013, clarified that works contract executed for SEZ developer / co-developer for its authorized operations were exempted from sales tax as per Notification GOMs No. 193 r/w Sec 88(3)(i) of TN VAT Act.

Moreover, HC noted that the Notification dated January 29, 2016 also exempted tax payable on sale of goods to registered dealer for setting up, operation & maintenance of SEZ unit or for development, operation & maintenance of SEZ by developer subject to conditions.

Comments: This is a positive decision since HC has allowed VAT exemption on RMC supply to SEZs absent any specific provision providing for levy of VAT and in terms of specific Notification.

Customs

CBEC merges Accredited Client & Authorized Economic Operator Programs for EXIM facilitation

Circular No. 33/2016-Cus **dated July 22, 2016**

CBEC merges entity based facilitation schemes viz. Accredited Client Program (ACP) & Authorized Economic Operator (AEO) Program into a combined three-tier AEO program. CBEC accordingly, enhanced the scope of said programs so as to provide further benefits to entities who have demonstrated strong internal control system and willingness to comply with laws administered by CBEC.

Some prominent features of new program are as – (i) inclusion of Direct Port Delivery of imports to ensure just-in-time inventory management by manufacturers – clearance from wharf to warehouse, (ii) inclusion of Direct Port Entry for factory stuffed containers meant for export by AEOs, (iii) special focus on SSE & SMEs – any entity handling 25 import or export documents annually can become part of this program, (iv) provision of Deferred Payment of duties delinking duty payment and Customs clearance, (v) Mutual Recognition Agreements with other Customs administrations, (vi) faster disbursal of drawback amount, (vii) fast tracking of refunds and adjudications, and (vii) paperless declarations with no supporting documents.

All entities already certified under AEO Program would be accorded status of AEO-T2 or AEO-LO, while entities accorded with and Notification No. 28/2012-Cus.

Comments: This is a welcome decision as such merging will ease the EXIM facilitation and is in consonance with ease of doing business and making India a net exporting economy.

CBEC: prescribes accounting procedure for Duty Free Shops

Circular No. 32/2016-Cus **dated July 13, 2016**

Recently, CBEC prescribed the procedure for maintaining system of accounting of receipt, storage, operations and removal of goods for Duty Free Shops, in terms of Special Warehouse (Custody & Handling of Goods) Regulations 2016.

The Circular stated that every licensee to maintain electronic records with prescribed mandatory data elements w.e.f. May 14, 2016. Monthly returns would be filed as paper copy or in digital form (in Pen drive or CD) with bond officer reflecting the transactions, except sales to individual international passengers, within 10 days after close of concerned month.

CBEC also Clarified that data relating to goods already removed from the warehouse by May 13, 2016 are not required to be updated in digital records, however, stocks lying in Duty Free Shops should be entered since their duty liability is not

Furthermore, CBEC permitted the continuation of existing business practice of inflight duty free sales by Airlines, while laying down guidelines for recovery of costs towards customs supervision on Merchant Over Time basis or on Cost Recovery basis, and approving administrative set-up wherein Duty Free Shops will be under general supervision of Principal Commissioner / Commissioner of Airport (Passenger Terminal).

Comments: With an intent to simplify doing business in India, the CBEC prescribed new procedure on duty free shops and the focus on e-governance is good step and ensure transparency / ease and governance in long run.

Discretion cannot be used mechanically; 70% Bank-Guarantee for releasing goods despite Court directions, unsustainable

Recently, Delhi HC in J B Overseas vs Union of India & Others, deleted the condition of Bank Guarantee of 70% provisional duty that was imposed by Customs for releasing jewellery imported from Indonesia under ASEAN-India Free Trade Agreement, despite HC judgment in case of The Bullion and Jewellers Association (Regd.).

HC, Noted that assessee had fulfilled basic condition for availing exemption, viz. furnishing of Country of Origin Certificate and in view of favourable HC ruling, was justified in insisting on unconditional release of goods in question. Therefore HC rejected Revenue's defense that concerned officer was only exercising his discretionary power vested under Regulation 4 of Customs (Provisional Duty Assessment) Regulations, 2011.

Further, HC observed that such imposition was without any reasons and such discretion had to be exercised where there was a real apprehension of non-compliance with requirements for availing exemption. However, considering that Revenue intends to file appeal against HC judgment in The Bullion and Jewellers Association (Regd.) and assessee, as a demurer, agreed to furnish a bond for 100% of differential duty with deposit of 20% of provisional duty for release of goods, HC modifies Customs order to such extent .

Comments: This Delhi HC decision is huge relief to assessee and against the arbitrariness of Department, as 70% Bank Guarantee was too harsh on the importation.

HC Rejects applicability of tariff value to imports on date of Notification in gazette

In Agarwal Industries Ltd vs. Union of India and Anr., Telangana & Andhra Pradesh HCHC ruled that tariff value fixed vide Notification No. 36/2001-Cus was not applicable in respect of RBD Palmolein Oil imported on the same day as date of Notification, i.e. August 3, 2001.

Further, HC held in favour of assessee despite finding considerable force in Revenue's contention that Notification issued by CBEC on valuation u/s 14(2) of Customs Act would come into force from date of publication in Official Gazette, unlike an exemption Notification u/s 25(1) which becomes effective from date of its availability for sale to public. It was further, Noted by the Division Bench ruling in KGF Cotton Pvt. Ltd. which dissented from Karnataka HC after taking note of Evidence Act provisions, thus holding the effective date of Notification to be August 3, 2001.

However, HC followed subsequent Apex Court ruling in Param Industries Ltd. that affirmed Karnataka HC's view that said Notification was not gazetted on the same day i.e. August 3, 2001 and infact, was published and made available for sale to public only after August 6, 2001.

In view thereof, HC Refused to hold said SC judgment as per incuriam on ground that it was rendered in ignorance of earlier Division Bench judgments of SC in Pankaj Agencies and Ganesh Das Bhojraj, Observed that law declared by SC is binding under Article 141 of Constitution and it extends to all observations on points raised and decided by the Court in a given case, such decision could not be assailed on ground that certain aspects were not considered or relevant provisions were not brought to Court's notice. As Union of India has exhausted the appellate structure on question as to when Notification No. 36/2001-Cus came into force, HC is bound to follow Param Industries Ltd decision, states "Judicial discipline requires, and decorum known to law warrants, that appellate directions should be followed".

In view thereof, HC held that customs duty could only have been levied on invoice value of imported RBD Palmolein Oil and not the tariff value prescribed subsequently, and accordingly, quashes differential duty demand.

Comments: A welcome decision and is of huge relief to the importers as, when the transaction / contract has already has been finalized and the goods to be delivered on particular day and the change in rules on such date of delivery has affected the business and brought uncertainty.

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