HIGH COURT RULING

2010-TIOL-161-HC-MAD-ST

Assistant Commissioner of Service Tax Chennai II Division Vs M/s Natraj and Venkat Associates (Dated : February 23, 2010)

Service Tax - Tax paid by misunderstanding of law – No limitation for refund? 2010-TIOL-67-HC-MAD-ST stayed

2010-TIOL-118-HC-DEL-ST

UoI Vs M S Bhatia (Dated : February 5, 2010)

Service – Customs Supdt - vague Charge sheet issued after 11 years – quashing by CAT upheld - High Court

2010-TIOL-103-HC-P&H-ST

CCE, Ludhiana Vs M/s Bhandari Hosiery Exports Ltd (Dated: November 17, 2009)

Service Tax – Import of services – No tax prior to 18.04.2006: Till the time Section 66A was enacted only the person who rendered the service was liable to pay tax and not the recipient of the service. Accordingly, the revenue did not have any authority to levy service tax on the assessee. The aforesaid view of the Bombay High Court has been followed and applied by a Division Bench of Delhi High Court in the case of Unitech Ltd. v. Commissioner of Service Tax, Delhi , - (2009-TIOL-293-HC-DEL-IT).

Also see analysis of the Order

2010-TIOL-94-HC-MAD-ST

M/s Creative Infospace Pvt Ltd Vs Additional Commissioner, Chennai (Dated: January 7, 2010)

Service Tax – Quantification of duty in the Show Cause Notice does not amount to predetermination of the issue – writ cannot be allowed: The quantification of the tax in the show cause notice is a statutory requirement and cannot be stated that the authority has predecided the issue. Therefore, the decision relied on by the counsel rendered by the Supreme Court in Siemens Ltd. Vs. State of Maharastra and others - has no application to the facts of the present case.

Also see analysis of the Order
2010-TIOL-89-HC-KAR-ST
CCE, Bangalore Vs KVR Constructions (Dated: September 08, 2009)
Service Tax - Amount paid due to misunderstanding of law, when no tax was payable – limitation under Section 11B of Central Excise Act not applicable? – Single Judge Order in 2010-TIOL-68-HC-KAR-ST stayed.
2010-TIOL-84-HC-DEL-ST
SSIPL Retail Ltd & Ors Vs UoI (Dated: December 18, 2009)
Service Tax on Renting of Immovable Property - Board promises Delhi High Court to revise instructions: TRU letter directing field formations to collect service tax in spite of the High Court quashing it - the respondent could not instruct their officers to peruse the matter with tax payers calling upon them to pay service tax or to resort to other means under the law to protect the Revenue. The manner in which the letter are written clearly indicate that the payment of tax is demanded and the threat is also extended that if there is no compliance, Department would initiate further necessary against them. Respondent assures that corrective steps shall be taken by issuing further instructions, in supersession of earlier instructions, to the officers not to write such letters demanding the payment of service tax or threatening coercive steps.
2010-TIOL-68-HC-KAR-ST
KVR Constructions Vs CCE, Bangalore (Dated: August 11, 2009)
Amount paid due to misunderstanding of law, when no tax was payable – limitation under Section 11B of Central Excise Act not applicable: Section 11B provides for making a claim to refund duty. Admittedly, the sums deposited by the petitioner is held to be a deposit and not as a duty, therefore, there was no necessity for the petitioner to have made a claim invoking Section 11B of the Act for refund.
Also see analysis of the Order
2010-TIOL-67-HC-MAD-ST

Natraj And Venkat Associates Vs ACST, Chennai-II (Dated: October 20, 2009)
Construction of a building in Sri Lanka – tax paid by misunderstanding of law – Amount paid is not tax and refund not governed by limitation under Section 11B of Central Excise Act: it is clear that if what was paid cannot be taken to be duty of excise, the bar of limitation under section 11B(1) cannot be applied. This is on account of the fact that the bar of limitation prescribed under Section 11B(1) applies only to "any person claiming refund of any duty of excise and interest". Therefore, the claim of the petitioner for refund can be entertained by this Court, since there is no dispute about the fact that no service tax was payable by the petitioner and as a corollary, what was paid by them was not service tax.
Also see analysis of the Order
2010-TIOL-45-HC-KAR-ST
CST, Bangalore Vs BPL Ltd (Dated: December 03, 2009)
Service Tax – Tax payable only when service charges are received from customers – Receipt of charges from customers, filing of returns etc are questions of fact – Orders passed by CESTAT and Commissioner set aside and matter remanded to Commissioner to ascertain facts
2010-TIOL-20-HC-KAR-ST
CCE, Bangalore Vs M/s Mahaveer Generics (Dated: November 24, 2009)
Service tax – C&F Agent – Commission agent also acting as a consignment is covered within the definition of C&F Agent: the assessee having given the authority and power to appoint dealers, stockists and distributors it is clear that it is not a mere case of commission agent but, on the other hand, it is the responsibility fixed on the assessee to carry out the activity of getting the goods stored by clearing it and then forwarding it to the stockists and dealers if any appointed by the assessee itself or as directed by the Principal. If there was mere procurement of purchase orders for the principal on commission basis by the assessee, it would have definitely fallen under the category of commission agent and would have stood outside the activity of the clearing and forwarding agent. But, it is not so in the instant case as seen from the Clauses mentioned in the Agreement.
Also see analysis of the Order