NITYA TAX ATTORNEYS

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CFO WORLD Where Ideas Converge

FICAF FORUM OF INDIA'S CHARTERED ACCOUNTANT FIRMS

Key Supreme Court rulings in last 9 years that shaped GST law

JULY 10, 2026

CONTENTS

TAXABILITY – OUTWARD (1/3)

Gameskraft Technologies

- Expansive scope of supply under Section 7
- Pre-GST position irrelevant
- Absence of HSN / SAC / Tariff Entry in Notification does not invalidate levy

All India Haj Umrah

- Composite service package – Not to be dissected to pick taxable / non-taxable elements
    - *Types of Supply*
    - *Circulars: Car repair, UPS-Battery*

TAXABILITY – OUTWARD (2/3)

Taghar Vasudeva

- Taxability / Exemption – End use to be seen irrespective of contractual recipient
  - *Relevance for other industries like construction, healthcare etc.*

Bharat Forge

- Correct HSN and GST rate - Seller's responsibility, not Buyer's
  - *Relevance in RCM situations*
  - *ITC denial due to wrong classification by Supplier*
  - *Tax clause in POs*

Pending disputes

- GST on assignment of leasehold rights ***(Gujarat Chambers)***
  - *Recent SLP dismissal in case of **Aerocom Cushions***
  - *ITC availability if tax paid*

TAXABILITY – INWARD (3/3)

Cosmo Films

- IGST on import of goods - Levy under IGST Act
  - ***Interglobe (Del HC)***
  - *ITC of IGST paid post import*
    - *Trade Notice – TR-6 not valid document for ITC*
    - ***Home Ashok Leyland (SC)***
    - *Recent CESTAT ruling – Authorities to allow BoE amendment*

CONTENTS

VALUATION

Gameskraft Technologies

- Wide powers to prescribe valuation
- Valuation to be on gross (not net) basis
  - *Impact on pending disputes (1/3rd land; 70:30 renewable energy)*
  - ***Wipro (SC)*** *– Actual value over-rides deemed valuation*

Mohit Minerals

- Value can be prescribed through Notification also

Pending disputes

- Inclusion of value of free supplies ***(Shree Jeet Transport)***
- Inclusion of value of retained by-products ***(Shiridi Sainadh)***

CONTENTS

ITC (1/2)

Bharti Airtel

- GSTR-2A/2B is facilitator, Books of accounts are paramount
- Self assessment
  - *Important issue before GSTAT*
  - *Validity of Circular for ITC denial basis GSTR-2A/2B till 31.12.2021*
  - *GSTR-2B matching mandatory from 1.1.2022*
  - *Is ITC availment in GSTR-3B critical?*

Aberdare Technologies; Brij Systems; B Braun

- CBIC directed to revisit law relating to timelines for correcting errors in returns
- Bona fide recipient not to suffer
  - *No action from CBIC since March 2025*
  - *Applicability to Section 16(2)(aa) and 16(2)(c)*

ITC (2/2)

Safari Retreats

- Section 17(5)(c) & (d) - Constitutionally valid
- 'Plant or Machinery' and 'Plant & Machinery' – Distinct
- Functionality Test relevant to qualify as Plant
- Construction for Lease / sale - Not on 'own account'
    - *Plant & Machinery - Retrospective amendment*
    - *Works contract service – covered in Clause (d)?*
- Section 16(4) - Constitutionally valid
    - *Time-limit for availing ITC on BoE?*

Pending ITC disputes

- Pre-deposit through E-Credit Ledger ***(Flipkart Internet)***
    - *Interim relief*
    - *SLP dismissal in another case*
- Transfer of entire ITC on amalgamation / merger ***(Alstom Transport)***

CONTENTS

OTHERS (1/2)

Gameskraft; VKC Footsteps

- Wide powers to make retrospective amendments
- Wide rule making powers under Section 164

Mohit Minerals

- GST Council recommendations not binding on Legislature

Armour Security

- Same subject matter – same facts & same demand
- Proceedings commence upon issuance of SCN
  - *Applicability to file Advance Ruling*

OTHERS (2/2)

ASP Traders

- ‘Deemed conclusion of proceedings’ in Section 129 does not absolve requirement to pass Order
- Right to appeal
  - *Applicability to Section 73 / 74, Customs & pre-GST laws*

Radha Krishan Industries; Radhika Aggarwal

- Power of Provisional attachment & Arrest not to be exercised arbitrarily
- Reason to believe v. Reason to suspect
- Authorities cannot force Taxpayer to pay tax

Pending Miscellaneous Issues

- Validity of Covid Extension Notifications ***(HCC-SEW-MEIL-AAG JV)***
- Bunching / consolidation of SCN ***(Lakshmi Mobile)***

Q&A

Thank You !

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