

CENTRAL BOARD OF EXCISE AND CUSTOMS



Decisions of High Court and CESTAT against which Board has decided not to file Special Leave Petition or Civil Appeal in Supreme Court

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Maharastra
Appeal/ Petition No:	Crl Appl No 909/2012	Date Of Order:	29-10-2013
Order No in Case of CESTAT:		Zone:	Mumbai Cus3
Name of the Party:	Nancy Tempo	Commissionerate:	Airport
Nature of tax:	Others	Board File No:	276/12/2014-CX.8A (Cus)
Nature of Issue:	Prosecution	Revenue Rs:	0.0
Period of Dispute From:	22-12-2008	To:	
Facts of the Case:	Accused was detained by the officers on Airport, carrying 77 capsules filed with 760 gms of Heroin. The accused was arrested and prosecuted in terms of NDPS Act. Trial Court convicted the accused		
Decision of High Court/ CESTAT:	The accused was not made aware of her rights under Section 50 of the NDPS Act, at the time of search. Such non disclosure of the rights at the time of search was fatal to the prosecution and accused was acquitted.		
Date of Acceptance:	30-01-2014	Reasons for Acceptance:	Lack of Evidences

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Gujarat
Appeal/ Petition No:	T A No 486/2013	Date Of Order:	13-11-2013
Order No in Case of CESTAT:		Zone:	Ahmedabad
Name of the Party:	Zydus technologies Ltd	Commissionerate:	Ahmedabad ST
Nature of tax:	Service Tax	Board File No:	276/19/2014-CX.8A
Nature of Issue:	Refund	Revenue Rs:	17553497
Period of Dispute From:	01-11-2009	To:	01-03-2010
Facts of the Case:	The unit had claimed refund of service tax on certain services received by them. The approved list of specified services was dated 20/5/2010 and thus the refund in respect of services received prior to 20/5/2010 did not appear to be admissible		
Decision of High Court/ CESTAT:	Held that Refund will be admissible in view of their judgement in case of Cadila Health Care [2013 (30) STR 3 (Gujarat)]		
Date of Acceptance:	24-02-2014	Reasons for Acceptance:	Issue Already Settled by earlier decision.

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Delhi
Appeal/ Petition No:	WP(C) No 5120/2011	Date Of Order:	13-09-2013
Order No in Case of CESTAT:		Zone:	Delhi Cus
Name of the Party:	Pioneer India Electronics Ltd	Commissionerate:	ICD Import
Nature of tax:	Custom	Board File No:	276/02/2014-CX.8A
Nature of Issue:	Interpretation of Notification	Revenue Rs:	0
Period of Dispute From:	01-12-2008	To:	31-03-2009
Facts of the Case:	Notfn No102/07 dtd 14.9.07 prescribed no period of limitation for making an application for refund of CVD. The notification postulated furnishing of documents evidencing payment of sales tax/ VAT. Limitation u/s 27 applicable.		
Decision of High Court/ CESTAT:	Where the imported goods are released on payment of CVD on regular assessment, the application seeking refund can be made within one year of the payment of the CVD and where assessed provisionally within one year of finalization of assessment.		
Date of Acceptance:	17-02-2014	Reasons for Acceptance:	On Merits

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Gujarat
Appeal/ Petition No:	CA No 431/2013 in TA No 692/20	Date Of Order:	23-01-2014
Order No in Case of CESTAT:		Zone:	Ahmedabad Cus
Name of the Party:	Safari Fine clothing Pvt Ltd	Commissionerate:	Kandla
Nature of tax:	Custom	Board File No:	276/68/2014-CX.8A
Nature of Issue:	Seizure and Confiscation	Revenue Rs:	1750000
Period of Dispute From:	01-06-2011	To:	30-11-2009
Facts of the Case:	Goods are meant for SEZ and on going to SEZ, are not liable to Customs duty therefore the value need not be determined under the provisions of Section 14 of the Customs Act, 1962 Thus the goods as per LOA meant for SEZ could not have been confiscated.		
Decision of High Court/ CESTAT:	High Court admitted the question of law on the issue of jurisdiction of the Customs authority but refused to stay the order of CESTAT and allowed the release of goods as per the order of CESTAT.		
Date of Acceptance:	02-04-2014	Reasons for Acceptance:	Interim Order

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	West Bengal
Appeal/ Petition No:	WP No 683/2004	Date Of Order:	03-10-2013
Order No in Case of CESTAT:		Zone:	Kolkata Cus
Name of the Party:	Promosing Exports Ltd.	Commissionerate:	Preventive
Nature of tax:	Custom	Board File No:	276/83/2014-CX.8A
Nature of Issue:	Predeposit	Revenue Rs:	0
Period of Dispute From:	01-06-2011	To:	30-11-2009
Facts of the Case:	CESTAT has in the case asked the party to make predeposit as a condition for hearing the appeal. Since party did not comply with the order CESTAT dismissed the party's appeal.		
Decision of High Court/ CESTAT:	In terms of CESTAT Procedure rules Tribunal could not have dismissed the appeal for non compliance. CESTAT (Procedure) Rules 1982 need to be amended to provide for dismissal in such cases.		
Date of Acceptance:	25-03-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Gujarat
Appeal/ Petition No:	TA No 693/2013	Date Of Order:	23-01-2014
Order No in Case of CESTAT:		Zone:	Ahmedabad Cus
Name of the Party:	Anita Export	Commissionerate:	Kandla
Nature of tax:	Custom	Board File No:	276/71/2014-CX.8A
Nature of Issue:	Seizure and Confiscation	Revenue Rs:	4250000
Period of Dispute From:	01-06-2011	To:	30-11-2009
Facts of the Case:	Goods are meant for SEZ and on going to SEZ, are not liable to Customs duty therefore the value need not be determined under the provisions of Section 14 of the Customs Act, 1962 Thus the goods as per LOA meant for SEZ could not have been confiscated.		
Decision of High Court/ CESTAT:	High Court admitted the question of law on the issue of jurisdiction of the Customs authority but refused to stay the order of CESTAT and allowed the release of goods as per the order of CESTAT.		
Date of Acceptance:	02-04-2014	Reasons for Acceptance:	Interim Order

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Gujarat
Appeal/ Petition No:	TA No 694/2013	Date Of Order:	23-01-2014
Order No in Case of CESTAT:		Zone:	Ahmedabad Cus
Name of the Party:	Jindal Fibres	Commissionerate:	Kandla
Nature of tax:	Custom	Board File No:	276/70/2014-CX.8A
Nature of Issue:	Seizure and Confiscation	Revenue Rs:	10000000
Period of Dispute From:	01-06-2011	To:	30-11-2009
Facts of the Case:	Goods are meant for SEZ and on going to SEZ, are not liable to Customs duty therefore the value need not be determined under the provisions of Section 14 of the Customs Act, 1962 Thus the goods as per LOA meant for SEZ could not have been confiscated.		
Decision of High Court/ CESTAT:	High Court admitted the question of law on the issue of jurisdiction of the Customs authority but refused to stay the order of CESTAT and allowed the release of goods as per the order of CESTAT.		
Date of Acceptance:	02-04-2014	Reasons for Acceptance:	Interim Order

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

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Forum:	High Court	Bench:	Chattisgarh
Appeal/ Petition No:	WP(T) No 42/2013	Date Of Order:	06-05-2013
Order No in Case of CESTAT:		Zone:	Bhopal
Name of the Party:	Sarweshwar Alloys Pvt Ltd	Commissionerate:	Raipur
Nature of tax:	Central Excise	Board File No:	276/6/2014/2014-CX.8A
Nature of Issue:	Natural Justice	Revenue Rs:	112700000
Period of Dispute From:	01-06-2006	To:	30-04-2011
Facts of the Case:	Relied Upon Documents were not provided. Party represented. However without providing the documents, date of hearing fixed. Party didn't attend. Adjudication Order passed		
Decision of High Court/ CESTAT:	Order was passed in blatant violation of principle of natural justice. Department to issue fresh show cause notice with all relevant documents and take necessary action.		
Date of Acceptance:	27-01-2014	Reasons for Acceptance:	On Merits

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Forum:	High Court	Bench:	Gujarat
Appeal/ Petition No:	TA No 1121/2013	Date Of Order:	21-01-2014
Order No in Case of CESTAT:		Zone:	Ahmedabad
Name of the Party:	Dalma Energy LLC	Commissionerate:	Ahmedabad ST
Nature of tax:	Service Tax	Board File No:	276/39/2014
Nature of Issue:	Penalty	Revenue Rs:	6600000
Period of Dispute From:	01-06-2007	To:	31-03-2008
Facts of the Case:	Tribunal has set aside the penalty imposed on the party u/s 80 of Finance Act, 1994 as it was of the view that party was under bonafide belief that Service tax was not leviable on the activities undertaken.		
Decision of High Court/ CESTAT:	Since the party has immediately after adjudication paid the tax demanded with interest and penalty equivalent to 25% of tax demanded, no further penalties imposable u/s 76, 77 & 78.		
Date of Acceptance:	04-04-2014	Reasons for Acceptance:	On Merits

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Forum:	High Court	Bench:	Andhra Pradesh
Appeal/ Petition No:	WP NO 31057/2013	Date Of Order:	16-11-2013
Order No in Case of CESTAT:		Zone:	Vishakapatnam
Name of the Party:	Kohinoor Family Restaurant and B	Commissionerate:	Guntur
Nature of tax:	Service Tax	Board File No:	276/43/2014-CX.8A
Nature of Issue:	Demand	Revenue Rs:	0
Period of Dispute From:	01-01-2011	To:	31-12-2011
Facts of the Case:	The petitioner has challenged the leviability of Service tax on the services provided by it and restrain the department from initiating proceedings for levy and recovery of Service Tax from them.		
Decision of High Court/ CESTAT:	High Court had in interim allowed the department to recover the tax, however in case the petition succeeds department was asked to refund the tax paid with 9% interest		
Date of Acceptance:	25-03-2014	Reasons for Acceptance:	Interim Order

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Forum:	High Court	Bench:	Chennai
Appeal/ Petition No:	CMA (MD) No 1165/2007	Date Of Order:	07-06-2013
Order No in Case of CESTAT:		Zone:	Trichurapalli Prev
Name of the Party:	DCW Ltd	Commissionerate:	Tuticorin
Nature of tax:	Custom	Board File No:	276/109/2014-CX.8S
Nature of Issue:	CESS	Revenue Rs:	3109000
Period of Dispute From:	17-12-2004	To:	08-03-2005
Facts of the Case:	The party paid Basic Customs Duty from DEPB and claimed that no education cess is payable as BCD so paid is exempted in terms of notfn no 96/2004-Cus.		
Decision of High Court/ CESTAT:	Since notfn no 96/2004 is pari materia with notfn no 45/2002 considered by larger bench of CESTAT in case of Essar Steel and Reliance Industries, no edu cess demandable on exempted BCD.		
Date of Acceptance:	20-05-2014	Reasons for Acceptance:	Issue Already Settled by earlier decision.

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Forum:	High Court	Bench:	Andhra Pradesh
Appeal/ Petition No:	CEA No 66/2014	Date Of Order:	10-06-2014
Order No in Case of CESTAT:		Zone:	Vishakapatnam
Name of the Party:	Guntur Municipal Corporation	Commissionerate:	Guntur
Nature of tax:	Service Tax	Board File No:	276/262/2014-CX.8A
Nature of Issue:	Penalty	Revenue Rs:	15100000
Period of Dispute From:	01-05-2006	To:	31-03-2011
Facts of the Case:	Though party has admitted the leviability of Service tax in respect of Renting of Immovable party, it challenged the levy of penalty on delayed payment		
Decision of High Court/ CESTAT:	High Court has upheld the order of CESTAT holding that delay in payment can was for a bonafide reason, i.e. AP Govt trying to get exemption from payment of service tax, hence penalty waived u/s 80.		
Date of Acceptance:	20-10-2014	Reasons for Acceptance:	On Merits

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Forum:	High Court	Bench:	Chennai
Appeal/ Petition No:	WP No 1607/2013	Date Of Order:	13-08-2013
Order No in Case of CESTAT:		Zone:	Coimbatore
Name of the Party:	Unirols Airtex	Commissionerate:	Coimbatore
Nature of tax:	Central Excise	Board File No:	276/125/2014-CX.8A
Nature of Issue:	Recovery	Revenue Rs:	5362000
Period of Dispute From:	01-07-2011	To:	31-08-2011
Facts of the Case:	Since there was delay in payment of Central Excise duty beyond 30 days, party was required to pay duty consignment wise and from PLA in terms of rule 8(3A)		
Decision of High Court/ CESTAT:	Party should pay Rs 5 lakhs and thereafter department will issue a SCN and undertake adjudication proceedings as per law.		
Date of Acceptance:	10-06-2014	Reasons for Acceptance:	Interim Order

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Delhi
Appeal/ Petition No:	CWP No 2414/2014	Date Of Order:	21-04-2014
Order No in Case of CESTAT:		Zone:	Delhi Cus
Name of the Party:	P M Enterprises	Commissionerate:	ICD Import
Nature of tax:	Custom	Board File No:	276/169/2014-CX.8A
Nature of Issue:	Seizure and Confiscation	Revenue Rs:	0
Period of Dispute From:	31-01-2014	To:	06-02-2014
Facts of the Case:	Party was allowed provisional release of goods subject to certain conditions. Party approached Commr (Appl) who held that order u/s 110A was not appealable.		
Decision of High Court/ CESTAT:	Orders Passed under the Custom Act, 1962, including S 110A are appealable. Hence order of Commr (Appeal) quashed and matter remanded for reconsideration.		
Date of Acceptance:	04-07-2014	Reasons for Acceptance:	Interim Order

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Forum:	High Court	Bench:	Uttar Pradesh
Appeal/ Petition No:	CEA NO 177/2012	Date Of Order:	09-04-2014
Order No in Case of CESTAT:		Zone:	Meerut
Name of the Party:	Kurele Pan Products Pvt Ltd	Commissionerate:	Ghaziabad
Nature of tax:	Central Excise	Board File No:	276/186/2014-CX.8A
Nature of Issue:	Natural Justice	Revenue Rs:	13500000
Period of Dispute From:	30-05-2006	To:	
Facts of the Case:	Matter was adjudicated against the party denying request for cross examination and adjournment on the ground that request was received too late.		
Decision of High Court/ CESTAT:	Held that statement of witnesses relied upon cannot be used against the party without allowing the cross examination. Remanded the matter back for fresh adjudication.		
Date of Acceptance:	19-08-2014	Reasons for Acceptance:	Interim Order

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Delhi
Appeal/ Petition No:	CEAC No 67/2014	Date Of Order:	20-08-2014
Order No in Case of CESTAT:		Zone:	Delhi ST
Name of the Party:	Delhi Public School Society	Commissionerate:	Service Tax1
Nature of tax:	Service Tax	Board File No:	276/287/2014-CX.8A
Nature of Issue:	Excisability/ Taxablity	Revenue Rs:	7649000
Period of Dispute From:	01-10-2007	To:	31-03-2008
Facts of the Case:	Against the order of tribunal holding that service tax under the category of franchise service was not leviable, department filed the appeal to HC.		
Decision of High Court/ CESTAT:	HC dismissed on maintainability as issue was covered by 35L(2).		
Date of Acceptance:	17-10-2014	Reasons for Acceptance:	On Merits

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Delhi
Appeal/ Petition No:	WPC No 4432/2008, WPCrI No 16	Date Of Order:	25-08-2014
Order No in Case of CESTAT:		Zone:	Delhi Cus
Name of the Party:	Sanjay Bhandari	Commissionerate:	Air Cargo Import
Nature of tax:	Custom	Board File No:	276/284/2014-CX.8A
Nature of Issue:	Settlement Commission	Revenue Rs:	0
Period of Dispute From:	08-09-2000	To:	14-07-2005
Facts of the Case:	Against the order of Settlement Commn granting immunity from prosecution department went to HC, stating that commission could not have granted immunity as there was improper disclosure. Further party has also not paid the amounts settled.		
Decision of High Court/ CESTAT:	If party fails to pay the amounts settled in toto the immunities granted will not be available. Further the stand of dept that commission could not have granted waiver from prosecution is not supported in law or facts.		
Date of Acceptance:	11-11-2014	Reasons for Acceptance:	On Merits

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Karnataka
Appeal/ Petition No:	CEA No 18/2011	Date Of Order:	07-03-2014
Order No in Case of CESTAT:		Zone:	Bengaluru
Name of the Party:	The People's Choice	Commissionerate:	Service Tax1
Nature of tax:	Service Tax	Board File No:	276/124/2014-CX.8A
Nature of Issue:	Demand	Revenue Rs:	9948000
Period of Dispute From:	01-07-2003	To:	31-03-2004
Facts of the Case:	Show Cause notice was issued to party invoking extended period u/s 73(1)(a) for period 16.10.98 to 31.3.2004 on 6.10.2004.		
Decision of High Court/ CESTAT:	Since Section 73(1)(a) was effective from 10.09.2004, the same could not be invoked for demanding duty for the period prior to that.		
Date of Acceptance:	10-06-2014	Reasons for Acceptance:	On Merits

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Uttar Pradesh
Appeal/ Petition No:	CEA No 283/2013	Date Of Order:	13-03-2014
Order No in Case of CESTAT:		Zone:	Meerut
Name of the Party:	Dabur India Ltd	Commissionerate:	Ghaziabad
Nature of tax:	Central Excise	Board File No:	276/126/2014-CX.8A
Nature of Issue:	Refund	Revenue Rs:	71400000
Period of Dispute From:	21-04-1998	To:	15-12-1998
Facts of the Case:	Party paid duty under protest and challenged the enhanced duty demanded before CESTAT without effecting any change in MRP. Levy on the products was on MRP. The enhanced duty was reflected as sums due to company in books of accounts.		
Decision of High Court/ CESTAT:	Since duty was paid under protest and also the same was reflected in books of accounts as sum due to the company, bar of unjust enrichment not applicable in this case.		
Date of Acceptance:	25-06-2014	Reasons for Acceptance:	On Merits

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Gujarat
Appeal/ Petition No:	SCA No 2866/2014	Date Of Order:	20-04-2014
Order No in Case of CESTAT:		Zone:	Ahmedabad
Name of the Party:	Sadguru Constructions Company	Commissionerate:	Rajkot
Nature of tax:	Service Tax	Board File No:	276/161/2014-CX.8A
Nature of Issue:	Amnesty Schemes	Revenue Rs:	3551000
Period of Dispute From:	01-03-2013	To:	01-04-2014
Facts of the Case:	Party had paid the Service Tax before notification of VCES 2013 and subsequently filed the declaration under said scheme. Further inquiry, investigation or audit has commenced after 1.3.2013, but before notification		
Decision of High Court/ CESTAT:	Party could have made the declaration. As the period for demand is prior to 1.3.13 and no audit, inquiry, investigation started before the party prior to that date.		
Date of Acceptance:	03-07-2014	Reasons for Acceptance:	On Merits

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Gujarat
Appeal/ Petition No:	CA No 16135/2013	Date Of Order:	20-03-2014
Order No in Case of CESTAT:		Zone:	Ahmedabad Cus
Name of the Party:	Astron International Pvt Ltd	Commissionerate:	Ahmedabad
Nature of tax:	Custom	Board File No:	276/131/2014-CX.8A(Cus)
Nature of Issue:	Interpretation of Notification	Revenue Rs:	0
Period of Dispute From:	31-05-2011	To:	16-06-2011
Facts of the Case:	In case of importation of Zircon Concentrate, whether CVD leviable. Department has assessed goods provisionally but in some cases samples not drawn. Party sought finalization of those bill of entries where declaration not disputed.		
Decision of High Court/ CESTAT:	Department should finalize all the bill of entries where declaration not disputed or samples not drawn.		
Date of Acceptance:	03-06-2014	Reasons for Acceptance:	On Merits

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Forum:	High Court	Bench:	Delhi
Appeal/ Petition No:	WPC No 1670/2014	Date Of Order:	18-03-2014
Order No in Case of CESTAT:		Zone:	Delhi Cus
Name of the Party:	CANDEX Chemical	Commissionerate:	ICD Import
Nature of tax:	Custom	Board File No:	276/123/2014-CX.8A (Cus)
Nature of Issue:	Seizure and Confiscation	Revenue Rs:	0
Period of Dispute From:	01-11-2013	To:	31-12-2013
Facts of the Case:	Party was allowed provisional release of goods subject to certain conditions. Party approached Commr (Appl) who held that order u/s 110A was not appealable.		
Decision of High Court/ CESTAT:	All Orders Passed under the Customs Act, 1962, including S 110A are appealable. Hence order of Commr (Appeal) quashed and matter remanded.		
Date of Acceptance:	12-06-2014	Reasons for Acceptance:	Interim Order

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Maharashtra
Appeal/ Petition No:	CXA(L) No 93/2014	Date Of Order:	05-05-2014
Order No in Case of CESTAT:		Zone:	Mumbai2
Name of the Party:	L & T	Commissionerate:	Mumbai2
Nature of tax:	Central Excise	Board File No:	276/160/2014-CX.8A
Nature of Issue:	Valuation	Revenue Rs:	121171678
Period of Dispute From:	01-06-2003	To:	31-01-2007
Facts of the Case:	Whether in absence of any rules, for determination of the RSP for the purpose of determining duty liability u/s 4A can department determine the same by applying 2008 rules. Whether in this case the appeal is maintainable		
Decision of High Court/ CESTAT:	Department could not have applied the rules framed in 2008 retrospectively for determining the RSP of goods cleared without declaring RSP prior to the date of effect of such rules. Since issue is not of valuation appeal maintainable.		
Date of Acceptance:	24-06-2014	Reasons for Acceptance:	Interim Order

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Uttar Pradesh
Appeal/ Petition No:	CEA No 337/2013	Date Of Order:	23-05-2014
Order No in Case of CESTAT:		Zone:	Meerut
Name of the Party:	Naresh Kumar and Co Pvt Ltd.	Commissionerate:	Ghaziabad
Nature of tax:	Central Excise	Board File No:	
Nature of Issue:	Demand	Revenue Rs:	5531000
Period of Dispute From:	01-09-1999	To:	30-09-2003
Facts of the Case:	Party pleaded ground of limitation before the CESTAT. CESTAT dismissed the appeal of party holding that sufficient grounds existed for invoking larger period		
Decision of High Court/ CESTAT:	The SCN was barred by limitation, as the party had filed ST-3 for the relevant period		
Date of Acceptance:	25-09-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Uttar Pradesh
Appeal/ Petition No:	CEA No 117/2014	Date Of Order:	03-07-2014
Order No in Case of CESTAT:		Zone:	Lucknow
Name of the Party:	Etah steel Pvt Ltd	Commissionerate:	Kanpur
Nature of tax:	Central Excise	Board File No:	276/261/2014-CX.8A
Nature of Issue:	Imposition of Cost	Revenue Rs:	10000
Period of Dispute From:	01-09-1997	To:	01-03-1998
Facts of the Case:	CESTAT has imposed a cost of Rs 10,000 on the department while deciding the issue against the department. Department was not challenging the order of tribunal on issue but only in respect of cost imposed.		
Decision of High Court/ CESTAT:	Tribunal has sufficient powers to impose the said cost in terms of rule 40 and 41 of CESTAT procedure Rules		
Date of Acceptance:	24-10-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Uttarakhand
Appeal/ Petition No:	CEA No 5/2011	Date Of Order:	11-07-2014
Order No in Case of CESTAT:		Zone:	Meerut
Name of the Party:	Rhydburg Pharmaceuticals	Commissionerate:	Meerut
Nature of tax:	Central Excise	Board File No:	276/168/2014-CX.8A
Nature of Issue:	Interpretation of Notification	Revenue Rs:	4299000
Period of Dispute From:	17-04-2006	To:	14-07-2006
Facts of the Case:	Whether party could have changed it option to avail the benefit of Notfn No 49/2003 after opting for exemption under notfn no 8/2003 claiming that earlier option was due to typographical error.		
Decision of High Court/ CESTAT:	As party has kept the department informed and benefit under notfn 49/2003 could have been availed by the party and the same cannot be denied.		
Date of Acceptance:	11-07-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Delhi
Appeal/ Petition No:	CEAC No 68/2014	Date Of Order:	20-08-2014
Order No in Case of CESTAT:		Zone:	Delhi ST
Name of the Party:	Petronet LNG Ltd.	Commissionerate:	Service Tax1
Nature of tax:	Service Tax	Board File No:	276/264/2014-CX.8A
Nature of Issue:	Excisability/ Taxablity	Revenue Rs:	1425000000
Period of Dispute From:	01-01-2005	To:	31-12-2009
Facts of the Case:	Against the order of tribunal holding that service tax under the category of supply of tangible good was not leviable in case of party, department filed the appeal to HC.		
Decision of High Court/ CESTAT:	HC dismissed on maintainability as issue was covered by 35L(2).		
Date of Acceptance:	20-10-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Uttar Pradesh
Appeal/ Petition No:	CEA No 93/2013	Date Of Order:	29-08-2013
Order No in Case of CESTAT:		Zone:	Meerut
Name of the Party:	Kay Paan Masala	Commissionerate:	Ghaziabad
Nature of tax:	Central Excise	Board File No:	276/91/2014-CX.8A
Nature of Issue:	Interpretation of Rules	Revenue Rs:	0
Period of Dispute From:	01-08-2009	To:	31-10-2009
Facts of the Case:	In terms of Rule 6(5) of Pan Masala Packing Machines (Capacity Determination and collection of duty) Rules, 2008, is it necessary that the machines not in use be necessarily sealed and transported out of factory to allow the benefit of said rule.		
Decision of High Court/ CESTAT:	The conditions prescribed by the rule are sufficiently complied even if the machines are uninstalled and sealed by the departmental officers. And hence benefit will accrue to the party.		
Date of Acceptance:	28-04-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Delhi
Appeal/ Petition No:	CEAC No 47/2013	Date Of Order:	11-10-2013
Order No in Case of CESTAT:		Zone:	Delhi
Name of the Party:	Jaiswal Products	Commissionerate:	Delhi2
Nature of tax:	Central Excise	Board File No:	276/8/2014-CX.8A
Nature of Issue:	CENVAT Credit	Revenue Rs:	5366066
Period of Dispute From:	01-07-2007	To:	28-02-2008
Facts of the Case:	When process of metalizing was held to be not amounting to manufacture. Whether the CENVAT credit taken by the party during the relevant period was proper.		
Decision of High Court/ CESTAT:	The fact that during the relevant period, duty was paid by the assessee, there is no justification for disallowing the CENVAT credit		
Date of Acceptance:	29-04-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Chattisgarh
Appeal/ Petition No:	TA No 23/2014	Date Of Order:	05-08-2014
Order No in Case of CESTAT:		Zone:	Bhopal
Name of the Party:	Ultratech cement Ltd	Commissionerate:	Bilaspur
Nature of tax:	Central Excise	Board File No:	276/308/2014-CX.8A
Nature of Issue:	CENVAT Credit	Revenue Rs:	212970281
Period of Dispute From:	01-06-2005	To:	01-03-2008
Facts of the Case:	Whether in case where the issue of credit of service tax paid in respect of GTA in dispute whether extended period of limitation can be invoked, when HC and CESTAT taking contrary views		
Decision of High Court/ CESTAT:	Extended period of limitation cannot be invoked in such cases matter remanded back.		
Date of Acceptance:	04-12-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Uttar Pradesh
Appeal/ Petition No:	CEA No 1/2011	Date Of Order:	25-10-2013
Order No in Case of CESTAT:		Zone:	Meerut
Name of the Party:	Moon Beverage Ltd	Commissionerate:	Ghaziabad
Nature of tax:	Central Excise	Board File No:	276/75/2014-CX.8A
Nature of Issue:	Maintainability & Jurisdiction	Revenue Rs:	26085084
Period of Dispute From:	01-12-1989	To:	30-11-1993
Facts of the Case:	When department had withdrawn the appeal from Supreme Court on the ground of alternate remedy, should High Court have not condoned the extra-ordinary delay of 11 yrs in filing the appeal before it.		
Decision of High Court/ CESTAT:	Delay of 11 yrs not condoned and the appeal of the department was dismissed.		
Date of Acceptance:	25-03-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	High Court	Bench:	Maharashtra
Appeal/ Petition No:	Crl Appl No 234/2013	Date Of Order:	13-11-2013
Order No in Case of CESTAT:		Zone:	Mumbai Cus3
Name of the Party:	Sanele Gloria Magagula	Commissionerate:	Airport
Nature of tax:	Others	Board File No:	276/12/2014-CX.8A
Nature of Issue:	Prosecution	Revenue Rs:	00
Period of Dispute From:	16-02-2009	To:	
Facts of the Case:	Thus the accused when intercepted was found to be in possession of 3325 gms. of heroin, by the custom officers at Bombay airport. Trial court acquitted her for the reason that department failed to establish the case against her during trial.		
Decision of High Court/ CESTAT:	High Court held that the view taken by the trial court is a possible view to be taken on the basis of evidence on record. Since the witnesses and officers could not establish the nexus between contraband goods and the accused the case against her failed.		
Date of Acceptance:	27-01-2014	Reasons for Acceptance:	Lack of Evidences

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	22-10-2013
Order No in Case of CESTAT:	ST/A/58062/2013-CU(DB)	Zone:	Meerut
Name of the Party:	M/s Shri Ram Switchgears CCE, M	Commissionerate:	Meerut-II
Nature of tax:	Central Excise	Board File No:	383/1/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Demand of Rs. 1,09,17,894/- alon
Period of Dispute From:	18-04-2006	To:	31-03-2011
Facts of the Case:	Whether the consumables and HV / CV leg oils, replaced during the repair of old transformer shown separately in the invoices and where VAT has been paid on the same, would form part of assessable value for charging Service Tax or not		
Decision of High Court/ CESTAT:	Value of consumables like Transformer Oil in maintenance/repair of the transformers cannot be added to the value of the services provided if the same is shown separately and VAT is paid on it. Relied upon case of Wipro GE [2012(28)STR J44]		
Date of Acceptance:	12-02-2014	Reasons for Acceptance:	Issue Already Settled by earlier decision.

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	22-11-2013
Order No in Case of CESTAT:	A/58364/2013-EX(DB)	Zone:	Meerut
Name of the Party:	M/s India Yamaha Motors Pvt. Ltd	Commissionerate:	Noida
Nature of tax:	Central Excise	Board File No:	383/3/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs. 1,14,40,699/-
Period of Dispute From:	01-06-2006	To:	31-12-2010
Facts of the Case:	Applicability of Section 4A when spare parts send to assessee's division without affixing MRP (2) Whether the case is Revenue Neutral as duty paid was available as Cenvat Credit to their spare Parts Division (3) extended period applicability.		
Decision of High Court/ CESTAT:	CESTAT held that duty was rightly paid under Section-4 of CEA, 1944 and moreover, the entire situation is Revenue Neutral and no duty can be said to have been evaded. No pronouncement made on applicability of extended period.		
Date of Acceptance:	31-01-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	05-07-2013
Order No in Case of CESTAT:	A/57007-57009/2013-EX (DB)	Zone:	Meerut
Name of the Party:	M/s Yamaha Motors India Pvt. Ltd	Commissionerate:	Noida
Nature of tax:	Central Excise	Board File No:	383/5/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs. 10,63,331/- (2) On difference
Period of Dispute From:	01-07-2000	To:	31-03-2004
Facts of the Case:	Whether reimbursement of part of advertising expenses incurred by the dealers, interest paid to financial institutions against bill discount and difference between transit insurance and insurance paid shall form part of assessable value.		
Decision of High Court/ CESTAT:	CESTAT decided that all of the said expenses shall not form part of the assessable value of the goods.		
Date of Acceptance:	07-03-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	01-01-2013
Order No in Case of CESTAT:	ST/A/50003/2014-CU(DB)	Zone:	Meerut
Name of the Party:	M/s Electromec Engineering Enter	Commissionerate:	Meerut-II
Nature of tax:	Central Excise	Board File No:	383/6/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Demand of Rs. 1,34,86,865/- alon
Period of Dispute From:	16-06-2005	To:	31-03-2010
Facts of the Case:	Whether the consumables and HV / CV leg oils, replaced during the of repair of old transformer shown separately in the invoices and where VAT has been paid on the same, would form part of assessable value for charging Service Tax or not?		
Decision of High Court/ CESTAT:	Value of consumables like Transformer Oil in maintenance/repair of the transformers cannot be added to the value of the services provided if the same is shown separately and VAT is paid on it. Relied upon case of Wipro GE [2012(28)STR J44]]		
Date of Acceptance:	27-03-2014	Reasons for Acceptance:	Issue Already Settled by earlier decision.

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Ahmedabad
Appeal/ Petition No:		Date Of Order:	09-12-2013
Order No in Case of CESTAT:	A/11747/WZB/AHD/2013	Zone:	Ahmedabad
Name of the Party:	M/s Cadila Healthcare Ltd. CST, A	Commissionerate:	Ahmedabad
Nature of tax:	Service Tax	Board File No:	387/W/8/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs. 50,00,000/-
Period of Dispute From:	30-09-1999	To:	31-03-2002
Facts of the Case:	Whether hidden component of "Consulting Engineering Service" under the cost of sale of Technical Knowhow is exigible to service tax under the category of Consulting Engineering Service or under Intellectual Property Right Service.		
Decision of High Court/ CESTAT:	Tribunal held the Services to be classifiable under Intellectual Property Right Service and not under the category of Consulting Engineering Service.		
Date of Acceptance:	04-04-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	07-10-2008
Order No in Case of CESTAT:	C/369/08-Cus	Zone:	Delhi Prev
Name of the Party:	M/s Shri Ram Rayons	Commissionerate:	Jodhpur
Nature of tax:	Customs	Board File No:	383/7/14-JC
Nature of Issue:	Interpretation of Notification	Revenue Rs:	Rs. 102.33 lakhs (Approx)
Period of Dispute From:	01-02-1999	To:	28-06-1999
Facts of the Case:	Party made certain imports under EPCG scheme. At the relevant time the Custom Notification did not cover the said imports for benefit under EPCG scheme. Denying the benefit of EPCG dept demanded duty.		
Decision of High Court/ CESTAT:	Any amendment in the EXIM Policy covering a particular item even though not accompanied by similar changes in the relevant Customs notifications, does not debar the said item from the benefit under said customs Notifications		
Date of Acceptance:	25-03-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Bangalore
Appeal/ Petition No:		Date Of Order:	18-02-2014
Order No in Case of CESTAT:	20240/2014	Zone:	Hyderabad
Name of the Party:	M/s C3i Consultants India Pvt. Ltd.	Commissionerate:	Hyderabad-II
Nature of tax:	Service Tax	Board File No:	385/S/10/14-JC
Nature of Issue:	Interpretation of Rule	Revenue Rs:	ST Rs. 61,41,382/-
Period of Dispute From:	01-04-2005	To:	09-05-2008
Facts of the Case:	Whether Tests/Investigations/Verification performed in India and results thereof delivered to Foreign Clients would constitute as 'such service' Partly performed outside India in terms of Export of Services Rules 2005?		
Decision of High Court/ CESTAT:	The service is not complete unless delivered to the client abroad. The service has to be treated as partly performed outside India and therefore, covered by Export of Service Rules, 2005. The issue is covered by B A Research India Ltd case.		
Date of Acceptance:	28-04-2014	Reasons for Acceptance:	Issue Already Settled by earlier decision.

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	25-02-2014
Order No in Case of CESTAT:	A/51020-51024/2014-EX(DB)	Zone:	Chandigarh
Name of the Party:	M/s Ultimate Flexipack Ltd. , CCE,	Commissionerate:	Jammu (J&K)
Nature of tax:	Central Excise	Board File No:	383/10/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Duty Rs. 43,32,486/- Plus Rs. 5,2
Period of Dispute From:	01-04-2004	To:	30-11-2008
Facts of the Case:	Party included the outwards freight charges in the assessable value of the goods, and took the self credit refund in term of Notification No. 56/2002-CE dated 14/11/2002 of the duty paid on inflated value. Department contended against such inclusion.		
Decision of High Court/ CESTAT:	When the invoices for sales are on FOR destination basis, the value of the outward freight is includible in the taxable value of the goods.		
Date of Acceptance:	30-05-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	04-03-2014
Order No in Case of CESTAT:	A/50961/2014 EX(DB)	Zone:	Meerut
Name of the Party:	M/s Kurlon Ltd., CCE & ST Meerut	Commissionerate:	Meerut-I
Nature of tax:	Central Excise	Board File No:	383/11/14-JC
Nature of Issue:	Interpretation of Notification	Revenue Rs:	Rs. 4,57,29,853/-
Period of Dispute From:	01-01-2011	To:	30-09-2011
Facts of the Case:	Whether Intermediate goods i.e the blocks of Polyurethane Foam of irregular shapes are classifiable under CETH 3909 50 00 of CETA 1985 and eligible for Exemption under Notification No. 50/2003-CE dated 10-06-2003 or under CETH 3921 as alleged by the dept.		
Decision of High Court/ CESTAT:	Tribunal held that irregular blocks of PU Foam which is an intermediary product is classifiable under CETH 3921 and therefore, entitled to Exemption under Notification No. 50/2003-CE dated 10-06-2003		
Date of Acceptance:	05-06-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	24-03-2014
Order No in Case of CESTAT:	A/51464/2014-EX(DB)	Zone:	Chandigarh
Name of the Party:	M/s Skyway Steel industries, CCE	Commissionerate:	Ludhiana
Nature of tax:	Central Excise	Board File No:	383/14/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs. 81,28,907/- + equal Penalty.
Period of Dispute From:	01-04-2007	To:	30-11-2012
Facts of the Case:	Under-valuation of Alloy and Non-Alloy Rounds falling under Chapter 72 as indicated by very low value addition by the manufacturers. Hence department sought to value the goods under Valuation Rules in terms of Sec-4(1)(b) of CEA,1944.		
Decision of High Court/ CESTAT:	When there is no evidence of under-declaration, the value cannot be re-determined by cost construction method.		
Date of Acceptance:	09-06-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Bangalore
Appeal/ Petition No:		Date Of Order:	09-04-2014
Order No in Case of CESTAT:	20500/2014	Zone:	Bangalore Zone
Name of the Party:	M/s Smithkline Beecham pharmac	Commissionerate:	Bangalore-I
Nature of tax:	Central Excise	Board File No:	385/S/12/14-JC
Nature of Issue:	Interpretation of Notification	Revenue Rs:	Rs. 34,39,371/-
Period of Dispute From:	01-09-1996	To:	31-03-2001
Facts of the Case:	Party is manufacturer of Crocin Syrup an exempted product. During course of manufacture sugar syrup comes into existence. Department demanded duty claiming the same to have shelf life and hence marketable.		
Decision of High Court/ CESTAT:	Tribunal upheld the order of the Commissioner who held the Sugar Syrup to be not a distinct marketable product, hence not excisable.		
Date of Acceptance:	27-07-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	29-01-2014
Order No in Case of CESTAT:	ST/A/50694-50699/2013 CU(DB)	Zone:	Meerut
Name of the Party:	M/s Paramax Electronics Pvt. Ltd.	Commissionerate:	Noida
Nature of tax:	Central Excise	Board File No:	383/15/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Service Tax Demand of Rs. 1,32,6
Period of Dispute From:	01-04-2010	To:	31-03-2011
Facts of the Case:	Whether the consumables and HV / CV leg oils, replaced during the repair of old transformer shown separately in the invoices and where VAT has been paid on the same, would form part of assessable value for charging Service Tax or not?		
Decision of High Court/ CESTAT:	Value of consumables like Transformer Oil in maintenance/repair of the transformers cannot be added to the value of the services provided if the same is shown separately and VAT is paid on it. Relied upon case of Wipro GE [2012(28)STR J44]		
Date of Acceptance:	11-06-2014	Reasons for Acceptance:	Issue Already Settled by earlier decision.

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	10-01-2014
Order No in Case of CESTAT:	A/58636/2013 - EX(DB)	Zone:	Bhopal
Name of the Party:	M/s Orient Steel Re-Rolling Mill C	Commissionerate:	Raipur
Nature of tax:	Central Excise	Board File No:	383/16/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs. 86,24,062/-
Period of Dispute From:	01-07-2000	To:	28-02-2006
Facts of the Case:	Department's contention is that when more than 50% of the excisable goods were supplied to Related Party, the valuation ought to be done under Sec-4(1)(b) of CEA,1944.		
Decision of High Court/ CESTAT:	Tribunal held that supplier and buyer are not related person in terms of section 4(3)(b) of CEA, 1944 and therefore, declared transaction value has to be accepted.		
Date of Acceptance:	18-07-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	29-01-2014
Order No in Case of CESTAT:	A/50694-50699/2014-CU(DB)	Zone:	Meerut
Name of the Party:	M/s S. J. Transformers, CCE & ST	Commissionerate:	Meerut-II
Nature of tax:	Service Tax	Board File No:	383/17/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Demand of Rs. 3,37,45,549/- alon
Period of Dispute From:	16-06-2005	To:	31-03-2010
Facts of the Case:	Whether the consumables and HV / CV leg oils, replaced during the repair of old transformer shown separately in the invoices and where VAT has been paid on the same, would form part of assessable value for charging Service Tax or not?		
Decision of High Court/ CESTAT:	Value of consumables like Transformer Oil in maintenance/repair of the transformers cannot be added to the value of the services provided if the same is shown separately and VAT is paid on it. Relied upon case of Wipro GE [2012(28)STR J44]		
Date of Acceptance:	25-06-2014	Reasons for Acceptance:	Issue Already Settled by earlier decision.

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Kolkata
Appeal/ Petition No:		Date Of Order:	30-04-2014
Order No in Case of CESTAT:	75192-75217/2014	Zone:	Kolkata Cus
Name of the Party:	M/s Sesa Goa Ltd. CC (Port), Kolka	Commissionerate:	(Port)
Nature of tax:	Customs	Board File No:	384/E/2/14-JC
Nature of Issue:	Interpretation of Circular	Revenue Rs:	More than Rs. 5 Crores
Period of Dispute From:	28-05-2010	To:	11-06-2010
Facts of the Case:	Party claimed the valuation of imported iron fines on dry metric ton basis (DMT) in terms of the contract with foreign supplier. Department demanded the duty by determining the value on wet metric ton basis (WMT).		
Decision of High Court/ CESTAT:	Tribunal held that the order of the Supreme Court in case of Ganagadhar Narsigdas Agarwal is inapplicable here and upheld the order of the Commissioner(Appeals) holding that assessable value be determined on Dry Metric Ton (DMT) basis as per contract.		
Date of Acceptance:	10-09-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Mumbai
Appeal/ Petition No:		Date Of Order:	02-04-2014
Order No in Case of CESTAT:	A/697/700/14/CSTB/C-I	Zone:	Mumbai 2
Name of the Party:	M/s Inox Air Products Ltd. CCE, Ra	Commissionerate:	Raigad
Nature of tax:	Central Excise	Board File No:	387/W/33/14-JC
Nature of Issue:	Interpretation of Rule	Revenue Rs:	Central Excise Duty for Rs. 6,53,9
Period of Dispute From:	01-01-2004	To:	30-06-2009
Facts of the Case:	Department has contended whether value of electricity, supplied free of coat by the unit holder, is includible in the value of the service provided in course of maintenance/operation of the Oxygen making Plant the service provider		
Decision of High Court/ CESTAT:	Value of electricity used by the Service Provider in maintaining and operating oxygen making plant cannot be part of value of the Service.		
Date of Acceptance:	25-07-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Ahmedabad
Appeal/ Petition No:		Date Of Order:	01-05-2014
Order No in Case of CESTAT:	A/10887-10904/WZB/AHD/2014	Zone:	Vadodara
Name of the Party:	M/s Euro Décor Pvt. Ltd. (Formerl	Commissionerate:	Vapi
Nature of tax:	Central Excise	Board File No:	387/W/34/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Duty Rs. 10,25,56,737/-
Period of Dispute From:	01-04-2002	To:	31-03-2005
Facts of the Case:	Department had alleged that the party had misdeclared the value of laminates cleared by it on invoices. They had received certain additional amounts over and above the invoice value in cash. Hence demanded duty on the value suppressed.		
Decision of High Court/ CESTAT:	Tribunal upheld the declared value for lack of evidence of cash flow back to the manufacturer.		
Date of Acceptance:	18-07-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	13-05-2014
Order No in Case of CESTAT:	ST/A/52216/2014-CU(DB)	Zone:	Meerut
Name of the Party:	M/s A.B.C. Transformer Pvt. Ltd. C	Commissionerate:	Noida
Nature of tax:	Central Excise	Board File No:	383/21/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Service Tax Demand of Rs. 63,27,
Period of Dispute From:	01-04-2011	To:	31-03-2012
Facts of the Case:	Whether the consumables and HV / CV leg oils, replaced during the repair of old transformer shown separately in the invoices and where VAT has been paid on the same, would form part of assessable value for charging Service Tax or not?		
Decision of High Court/ CESTAT:	Value of consumables like Transformer Oil in maintenance/repair of the transformers cannot be added to the value of the services provided if the same is shown separately and VAT is paid on it. Relied upon case of Wipro GE [2012(28)STR J44]		
Date of Acceptance:	24-07-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Bangalore
Appeal/ Petition No:		Date Of Order:	17-01-2014
Order No in Case of CESTAT:	20024/2014	Zone:	Visakhapatnam
Name of the Party:	M/s Srinivasa Transport CCE & ST	Commissionerate:	Visakhapatnam-I
Nature of tax:	Service Tax	Board File No:	385/S/17/14-JC
Nature of Issue:	Classification	Revenue Rs:	Rs. 63,43,575/-
Period of Dispute From:	01-07-2010	To:	31-03-2011
Facts of the Case:	Department's contention is that the services provided by the assessee falls partly under (1) "Business Support Service" and (2) Cargo Handling Service.		
Decision of High Court/ CESTAT:	Tribunal set aside the demand under "Business Support Service" and remanded the case pertaining to Cargo Handling for examining individual activities.		
Date of Acceptance:	07-08-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	22-03-2013
Order No in Case of CESTAT:	ST/A/56291/2013-CU(DB)	Zone:	Delhi
Name of the Party:	M/s Lufthansa Technik Services In	Commissionerate:	New Delhi
Nature of tax:	Service Tax	Board File No:	383/36/14-JC
Nature of Issue:	Interpretation of Rule	Revenue Rs:	ST Rs. 94,09,780/-
Period of Dispute From:	01-04-2004	To:	31-05-2007
Facts of the Case:	Whether Income received from leasing of Aircraft components/ parts will fall under the category of 'Financial Leasing' and is chargeable to Service Tax under Section 65(105)(zm) of the Finance Act, 1994."		
Decision of High Court/ CESTAT:	Income received from leasing of Aircraft components/ parts cannot be considered as Financial Leasing services as defined by Section 65(105)(zm) of the Finance Act, 1994 and hence not taxable.		
Date of Acceptance:	25-08-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Mumbai
Appeal/ Petition No:		Date Of Order:	16-01-2014
Order No in Case of CESTAT:	A/145/14/CSTB/C-I	Zone:	Pune
Name of the Party:	M/s The Sandur Manganese & Iro	Commissionerate:	Goa
Nature of tax:	Customs	Board File No:	387/W/42/14-JC
Nature of Issue:	Interpretation of Notification	Revenue Rs:	Demand Rs. 2,32,06,277/-
Period of Dispute From:	17-07-1990	To:	12-11-1990
Facts of the Case:	Denial of benefit of Notif No. 35/90-Cus and 36/90-Cus both dated 20-03-90, to import of Low Ash Low Phosphorous Coke /Low Ash Metallurgical Coke- on the ground that on testing of sample at CRCL, N Delhi, the Phosphorous content was above 0.035%		
Decision of High Court/ CESTAT:	The department could not provide evidence of proper drawl of sample in accordance with IS Specifications and hence the test report based on such drawl of samples cannot be relied upon. Appeal of party was allowed.		
Date of Acceptance:	12-09-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	30-06-2014
Order No in Case of CESTAT:	C/A/52570-52612/2014-CU(DB)	Zone:	Delhi Prev
Name of the Party:	M/s. Balaji International & Artex T	Commissionerate:	Amritsar
Nature of tax:	Customs	Board File No:	383/51/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs.68,75,284/-.
Period of Dispute From:	18-06-2011	To:	14-10-2011
Facts of the Case:	Since the importer has accepted the enhanced value on the face of Bill of Entry itself, the assessment was done without any speaking order whether it can be said that the reasons for enhancement of value was not disclosed to the assessee.		
Decision of High Court/ CESTAT:	Since the reasons for enhancement of the value on bill of entry was not disclosed to the parties the order of enhancing the value on the bill of entry was set aside.		
Date of Acceptance:	12-09-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Ahmedbad
Appeal/ Petition No:		Date Of Order:	31-07-2014
Order No in Case of CESTAT:	A/11433/2014	Zone:	Ahmedabad
Name of the Party:	M/s C.J. Shah & Co. Vs CCE & ST R	Commissionerate:	Rajkot
Nature of tax:	Service Tax	Board File No:	387/W/50/14-JC
Nature of Issue:	Interpretation of Rule	Revenue Rs:	ST Rs. 5,09,28,274- along with ₹
Period of Dispute From:	01-10-2007	To:	05-01-2012
Facts of the Case:	The Department contended that the value of services incurred on clearance of imported goods forms part of the value Business Auxilary Service provided by the importer to the ultimate buyers.		
Decision of High Court/ CESTAT:	CESTAT held that the transaction involves sales and purchase of goods and not service. However, the O-in-O was set aside on the ground of limitation.		
Date of Acceptance:	01-10-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	19-07-2013
Order No in Case of CESTAT:	ST/A/57036-57039/2013-CU(DB)	Zone:	Delhi
Name of the Party:	M/s Delhi Public School Society Vs	Commissionerate:	New Delhi
Nature of tax:	Service Tax	Board File No:	383/56/14-JC
Nature of Issue:	Excisability/ Taxablity	Revenue Rs:	ST Rs. 76,49,400/- Edu Cess Rs. 8
Period of Dispute From:	01-07-2003	To:	31-03-2009
Facts of the Case:	The Department contended that the services provided by the Delhi Public School Society to various persons were taxable under Franchisee Services. Whether in facts and circumstances extended period applicable.		
Decision of High Court/ CESTAT:	Tribunal held that services are taxable under Franchisee Services. Extended period in the facts and circumstances of the case will not be applicable for demanding duty.		
Date of Acceptance:	31-10-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	13-08-2013
Order No in Case of CESTAT:	A/57487/2013-EX(DB)	Zone:	Delhi
Name of the Party:	M/s Nestle India Ltd. CCE & ST, Ne	Commissionerate:	New Delhi
Nature of tax:	Central Excise	Board File No:	383/63/14-JC
Nature of Issue:	Classification	Revenue Rs:	Rs. 1,53,62,199/-
Period of Dispute From:	01-06-2003	To:	29-02-2008
Facts of the Case:	Department claimed Classification of "Nestle Tea Premix" under CETH 2101.10 and assessee claimed the same under CETH 2108.99 which allowed higher rate of abatement.		
Decision of High Court/ CESTAT:	Tribunal held the classification of Nestle Tea Premix under 2101.10 but declined the demand under extended period and it also set aside the penalty.		
Date of Acceptance:	17-11-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	24-04-2013
Order No in Case of CESTAT:	A/56491-92/2013-EX(DB)	Zone:	Delhi
Name of the Party:	M/s Vimla Rolling Mills and M/s K	Commissionerate:	Delhi-II
Nature of tax:	Central Excise	Board File No:	383/66/14-JC
Nature of Issue:	Interpretation of Notification	Revenue Rs:	Rs. 6,63,55,757/-
Period of Dispute From:	01-05-1982	To:	31-03-1983
Facts of the Case:	Processes undertaken by the party were held as manufacturing process and accordingly liable to Central Excise Duty. Party claimed the Proforma Credit u/r 56A of CER-1944 on inputs used. Since proper procedure not followed credit was not allowed.		
Decision of High Court/ CESTAT:	Since the processes undertaken were process of manufacture and the benefit of proforma credit available in respect of the inputs used the same cannot be denied for the reasons of procedural infractions.		
Date of Acceptance:	12-12-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	24-07-2014
Order No in Case of CESTAT:	A/53075/2014-EX(DB)	Zone:	Jaipur
Name of the Party:	M/s Modi Alkalis & Chemicals Ltd.	Commissionerate:	Jaipur-I
Nature of tax:	Central Excise	Board File No:	383/68/14-JC
Nature of Issue:	Interpretation of Circular	Revenue Rs:	CE Duty amounting to Rs. 76,82,5
Period of Dispute From:	01-10-1991	To:	29-02-1992
Facts of the Case:	Party fabricated Diesel Generator Set fabricated and erected at site, from the duty paid components procured from the market would be excisable. Department alleged that DG Set so fabricated was excisable		
Decision of High Court/ CESTAT:	D.G. Set fabricated and erected at site from the duty paid components would not be excisable as the same is neither portable or marketable.		
Date of Acceptance:	03-12-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	03-06-2014
Order No in Case of CESTAT:	C/A/52441-52445/2014-CU(DB)	Zone:	Delhi Prev
Name of the Party:	M/s Patiala Castings Pvt. Ltd. Man	Commissionerate:	Amritsar
Nature of tax:	Customs	Board File No:	383/69/14-JC
Nature of Issue:	Interpretation of Rule	Revenue Rs:	Rs. 60,58,611/-
Period of Dispute From:	20-03-2000	To:	20-05-2000
Facts of the Case:	Contrary to the claim of the party that imported goods was Heavy melting scrap (HMS) department alleged them to be MS Pipes on the basis of expert opinion and test reports. The party contested the said allegation.		
Decision of High Court/ CESTAT:	Tribunal, relying on the report of Commissioner appointed by the High Court, held that the imported goods were H M S (Heavy melting Scrap) classifiable as 'Waste & Scrap' and not M. S. Pipes.		
Date of Acceptance:	21-11-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Mumbai
Appeal/ Petition No:		Date Of Order:	16-07-2014
Order No in Case of CESTAT:	A/1366-1374/14/CSTB/C-I	Zone:	Pune
Name of the Party:	M/s Magarpatta Township Develo	Commissionerate:	Pune-III
Nature of tax:	Service Tax	Board File No:	387/W/58/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs. 11,79,89,913/- of Service tax (
Period of Dispute From:	01-04-2007	To:	30-09-2013
Facts of the Case:	Whether Notional Interest accrued on interest free returnable Security Deposits, taken in addition to monthly Rent for business premises, is includible in the taxable value for payment of Service Tax under 'Renting of Immovable Property Service'.		
Decision of High Court/ CESTAT:	Tribunal held that the Notional Interest accrued on interest free returnable Security Deposits, will not form part of the taxable value of the Services under 'Renting of Immovable Property Service'		
Date of Acceptance:	14-11-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Delhi
Appeal/ Petition No:		Date Of Order:	24-07-2014
Order No in Case of CESTAT:	A/53004-53005/2014-EX(DB)	Zone:	Delhi
Name of the Party:	M/s Kuber Khaini Pvt. Ltd. CCE, De	Commissionerate:	Delhi-I
Nature of tax:	Central Excise	Board File No:	383/70/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs. 3,51,48,573/-
Period of Dispute From:	01-08-2007	To:	31-12-2007
Facts of the Case:	Whether Khaini (tobacco) where each sachet of 10 gms or less packed in strips of 14 and two such strips further packed in poly pouches, being a multi-piece pack, is exempted under Rule 34 of SW & M (PC) Rules 1977 and assessable under Sec-4 or 4A		
Decision of High Court/ CESTAT:	Tribunal held that individual Khaini (tobacco) pouch of 10/9 gms or less are exempted from declaring MRP under Rule 34 of SW & M (PC) Rules 1977 and hence assessable under Sec-4 of CEA, 1944		
Date of Acceptance:	09-12-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Mumbai
Appeal/ Petition No:		Date Of Order:	27-06-2014
Order No in Case of CESTAT:	A/1184-1188/CSTB/C-I	Zone:	Mumbai Cus1
Name of the Party:	M/s Swiber Offshore Construction	Commissionerate:	Mumbai (Import)
Nature of tax:	Customs	Board File No:	387/W/59/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs. 22,18,19,208/- along with Int
Period of Dispute From:	18-01-2011	To:	
Facts of the Case:	Under -valuation of imported Vessel.		
Decision of High Court/ CESTAT:	Since the imported vessel is eligible for benefit under Notfn 21/2002-Cus, Sr No 214, the issue of valuation is not relevant, relied on Wander's case 2003(157)ELT 3 (SC).		
Date of Acceptance:	02-12-2014	Reasons for Acceptance:	Issue Already Settled by earlier decision.

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Mumbai
Appeal/ Petition No:		Date Of Order:	05-08-2014
Order No in Case of CESTAT:	ST/1318/14/CSTB/C-I	Zone:	Mumbai ST
Name of the Party:	M/s Directi Internet Solution Pvt.	Commissionerate:	Mumbai
Nature of tax:	Service Tax	Board File No:	387/W/60/14-JC
Nature of Issue:	Interpretation of Rule	Revenue Rs:	Rs. 36,05,25,729/-
Period of Dispute From:	01-03-2006	To:	31-03-2011
Facts of the Case:	Department alleged that party was a franchisee of ICANN. Since ICANN was franchisee service provider, and was situated outside India, party was required to pay service tax under reverse charge mechanism		
Decision of High Court/ CESTAT:	Tribunal held that the appellant cannot be considered as a Franchisee of ICANN and therefore, resellers cannot be considered as Franchisee of the associate Franchisee. Tribunal, therefore, held that no service tax is leviable under the Franchisee Service		
Date of Acceptance:	25-11-2014	Reasons for Acceptance:	On Merits

Caution:

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CENTRAL BOARD OF EXCISE AND CUSTOMS

Forum:	CESTAT	Bench:	Mumbai
Appeal/ Petition No:		Date Of Order:	14-10-2014
Order No in Case of CESTAT:	A/1644/14/CSTB/C-I	Zone:	Pune
Name of the Party:	M/s K. Raheja Corp Pvt. Ltd, CST,	Commissionerate:	Pune-III
Nature of tax:	Service Tax	Board File No:	387/W/73/14-JC
Nature of Issue:	Valuation	Revenue Rs:	Rs. 55,34,968/- of Service Tax, Int
Period of Dispute From:	01-04-2008	To:	31-03-2012
Facts of the Case:	Whether Notional Interest accrued on interest free returnable Security Deposits, taken in addition to monthly Rent for business premises, is includible in the taxable value for payment of Service Tax under 'Renting of Immovable Property Service'		
Decision of High Court/ CESTAT:	Tribunal held that the Notional Interest accrued on interest free returnable Security Deposits, will not form part of the taxable value of the Services under 'Renting of Immovable Property Service'		
Date of Acceptance:	31-12-2014	Reasons for Acceptance:	On Merits

Caution:

Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.

CENTRAL BOARD OF EXCISE AND CUSTOMS

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Please note that the decision of the Board not to pursue the matter further in Apex Court is on account of various reasons in facts and circumstances of each case. While applying the ratio of the decisions/ judgements indicated, it must be ensured that the facts are not distinguishable and the reasons for acceptance must also be taken into account.