AP VAT / GST Update

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Gist of Judgments of Supreme Court

Sr. No	Name of the Appellant	Appeal No and date of decision	Gist of Judgments / Orders passed
	Asst Commissioner Trade Tax Vs Auto Centre	SLP (Civil) Dairy No.4872/18 dt 8.5.18 (uploaded in Daily Orders)	SLP against Judgment of Allahabad HC in WP 2233/02 dt 31.8.16; was dismissed for want of condonation of delay. (Judgment of HC was: it is nothing but a case of change of opinion which does not allow jurisdiction to initiate re-assessment proceedings under Section 21 of Act, 1948.)

Gist of Judgments of High Court, Hyderabad

	M/s. Capricorn Food Products	lA Nos. 1 &2 OF 2018 IN WP NO: 18477 OF 2018 dt 7.6.18	As a jurisdictional issue which goes to the root of the matter has been raised which, prima facie, appears to be well founded, there shall be interlm stay as prayed for in both the lnterlocutory Applications.

Gist of Judgments of High Courts

1	Caparo Power Ltd vs State of Haryana and Ors	CWP 24937/17 dt 28.3.18 (P&H HC)	It is held that the respondents are liable to issue `C' Forms in respect of the natural gas purchased by the petitioner from the Oil Companies in Gujarat and used in the generation or distribution of electricity at its power plants in Haryana. In the event of the petitioner having had to pay the oil companies any amount on account of the first respondent's wrongful refusal to issue `C' Forms the petitioner shall be entitled to refund and/or adjustment of the same from the concerned authorities who collected the excess tax through the oil companies or otherwise.
2	Remark Flour Mills Pvt. Ltd., Vs. State of Gujarat	R/SCA/4835 /18 dt19.4.18 (Gujarat HC)	The reason why exercise of such drastic power of attachment of bank accounts was necessary. We would therefore set aside such attachments. At the same time, we would like to provide some security so that eventually, if the tax liability is confirmed, the department is not left with no means to recover the same.
3	Shree Raipur Cement Plant Vs State of Chhattisgarh	WP(T)83/18 Dt 18.5.18 (Chhattisgarh HC)	registration certificate under the CST Act, 1956 is still valid for the goods defined in Section 2(d) of the CST Act, 1956, including high speed diesel, and the petitioner is entitled for issuance of C-Form for inter-State purchase / sale of high speed diesel against the said C-Form. Accordingly, the respondents shall be liable and are directed to issue C-Form to the petitioner in respect of high speed diesel to be purchased by the petitioner and used in the course of manufacture of cement and for that, it is further directed to rectify and remove the error on their official website and entertain the petitioner's application submitted on-line on the official website seeking issuance of C Form to the petitioner for said goods.

CESTAT

1	Shri Bakthiyar Ahmed vs. CCE & ST, Chennai	ST - 41704/2018 dt 1.6.2018 (Chennai)	fall within the definition of Commercial or Industrial Construction Service. “However, the definition was applicable only to a “commercial concern” up to 01.05.2006 - , the levy of service tax cannot be sustained for the period up to 30.04.2006, and is set aside - with effect from 01.05.2006, the definition stands amended and has been made applicable to “any person”. Consequently, the appellant will be liable for making payment of service tax w.e.f. 01.05.2006

GOs issued – GST

1	GO Ms No. 290	5.6.18	Waiver of Late fee on failure to furnish GSTR 3B by due date for the months from October, 2017 for those who have filed GST TRAN-1 on or before 10th May, 2018
	GO Ms No. 292	6.6.18	Amendment to the notification - Persons to pay tax under Section 9(3) of the Andhra Pradesh Goods and Services Tax Act, 2017

Advance Rulings given Under GST

	Synthite Industries Limited	CT/2275/18-C3 dt 26.3.18 (Kerala)	The goods are liable to IGST when they are imported into India and the IGST is payable at the time of importation of goods into India. The applicant is neither liable to GST on the sale of goods procured from China and directly supplied to USA nor on the sale of goods stored in the warehouse in Netherlands, after being procured from China, to customers, in and as the goods are not imported into India at any point.
	Rajashri Foods Pvt. Ltd	KAR ADRG 06/2018 dt 23.4.18 Karnataka	GST not leviable on Sale of 'Going Concern - The AAR said that as per a government notification, any transfer of a going concern constitutes a 'supply of service' and 'nil' tax rate will apply to it..... Transfer or a going concern means the transfer of a running business which is capable of being carried on by the purchaser as an independent business. Such transfer of the business as a whole will comprise comprehensive transfer or immovable property, goods and transfer of unexecuted orders, employees, goodwill etc.
	EMC Ltd	Case No.-07 of 2018 dt 11.5.18 West Bengal	Entire Value of Works Contract Service Including Freight and Transportation is subject to 18% GST - The price components of both the first and the second contracts including that of transportation, in transit insurance etc. are to be clubbed together to arrive at the value of components supply of Works Contract Service. The rate of GST will be @ 18% for the entire value of works contract service.
	JJ Fabrics	CT 15492/18-C3 dt 29.5.18 (Kerala)	accepted the test report submitted by the applicant and added that in Custom Tariff Act, snacks and bags made of polypropylene strip and ruled that carry bags made of polypropylene non-woven fabrics is taxable at 5%.

ADC (presently Appellate Joint Commissioner) Orders

1	Akhil Colours(P) Ltd	77/2017-18(NLR) dt 28.5.18 (ADC 3111)	appellant only submitted certificate issued by the customs officer, Nepal and has not submitted other documents to prove the transactions even at the time of hearing before the appellate authority and the learned authorized representative admitted that they could not produce the required evidence. (orders are against INDO-NEPAL TREATY OF Trade)

DC Orders (Presently Joint Commissioner of State Taxes)

1	Suvarna Granites	RV No. 80 /2017-18/NRP Dt 11.6.18 (DC Orders 1809)	assessee purchased "generator" for rs.6,52,380/- vide tax invoice No.C/2 dt.12.04.2013 and claimed input tax of Rs.94,595/- which was incorrect as per above provision. The assessing authority did not disallow the input tax (revision against the spirit of Telangana Tribunal in the case of Bharat Electronics Limited in TA 655/09 dt 17.4.18)