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KEY JUDGEMENTS IN INDIRECT TAX IN 2024

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MINERAL AREA DEVELOPMENT AUTHORITY. V. STEEL AUTHORITY OF INDIA [2024] 164 TAXMANN.COM 806 (SC)

Mineral Area Development Authority v Steel Authority of India

[2024] 164 taxmann.com 806 (SC)

History and Background

- Two concurrent judgements **(25 July)** and **(14 August)** of the Larger Bench ("**LB"**) of the Supreme Court
- **Indian Cement v. State of Tamil Nadu[Civil Appeal No. 62(N) of 1970, Dated - 25-10-1989]:** Distribution of legislative powers between the Union and States on taxation of mineral rights. Royalty is tax and state legislatures **lack competence** to levy taxes on mineral rights - Subject-matter is covered by the Mines and Minerals (Development and Regulation) Act, 1957 ("**MMDR Act")**
- **State of W.B. v. Keshoram Industries [Civil Appeal nos. 1532-33 of 1993, Dated 15-1-2004]:** India Cement judgement erroneous and **royalty is not a tax**
- **Issues**: Whether Royalty is in the nature of tax? The substantive issue before the Supreme Court was ascertaining the ambit of Constitutional powers of the State legislatures to impose taxes on mineral rights in contrast to the Constitutional powers of the Parliament.
- On one hand, the Parliament has the power to legislate on the subject matter 'and exercising this power, had enacted the MMDR Act, which provides for charging of royalty on the holder of mining lease in respect of any mineral removed from the lease area. On the other hand, States also have the power to legislate on the subject matter under 'taxes on land and building' as well as 'taxes on mineral rights', subject to any limitations imposed by the Parliament by law relating to mineral development'.
- "Taxes on lands and buildings" in Entry 49 List II of the Constitution: Whether it covers a tax which involves a measure based on the value of the produce of land?
- Seven judge bench of India Cements was contrasted by five judge bench in Keshoram which held royalty was not tax. Being larger bench, India Cements still prevailed, till referred to nine judge bench in March 2011
- Post Kesoram, several State legislatures (Rajasthan, UP, Bihar etc.), started exercising legislative powers to impose levies on mineral bearing land. However, these levies faced constitutional challenge before the state High Courts in light of the India Cement Case

Findings

- The judgement by majority declared that royalty on mining is not in the nature of a tax and overruled the judgement in India Cement v State of Tamil Nadu. Order was made applicable from 1 April 2005
- Supreme Court concluded that "lands and buildings" in the taxation-related Entry 49 of List II of the Seventh Schedule includes mineral land. Further, the Supreme Court also held royalty is a consideration and not a tax
- The Supreme Court held that the State is entitled to tax royalty by virtue of Entry 49 which empowers the States to levy taxes on land and buildings as well as by virtue of Entry 50 which empowers the States to levy tax on mineral rights subject to any limitations imposed by the Parliament by law relating to mineral development
- Entry 49 contemplates the levy of tax on land and buildings as a unit and it does not allow the State to levy tax on division of interest in the building or land or service rendered on or in connection with lands and buildings.

Dissent of B.V. Nagarathna J:

- The nature of royalty under the MMDR Act is that it is in the nature of a tax under Article 366(28) of the Constitution which defines taxation to include the imposition of any tax or impost, whether local, general or special, and the word tax should be construed accordingly. Royalty is a tax and not a contractual payment but a statutory levy under the MMDR Act.
- Entry 49 – List II deals with taxation of lands and buildings. It does not cover mineral bearing lands. Taxes on land and buildings under Entry 49 List II contemplates a tax levied directly on land.
- Unhealthy competition between states for the derivation of additional revenue. Competition among mining companies for mining leases in states that do not seek to impose levies apart from royalty.

Mineral Area Development Authority v Steel Authority of India [2024] 164 taxmann.com 806 (SC)

Key Takeaways

- The Court held that royalty is a consideration for the grant of a privilege for removing or consuming the minerals which is paid in terms of contractual as well as statutory obligations. The mere fact that such payment is made under a statutory obligation would not change the nature of such payment to be 'tax
- The lessor charges royalty as a consideration for parting with the right to win minerals, while a tax is an imposition of a sovereign. Royalty is paid as consideration of doing a particular action, that is, extracting minerals from the soil, while tax is generally levied with respect to a taxable event determined by law. Royalty generally flows from the lease deed as compared to tax which is imposed by authority of law
- The competence of the State to levy tax or cess on royalty has been upheld. Hence, States are entitled to levy tax on royalty under the law enacted by the State. There is no direct connection between the taxing powers of the States in relation to mineral rights, and regulatory powers of the Parliament in relation to mines and minerals
- The word 'land' includes 'land of every description' and also contemplates land as a unit, irrespective of the use to which it is put. This allows the States to levy tax on mineral bearing lands. Hence, if land includes everything below and above the surface, constitutionally speaking, even sub-soil minerals form part of the land, which essentially encapsulates the difference between States' power to impose 'taxes on land and building' vis-à-vis 'taxes on mineral rights'

Impact on Industry

- Possibility of various States imposing taxes on mineral rights at different rates, which may have a bearing on the comparative competitiveness of various mines and mineral based industries.
- Unhealthy competition among mining companies could result in a slump in mining activity in certain mineral-extracting states, due to levies that the states are now authorized to impose
- The judgement will be a leading case to guide taxability of the transactions related to land and building under GST (long term lease, transfer of development rights etc. where the power of Centre to levy taxes on such transactions have been questioned)
- If leasehold rights are considered a benefit conferred upon a person to enjoy the occupancy and possession over a piece of land for the lease period, then whether assignment of long-term leasehold rights amounts to transfer of a benefit arising of land
- The question about applicability of lease of immovable property is pending before a larger Bench of the Hon'ble Supreme Court in **Union of India v. UTV News Ltd,** [2018] 93 taxmann.com 238 (SC) which will now be decided by the Supreme Court
- Whether "the interest in land" and "leasehold rights" [which are the said benefits] are on a different footing from "lease" simpliciter. Whether GST can be made applicable on long term lease (assignment) transactions will be the substantial question of law to be decided

Mineral Area Development Authority and Anr. v Steel Authority of India [2024] 164 taxmann.com 806 (SC)

History and Background

- **[2024 INSC 607] : 14 August**: Whether MADA judgement on 25 July should be given prospective effect
- MADA (14 August): The doctrine of prospective overruling is applied when a constitutional court overrules a well-established precedent by declaring a new rule but limits its application to future situations
- Demands for tax under state legislation pertaining to Entries 49 and 50 of List II of the Seventh Schedule were stayed in terms of the law laid down in India Cement
- Since MADA (25 July) overruled established India Cements judgement, question of prospective overruling came up

Findings

- The Supreme Court rejected prospective overruling. Earlier demands could be levied only to the extent of tax and not interest and penalty
- Basis MADA (25 July) if states were to levy any demand of tax, the same not to operate on transactions made prior to 1 April 2005
- Installment payments (over 12 years) to be allowed for said demands commencing 1 April 2026. Levy of interest and penalty not imposed for period prior to 25 July 2024
- MADA (25 July) had upheld the legislative competence of States under Entries 49 and 50 of List II. If this is given a prospective application, the validity of all relevant legislation enacted before the date of the decision, that is 25 July 2024, will be tested on the touchstone of interpretation of the previous law on which conflict exists because of Keshoram
- If applied prospectively, the relevant state taxing legislations may be invalidated, requiring the states to refund the amount collected to the assesses
- Important observation in the judgement that pendency of litigation should not be a detriment to assessee

COMMISSIONER OF CUSTOMS V. CANON INDIA (P.) LTD. [2024] 168 TAXMANN.COM 221 (SC)

Commissioner of Customs v. Canon India (P.) Ltd [2024] 168 taxmann.com 221 (SC)

History and Background

- In this Review Petition, the Supreme Court reviewed its 2021 judgment in Canon India Private Limited v. Commissioner of Customs [2021] 125 taxmann.com 188 (SC)] dated 09.03.2021, which questioned the jurisdiction of the Directorate of Revenue Intelligence ('DRI') to issue show-cause notices ('SCNs') under Section 28 of the Customs Act, 1962 ('the Customs Act'). The Court vide judgment dated 09.03.2021 initially held that the DRI officers lacked jurisdiction to issue SCNs, reasoning that only officers directly involved in assessment under Section 17 could initiate SCN proceedings under Section 28.
- **The Syed Ali Case:** In Commissioner of Customs v. Sayed Ali, [[2011] 10 taxmann.com 416 (SC)] case dated 18.02.2011, the Supreme Court examined the jurisdiction of the Collector of Customs (Preventive) to issue SCNs under Section 28 of the Customs Act. Analyzing Sections 2(34), 17 and, 28 of the Customs Act, the Court held that there is a direct linkage between Sections 17 and 28, and only those customs officers explicitly assigned the duties of assessment and re-assessment under Section 17 in a specific jurisdiction could lawfully issue SCNs under Section 28. It ruled that the Collector of Customs (Preventive) did not have the requisite jurisdiction in the case at hand.
- **Customs (Amendment and Validation) Act, 2011**: To address gaps highlighted in Syed Ali (supra), Parliament enacted the Customs (Amendment and Validation) Act, 2011, inter alia introducing Section 28(11) in the Customs Act. This Section retroactively validated the authority of all officers appointed under Section 4 as officers of customs before 06.07.2011, deeming them as 'proper officers' with assessment powers.
- **Sunil Gupta and Mangali Impex Cases**: In Sunil Gupta v. UOI , [[2014] 51 taxmann.com 366 (Bombay)], dated 03.11.2014 the Bombay High Court upheld the constitutional validity Section 28(11) of the Customs Act. However, in Mangali Impex Ltd. v. UOI, [[2016] 69 taxmann.com 302 (Delhi)] dated 03.05.2016, the Delhi High Court inter alia ruled that Section 28(11) was too broad, as it enabled multiple officers to claim jurisdiction and hence, the same was declared as unconstitutional.
- .

History and Background

- **Canon India Case (2021):** In 2021, the Supreme Court held that DRI officers were not proper officers under Section 28 and thus lacked the jurisdiction to issue SCNs. The Court stated that only customs officers who conducted the original assessment under Section 17 could later initiate SCN proceedings under Section 28, following the reasoning in Syed Ali (supra). It was also held that the usage of definite article 'the' and not indefinite article 'a' in the phrase 'the proper officer' referred specifically to the officer conducting the original assessment, restricting authority to initiate SCN proceedings to the same authority. The Court also held that although Notification No. 40/2012 dated 06.07.2011, issued by the Board, designated DRI officers as proper officers, it was issued by the Central Government under Section 2(34) rather than under Section 6, and therefore does not confer jurisdiction to DRI officers to issue SCN under Section 28.
- **Review Petition and Amendments vide Finance Act, 2022 to Validate Past Actions**: Following the Canon India (supra) 2021 decision, the Department filed a review petition challenging the ruling. The Finance Act, 2022 also made amendments to validate past actions and address the defects pointed out in Canon India (supra) 2021 decision. The amendments were made inter alia to Section 2(34) and Section 5 of the Customs Act to empower the Board to assign functions to officers. Section 3 was substituted to include officers of DRI and a new Section 110AA was inserted providing that after investigation, the case should be transferred to the officer who had taken the original decision in the matter. This was done retrospectively

Commissioner of Customs v. Canon India (P.) Ltd [2024] 168 taxmann.com 221 (SC)

Key Findings

- **No interlinkage between Sections 17 and 28**: The Supreme Court held that Sections 17 (assessment) and 28 (recovery of duty) serve distinct functions and are not inherently linked. Section 17 enables customs officers to assess duty at the time of import or export, whereas Section 28 grants specific officers the power to recover unpaid or short-paid duties through SCNs.
- **Interpretation of the Term 'the Proper Officer' in Section 28:** The Court in the review judgment held that 'the proper officer' does not imply exclusivity to authority involved in initial assessments. Instead, it refers to the officer appointed under the Customs Act to fulfill Section 28's specific function of issuing SCNs for recovery of duty.
- **DRI as Proper Officers and the Interplay between Sections 2(34), 3, 4, 5, and 6 of the Customs Act:** The Court analyzed the scheme of 'officers of customs' appointed under Sections 2(34), 3, 4, 5, and 6 in detail and held that DRI officers, already part of the customs structure as 'officers of customs', derive their authority from Sections 2(34) and 5 directly.
- **Validation of Section 28(11) of the Finance Act:** The Supreme Court upheld the constitutionality of Section 28(11) of the Customs Act, which was introduced by the Customs (Amendment and Validation) Act, 2011, effective from 16.09.2011, to validate past actions by DRI officers in light of Sayed Ali (supra). Accordingly, the decision of the Bombay High Court in Sunil Gupta (supra) was affirmed, and the decision of the Delhi High Court in Mangali Impex (supra) was overruled.

Impact on Industry

- All pending cases will now be required to be adjudicated on merits and other issues such as limitation before the relevant forums, such as adjudicating authorities, CESTAT etc.
- The impact on cases where DRI SCNs were quashed on the grounds of jurisdiction and that the Department has not filed appeal will now be required to be analyzed to assess whether such cases can be reopened by the Department.
- This decision also raises questions about its impact on Supreme Court ruling in ITC v. CCE, [[2019] 111 taxmann.com 105 (SC)] which recognized self-assessment as an assessment order by the officer under amended Section 17 whereas the present decision makes a significant departure by holding that role of proper officer under Section 17 is limited to 'reassessment' in certain specified situations and the same must be distinguished from self-assessment done by the assessee.
- Furthermore, the decision affirms the legislative power to rectify jurisdictional gaps, setting a precedent that may influence future jurisdictional challenges within the legal framework. It also underscores that the merits of a matter take precedence over jurisdictional arguments, as such issues can always be retrospectively cured by the Department.

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BHARTI AIRTEL LTD. V. COMMISSIONER OF CENTRAL EXCISE, PUNE [2024] 168 TAXMANN.COM 489 (SC)

BHARTI AIRTEL LTD. v. COMMISSIONER OF CENTRAL EXCISE, PUNE [2024] 168 taxmann.com 489 (SC)

History and Background

- Conflicting views of Bombay High Court (**BHC**) in Bharti Airtel's case and Delhi High Court (**DHC**) in Vodafone Mobile Case on whether mobile towers and pre-fabricated buildings (**PFB**) / structures will be covered under the definition of capital goods and are inputs as defined under CENVAT Rules. Consequently, whether mobile service providers will be entitled to credit. BHC took the view that:
  - tower and parts which are fixed to the earth and become immovable properties. These are not goods and consequently, not "capital goods" under CENVAT Rules.
  - tower and parts in CKD / SKD would fall under Chapter Heading 7308 of the Central Excise Tariff Act which is not specified in Rule 2(a)(A) (i) or (ii) of the CENVAT Rules to be treated as "capital goods".
  - towers and PFB are neither components, spares and accessories of goods falling under any of the Chapters or Headings of the Central Excise Tariff Schedule as specified in Rule 2(a)(A)(i), the goods in question would not be "capital goods"
  - did not agree that tower is an accessory of antenna
- DHC held that:
  - applied the permanency test and held that towers are fastened to the civil foundation to make these wobble free and stable. They can be unbolted and reassembled without any damage and relocated to a new site and are not permanently annexed to the earth.
  - towers and shelters act as components and parts and in alternative as accessories to the BTS and antenna, thus fall under "capital goods".
  - applied functional utility test and held that each component of BTS has to work in tandem with one another and because of these utility and functions, these items would be considered to be "inputs" within the ambit of Rule 2(k) of the CENVAT Rules.
  - that the Assessee is entitled to the credit immediately on receiving the inputs irrespective of the subsequent treatment i.e. by way of fastening, bolting etc.

Findings

- Summarized the principles to determine the nature of property in para 11.8 (whether movable or immovable) and held that on the basis of the permanency, intendment, functionality and marketability tests, towers and PFB do not qualify to be immovable property but are movable properties, hence 'goods'.
- The towers and PFB are not permanently annexed to the land or the building as the tower can be removed or relocated without causing damage to it. The attachment of the tower to the building or the land is not for the permanent enjoyment of the building or the land. The tower is fixed to the land or building for enhancing the operational efficacy and proper functioning of the antenna which is fixed on the tower by making it stable and wobble free. The fact that the tower, if required can be removed, dismantled in the CKD and SKD and sold in the market is not disputed.
- Without tower and PFB, antenna and BTS cannot effectively function and there can be no doubt that tower is to be considered as an accessory of antenna. Since they support the BTS / antenna (which are admittedly capital goods) for effective transmission of mobile signals, these items are covered by the definition of "capital goods" under Rule 2(a)(A) (iii).
- Without any doubt, tower and PFBs are used for providing output service by way of inputs. Without the use of tower and PFB, it is inconceivable that the service provider can provide mobile services effectively.

BHARTI AIRTEL LTD. v. COMMISSIONER OF CENTRAL EXCISE, PUNE [2024] 168 taxmann.com 489 (SC)

Key Takeaways

- Mobile towers and PFB will not qualify as immovable property merely because they are attached to the earth. These structures are never intended to be permanent and the attachment by way of nuts etc. is only for providing support and effective functioning to the antenna. They can be easily dismantled and moved to any other place without any substantial damage. Thus, they are “goods”.
- Mobile towers and PFB are accessory to the antenna as they are necessary for providing height and stability to the antenna for efficient working. They can be considered as an accessory to antenna and BTS which are “capital goods” falling under Chapter 85 of the Schedule to the Central Excise Tariff. Thus, they are also “capital goods”.
- Mobile towers and PFB are “used for” providing output service. Their usage in providing output service is not remote but proximate. Thus, they are also “inputs.

Impact on Industry

- This judgment will significantly improve the telecom industry's financial health, enabling accelerated deployment of digital infrastructure across India. This will also help to release substantial working capital that will be further reinvested in infrastructure development by the Telecom industry.
- Reduction in the overall cost of service delivery across the sector.
- However, the judgment also brings to light critical challenges and inconsistencies. The GST law explicitly excludes telecommunication towers from the definition of plant and machinery for ITC purposes.

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CHIEF COMMISSIONER OF CGST V. SAFARI RETREATS PRIVATE LTD.

[2024] 167 TAXMANN.COM 73 (SC)

Chief Commissioner of CGST V. Safari Retreats Private Ltd.
[[2024] 167 taxmann.com 73 (SC)]

History and Background

- To provide a brief background, the petitioner, Safari Retreats Private Ltd. is a company engaged in constructing shopping malls and thereafter renting out such constructed units to tenants. The company accumulated ITC on goods and services used in the construction of these malls, including cement, steel, and professional services. However, when the company sought to offset the ITC against GST payable on rent, the authorities denied the claim, citing the embargo under Section 17(5)(d) of the CGST Act, 2017. This provision blocks ITC on goods and services used in the construction of immovable property unless it relates to plant and machinery. Petitioner challenged the aforesaid embargo under Section 17(5)(d), arguing that ITC should not be blocked when immovable property is used for further taxable supplies, such as renting or leasing.
- The Hon'ble Supreme Court on analysis of the admissibility of input tax credit as per GST laws delivered its long-awaited verdict in this case. The judgement addresses the key issue of whether the definition of "plant and machinery" in the explanation appended to Section 17 of the CGST Act, 2017 ("CGST Act") equally applies to the expression "plant or machinery" used in clause (d) of sub-section (5) of Section 17 and whether the construction of building necessary for providing a service, is a "plant", qualifying under the exception provided under Section 17(5)(d) of the CGST Act and accordingly goods or services or both received for this purpose are eligible for input tax credit. The judgement finally also gave its ruling on the constitutional validity of clause (c) and (d) of Section 17(5) and Section 16(4) of the CGST Act.

Findings

- The Supreme Court has held that the terms used in Section 17(5) (d) have to be read differently from the words "plant and machinery" used elsewhere in the CGST Act, and any different interpretation would cause violence to the intention of the legislature when drafting this section of the CGST Act. The words in the aforesaid Section should necessarily be interpreted pertaining individually to "plant" or "machinery".
- Accordingly, the Supreme Court held that a "functionality test" in each case should be resorted to assess whether a building qualifies as a 'plant' (for example – if it is constructed for a specialized purpose). If the same is true, then subject to other conditions under the CGST Act pertaining to the availing input tax credit being fulfilled, and the supply being a "service", the input credit of goods or service or both used for such construction may be eligible to be taken. For works contract service under Section 17(5)(c), the Supreme Court held that benefit of input tax credit was not available except for the exceptions provided in the said sub-clause.
- On the issue of constitutional validity of the Sections 17(5) (c and d) and Section 16(4), the Supreme Court held there was no ambiguity and accordingly the question of reading down the provisions did not arise.

Chief Commissioner of CGST V. Safari Retreats Private Ltd.
[[2024] 167 taxmann.com 73 (SC)]

Key Takeaways

- The Supreme Court upheld the Revenue's stance that Section 17(5)(d) blocks ITC for goods and services used in constructing immovable property, even when the property is let out.
- The Court ruled that this restriction is in line with the legislative intent to prevent the misuse of ITC and does not violate constitutional provisions.
- The Court however also provided a nuanced interpretation, suggesting that ITC may be available if the immovable property qualifies as 'plant or machinery' under the CGST Act.
- That being so, the commercial properties like shopping malls typically do not fall into this category unless they meet the functionality test.

Impact on Industry

- Businesses must carefully analyze their operations to determine whether their buildings play an essential functional role and can qualify as 'plant' for the purpose of claiming ITC under GST law. The judgment highlights the fine balance between preventing tax avoidance and maintaining the seamless credit system central to the GST regime.
- Nonetheless, the judgement provides a window of opportunity to real estate, hospitality, malls, co-working spaces and other like sectors, where the construction can now be assessed in terms of the Supreme Court judgement, and input credit, which was previously held to be ab-initio unavailable, be allowed to be availed leading to tax efficiency in these sectors.

K.P. MOZIKA V. OIL AND NATURAL GAS CORPORATION LTD. [2024] 158 TAXMANN.COM 340 (SC) –

K.P. Mozika v. Oil and Natural Gas Corporation Ltd [2024] 158 taxmann.com 340 (SC)

History and Background

- This case analyzes whether certain transactions related to the leasing of motor vehicles, cranes, and tankers constitute sales (**hence subject to sales tax**) **or** services (**subject to service tax**).
- The primary issue revolves around whether these agreements constitute a transfer of the right to use goods, as per Article 366(29A)(d) of the Constitution of India, which would render them deemed sales and liable for sales tax under the Assam General Sales Tax Act, 1993 ('**the Sales Tax Act**') and the Assam VAT Act, 2003 ('**the VAT Act**'). Conversely, if these transactions are deemed to be service contracts, they would attract service tax under the Finance Act, 1994 ("**Finance Act**").
- The appellant, K.P. Mozika, engaged in contracts to provide various vehicles to Oil and Natural Gas Corporation Ltd. ("**ONGC**") and Indian Oil Corporation Limited ("**IOCL**") for specific operational use. The High Court's interpretation held these as deemed sales, thereby subjecting them to VAT.
- The appellant contended that the contracts did not involve a transfer of the right to use since control and possession over the equipment were not passed to ONGC or IOCL. They retained responsibility for the crew, maintenance, and other operational aspects, ensuring that effective control remained with them. Since effective control and possession remained with the contractor, these transactions should be classified as services.

Findings

- The Court has interpreted sub-clause (d) of Clause 29A in various decisions and referred to the decision of the Constitution Bench in the case of **20th Century Finance Corporation Ltd. v. State of Maharashtra [2000 taxmann.com 1581 (SC)]** to emphasize that transfer of the right to use goods necessitates exclusive possession by the transferee, a condition not satisfied in their contracts.
- To resolve the controversy, the Court invoked the five tests laid down by Dr. AR Laxmanan, J in the case of **Bharat Sanchar Nigam Limited v. Union of India [[2006] 3 STT 245 (SC)].** These tests are pivotal in determining whether a contract constitutes a transfer of the right to use goods.
- The Court highlighted that the contracts in question did not intend to transfer the right to use specific goods to ONGC. Instead, they aimed to provide services, such as the use of cranes and tank trucks. As the control over these assets remained with the contractor, the Court held that the contracts did not fall under the Sales Tax Act and the VAT Act.
- In its conclusive remarks, the Court clarified that if the substantial control remains with the contractor and is not transferred to the user, there can be no transfer of the right to use the goods. In such cases, the transaction is considered a service within the meaning of Section 65(105) (zzzzj) of the Finance Act.

K.P. Mozika v. Oil and Natural Gas Corporation Ltd [2024] 158 taxmann.com 340 (SC)

Key Takeaways

- The Court's decision emphasizes the importance of effective control and possession in determining whether a contract constitutes a deemed sale or service agreement.
- The Court's interpretation reinforces the principle that legal control and possession must entirely shift to the hirer for a transaction to qualify as a sale under Article 366(29A)(d).
- Furthermore, the Court pointed out that the ownership, maintenance, and legal consequences of using the goods rested with the contractor, indicating that the control remained with the contractor. This observation reinforced the notion that the contracts were primarily for providing services, rather than transferring the right to use goods.
- Accordingly, the transaction will be of rendering service within the meaning of Section 65(105)(zzzzj) of the Finance Act after the said provision came into force.

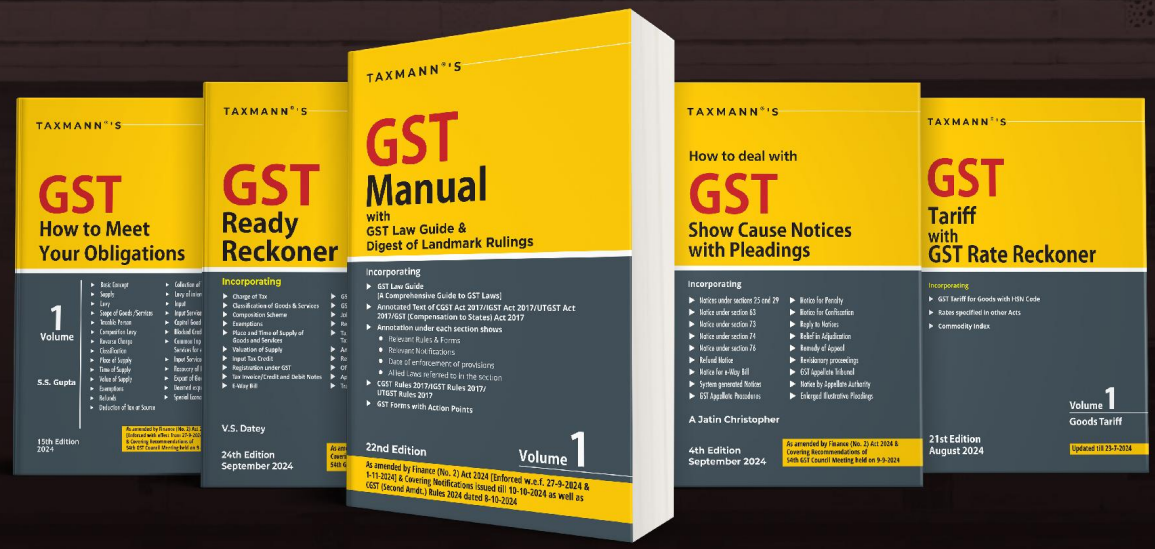
Impact on Industry

- This judgment underscores the importance of meticulously examining the terms of contracts to determine whether they constitute transfers of the right to use goods, as defined under Article 366(29A)(d) of the Constitution. It provides clarity and guidance to businesses and legal practitioners in understanding the tax implications of such transactions.
- This judgment delineates the boundary between sales tax and service tax, providing clarity on contractual arrangements in service-oriented industries. The decision is instrumental in guiding future cases involving equipment leasing and service contracts, establishing a precedent in taxation matters

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