

Paper 16 - Tax Management & Practice

Case Study - 1

Whether the refund collected illegally by the assessee by producing bogus TDS certificates can be treated as income of the assessee?

Case Study - 2

Can expenditure incurred on alteration of a dam to ensure adequate supply of water for the smelter plant owned by the assessee be allowed as revenue expenditure?

Case Study - 3

The assessee is a co-operative society registered under the Madras Co-operative Societies Act. The assessee enters into an agreement with the State Government during the previous year ending March 31, 2013, relevant to the assessment year 2013-14, whereby the assessee agrees to hold a stock of ammonium sulphate belonging to, and on behalf of, the State Government, and to store it in godowns belonging to the assessee. Under the agreement, the assessee is required further to take all necessary steps to enable such stocking and storage of the fertiliser, including taking delivery of the stock at the rail-head and transporting it to the godowns. During the previous year relevant to the assessment year 2013-14, the assessee received a sum of ₹31,316 on this account, the amount being described as commission. In the assessment proceedings the assessee claims exemption from tax under section 80P, in respect of the said sum of ₹31,316. Discuss whether deduction is available under section 80P.

Case Study – 4

R, a member of a prosperous HUF, went abroad for studies. When he returned, he was accompanied by S, a German girl. Soon thereafter R and S were married under the provisions of the Special Marriage Act, S continuing to remain a Christian. Two years later, a son T was born to them. T was not baptised to Christianity. Differences, however, arose between R and S. Having obtained a divorce in an uncontested suit, S went away to her mother in West Germany taking infant T, with her. Custody of the boy was granted to S by the Court. R has, apart from his interest in the HUF, substantial individual income from salary and commission. He wants to separate from his HUF which had disapproved his marriage with a foreigner. He wants to know if, after his separation from the HUF, he can be assessed separately in his dual capacity of an individual and the karta of HUF consisting of himself and his son T.

Case Study – 5

For the assessment year 2001-02, Ali claims a deduction of ₹86,000 on account of unrealised rent pertaining to the previous year 1999-2000 and the same is allowed by the Assessing Officer. On December 20, 2013, he recovers ₹6,000 from the defaulting tenant (expenses on recovery are ₹500). What will be the tax treatment?

Case Study – 6

Assessee purchased aluminium composite panels. After cutting and grooving, pre-coated then with weather resistant coating to withstand solar radiation and industrial pollution and then fixed then to the main frame leaving uniform gap sealed with sealant. Whether the above activity amounted to manufacture, more so when both the raw material and the end product were classified under the same tariff heading?

Case Study - 7

The assessee was the manufacturer of the white cement. He repaired his worn out machineries/ parts of the cement manufacturing plant at its workshop such as damaged roller, shafts and coupling with the help of welding electrodes, mild steel, cutting tools, M.S. Angles, M.S. Channels, M.S. Beams, etc. In this process of repair, M.S. scrap and Iron scrap were generated. The assessee cleared this metal scrap and waste without paying any excise duty. The Department issued a show cause notice demanding duty on the said waste contending that the process of generation of scrap and waste amounted to the manufacture in terms of section 2(f) of the Central Excise Act.

Whether the metal scrap or waste generated during the repair of his worn out machineries/ parts of cement manufacturing plant by a cement manufacturer amounts to manufacture?

Case Study - 8

M/s. XYZ Ltd. has opening balance of CENVAT credit of ₹12 lakhs on 1st July 2012. During July 2012, inputs on which CENVAT credit of ₹25 lakhs is available, were purchased. From 1st August to 25th August 2012 inputs on which CENVAT credit of ₹15 lakhs is available were purchased. The duty liability on finished products for July 2012 was ₹42 lakhs and is payable on 6th August, 2012, being due date for payment of duty under Rule 8 of Central Excise Rules, 2002. But the duty is paid belatedly by M/s. XYZ Ltd. on 25th August 2012. M/s. XYZ Ltd. is of the opinion that since the duty is paid belatedly by it, it can utilise CENVAT credit earned upto 25th August, 2012. Discuss.

Case Study – 9

The assessee was engaged in the manufacture and clearance of “Rosin” and “Turpentine oil”. The turpentine oil manufactured without the aid of power, was chargeable with Nil rate of duty, but Turpentine oil, in relation to which manufacture was carried on with the aid of power, was liable to excise duty @ 16%. The turpentine oil was manufactured from Rosin. Rosin was lifted to manufacturing platform which was subsequently heated to remove impurities and purified material was heated to make vapours of Turpentine oil which was condensed by using water

and vapours of turpentine oil were converted into turpentine oil. The water which was used for condensation was lifted to 30 ft height with the aid of electric motor. The Department denied exemption treating that turpentine oil was manufactured with the aid of power and the same was liable to excise duty @ 16%.

Whether turpentine oil is manufactured with the aid of power and whether assessee will not be entitled the benefit of exemption?

Case Study 10

G Power Corporation (GP) are the promoters of Naphtha based short gestation 355 M.W. combined cycle power plant. For setting up the power plant GP entered into a power purchase agreement with the State Electricity Board. With a view to implement the project on schedule and to avail the concessional customs duty provided under the Project Import Regulations, 1986 the contract between GP and the foreign suppliers of power equipment based in Korea was registered with the Customs House. The project equipment was off loaded after filing necessary documents relating to clearance of goods vide Bill of Entry No. 109 dated 20.5.2013. The Customs Authorities in terms of the contract registered under the Project Import Regulations assessed the customs duty on the project equipment amounting to `2.15 crores provisionally. The duty was paid as per the provisionally assessed bill of entry. The cargo was discharged between 21.5.2013 and 24.5.2013. As the project equipment imported at the port was more than 200 M.T. in weight and the equipments were in assembled condition it was felt that the equipment could not be transferred by road from the port to the project site. Therefore, it was decided to transport the equipment by sea in a costal barge to another nearby place (M) and then to move them by road to the project site. The said equipment, which was oversized cargo was therefore transferred to the barge to be towed by a tug to place (M). All the packages containing the said equipment were discharged to Trailers/ barges. The barge set out on Coastal Voyage on 1.6.2013 after taking necessary permission from various authorities. Unfortunately the barge capsized during the Voyage on 2.6.2013 and finally overturned resulting in total loss of all packages containing the said equipment. The importers have sought for remission of duty and refund of duty already paid on provisional basis in terms of Section 23 of the Customs Act, 1962. Write a brief note on the validity of the claim made by the importers.