

Service Tax Updates for May 2009

1. Home Solutions Retail India Limited & Others Vs UOI, [2009(14) STR 433 (Del)]

Facts: Renting of immovable property.

Issue: Whether renting of immovable property for use in course or furtherance of business or commerce is liable to service tax under the category of renting of immovable property.

Decision: Service tax being a value added tax, value addition is absent in renting of immovable property for use in the course or furtherance of business or commerce. Renting of immovable property itself can not be regarded as a service.

2. CCE, Rohtak Vs Miglani Taxi Service [2009-TIOL-734-CESTAT-DEL]

Facts: Respondent entered into contract for providing vehicles for a fixed destination along with driver & vehicle was under control of client.

Issue: Service tax was demanded as rent a cab & tour operator service.

Decision: Where the contract is for providing vehicles for a fixed destination & further where the vehicles are used for particular destination on demand of the client, the same cannot be treated as rent a cab & tour operator service.

3. CENVAT CREDIT:

Service tax paid on outdoor catering services received for supply of food in the canteen attached to the factory is eligible as Cenvat credit [CCE & CC, Nashik Vs M/s Jindal Saw Ltd (2009 (14) STR 303 (Tri- Mumbai)].

4. Indian Nation Ship Owners Association Vs UOI [2009(14) STR 289 (Bom)]

Facts: Appellant is providing the services of offshore support vessels, marine construction barges & harbour tugs to exploration & production companies. Service tax is paid under the category of supply of tangible goods w.e.f. 26.05.2008.

Issue: Department demanded service tax for the period prior to 16.05.2008 under the category of mining services.

Decision: The Bombay High Court held that vessels are given on time charter basis without parting with the right of possession & effective control. Therefore the services are either the post mining or pre mining activities not having direct relation to mining.