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NITYA'S INSIGHT

Cenvat Alert | Supreme Court holds buyer's premises can never be the place of removal

October 13, 2015

Dear Reader,

This is to update you on a recent ruling of the Supreme Court of India in the case of *Ispat Industries Limited***.**

In this case, the assessee obtained transit insurance policy for delivery of goods at customer's premises. However, the price of the goods was agreed on ex-works basis and the assessee had no right to disposal of goods after the same were handed over to the transporter.

In these facts, the Supreme Court held that the sales were made on ex-factory basis and the cost of freight and transit insurance will not be subject to excise duty.

The Court also analysed the definition of 'place of removal' in Section 4 of the Central Excise Act, 1944 in depth and held that the buyer's premises can never be the place of removal.

It is pertinent to note that there is an identical definition of 'place of removal' in the CENVAT Credit Rules, 2004. As per the present legal position based on CBEC Circular and judicial precedents, the assesses treat customer's premises as 'place of removal' in case of FOR sales and take credit of service tax paid on transportation of goods till customer's premises. The observation of the Court that the buyer's premises can never be the place of removal, may revive disputes and the authorities may start denying credit to the assesses.

We hope that you will find this update useful. For any clarification, please feel free to revert.

Regards,

Team NITYA

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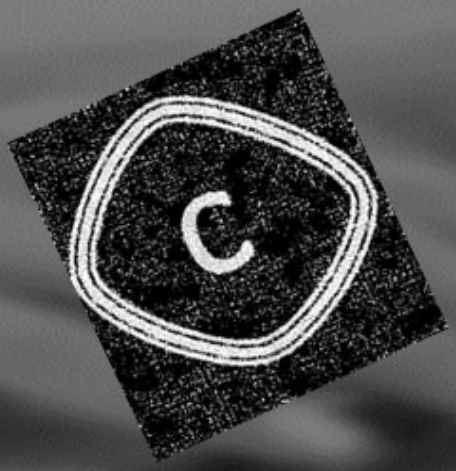

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