



NITYA
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NITYA Legal Precedents

December 2020 | Week 3

December 23, 2020



PART A: WRIT PETITIONS

1. **Proceedings under Section 129 for classification dispute**

The Petitioner was transporting consignment of beverages. The authorities detained consignment on grounds of incorrect classification. The Petitioner challenged this detention before the High Court.

The Court observed that classification disputes are not covered under the ambit of Section 129 of the Central Goods and Services Tax Act, 2017 ('CGST Act'). Basis this, the Court directed authorities to release goods along with conveyance.

Trinity Beverages v. State of Kerala, 2020-VIL-629-KER

PART B: CESTAT ORDERS

1. **Recredit of Cenvat credit already reversed**

The Appellant filed refund claim of Cenvat credit arising out of deemed exports. The Adjudicating Authority and the Appellate Authority rejected the refund claim. The Appellant also took an alternative plea that it is entitled to re-credit of Cenvat credit amount reversed while filing refund claim. During the pendency of refund claim, the law underwent a change and the legislature enacted CGST Act replacing erstwhile Indirect Tax laws. The rejection order was passed post introduction of CGST Act. Accordingly, the Appellant did not have an opportunity to re-credit the said amount and sought cash refund of this amount under Section 142(3) of the CGST Act.

CESTAT held that the Appellant was entitled to cash refund of Cenvat credit reversed under Section 142(3) of the CGST Act. It relied on its earlier ruling in the case of **Rawalwasia Ispat Upyog Private Limited v. CCE Panchkula, 2019(26) GSTL 196 (Tri-Chandigarh)** for this purpose.

Great India Steel Fabricators v. Commissioner of CE and ST Panchkula, 2020 (12) TMI 415-CESTAT Chandigarh

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