

I-T exemptions for private varsities

Private universities can claim income-tax exemption only on two conditions: Firstly, an educational institution or a university must be solely for the purpose of education and without any profit motive. Secondly, it must be wholly or substantially financed by the government. Both conditions must be satisfied under Section 10(23C) (iiiab) of the Income Tax Act before exemption can be granted, the Supreme Court ruled in the case, Visvesvaraya Technological University vs CIT. The university's claim under this provision was rejected by the revenue authorities, leading to the appeal. The court noted that during a short period of a decade (1999-2010) the university had generated a huge surplus of about Rs 500 crore collecting fees under different heads. "The expenditure incurred represented only a minuscule part of the fees collected," the judgment observed. None of the benefits granted to the university has gone to the students. It expanded from 64 engineering colleges to 194. The government grants were meagre (about one per cent), the Supreme Court said, concluding that "the university is neither directly nor even substantially financed by the government so as to be entitled to exemption from payment of income tax."

Time limit in cheque bounce cases

If a complaint of cheque bounce is filed after the period of limitation, the magistrate must give reasons for condoning the delay; he cannot order prosecution as a matter of course, the Supreme Court stated while quashing the judgment of the Kerala High Court in the case, K S Joseph vs Philips Carbon Black Ltd. The company filed criminal cases under the Negotiable Instruments Act against the drawer of the cheques, which were not paid on his order to stop payment. The company issued notice on February 3 and the complaint was filed on May 24, after 62 days' delay. However, the magistrate issued summons to the drawer in a "short and summary" order. The high court dismissed his appeal. But on his second appeal, the Supreme Court directed the magistrate to pass a reasoned order for condoning delay after hearing the accused person.

Corruption law covers co-op managers

The Supreme Court has ruled that a manager in a multi-state cooperative society is a 'public servant' and could be tried for offences under the Prevention of Corruption Act. The trial court and the Madhya Pradesh court had held that the National Cooperative Consumers Federation of India Ltd, Jabalpur, was not a state entity and, therefore, its assistant manager was not a 'public servant' coming within the scope of the anti-corruption law. Therefore, the CBI appealed to the Supreme Court. Setting aside the high court ruling in the case, CBI vs PG Jain, the Supreme Court noted that under the Multi-State Cooperative Societies Act, the Jabalpur society and the likes are listed in the schedule to the Act as "national cooperative society" by Parliament. Moreover, the Centre owned 85 per cent of the shares in the society and, therefore, aided and controlled by it. The Supreme Court allowed the CBI to prosecute the manager.

Probe into HPCL allotment of LPG

Hindustan Petroleum Corporation Ltd (HPCL) has come in for severe criticism from the Supreme Court in the allotment of LPG distributorship for Hajipur in Bihar. In this case,

Abhishek Kumar was the first in the merit list of candidates. But the company officers visited him and, thereafter, his allotment was cancelled without giving any reason; it was given to another person. Kumar moved the Patna High Court. The single-judge bench found the turnaround of HPCL strange and observed that it was "large-hearted" in some cases and "blind" in others. It was "either under pressure or obligation to accommodate another candidate". The high court ordered investigation by the vigilance department into such aspects. The division bench, however, upheld the HPCL decision. On appeal, the Supreme Court restored the order of the single judge. It indicted the public sector undertaking for "inventing new grounds for justifying the cancellation of the candidature of Abhishek from the merit list, which is totally impermissible in law."

Test to levy excise on packing material

Excise on packing materials like gunny bags, crates and cartons is a contentious issue arising in the tribunals. The test is in the terms of the agreement between the manufacturer, who send the goods, and the buyer. The Supreme Court dismissed the appeal of Tata Chemicals in a case in which the company claimed that there was an arrangement between it and the buyers of soda ash produced by it to the effect that sales made in gunny bags supplied by it could be returned and upon such return the value of the bags would be returned to the buyers. The judgment said that the law is that "if an arrangement exists between the seller and the buyer of excisable goods for return of the packing materials by the buyer to the seller, carrying an obligation on the seller to return the value of the packing materials to the buyer on such return, such value is not liable to be included in the assessable value of the finished product. Furthermore, if such an arrangement exists, the question of actual return is not relevant." Such an arrangement could not be proved here.

I-T notices to Alcatel group quashed

The Delhi HC has quashed notices issued by the income tax (I-T) authorities to Alcatel-Lucent group companies seeking to reopen assessments for periods from 2004 to 2009. Alcatel, a French company, supplies telecom equipment to Indian firms. It said that it has no permanent establishment here as the sales and payments were made outside India and no income arose that was taxable in this country. The HC, while allowing 16 writ petitions, stated that the taxmen "merely repeated the words of the Income Tax Act that there has been a failure to disclose material particulars. This is certainly not sufficient as far as the legal requirement is concerned."

Jewellers' association wins import case

The Delhi High Court has quashed a circular issued by the Central Board of Excise and Customs in October 2015 on a petition by the Bullion and Jewellers Association. The association argued that the gold jewellery imported by its members from Indonesia was denied the benefit of preferential custom duty. The circular also directed custom officers to disregard certificates issued by the Indonesian authorities and the confirmation given by the government-owned companies in Indonesia. The court asked the authorities to release the imported gold according to law, ignoring the circular.

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