



MAJESTY LEGAL

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TAXABILITY OF IMPORTED ENGINEERING DESIGN AND DRAWINGS

(COMMISSIONER OF CUSTOMS, CENTRAL EXCISE AND SERVICE TAX V/S M/S SUZLON ENERGY LTD¹)

The Supreme Court quashed the impugned judgement and order passed by the CESTAT² holding that the respondent is not required to pay service tax as "design services" on importing various models of "Engineering Design & Drawings" for the purpose of manufacturing Wind Turbine Generators (WTG), as defined under Section 65(35b) r/w Section 65(105)(zzzzd) of the Finance Act, 1994.

HIGHLIGHTS OF THE CASE:

- In the abovementioned case, the respondent contends that the imported "Engineering Design & Drawings" should not be considered taxable under the category of "design services," as they were treated as goods by the customs authority, the appellant emphasizes that the categorization of services and goods can coexist under different taxation heads. Moreover, the appellant underscores that the intention of the contracting parties and the indivisibility of the contract play a crucial role in determining taxability.
- The Hon'ble Apex Court concludes that the impugned judgement of the CESTAT is incorrect and overturns it stating that the respondent is not liable for service tax under "design services". The Court remands the matter to CESTAT, to decide de novo proceedings afresh.

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¹ Civil Appeal No.11400-11401/2018

² Customs Excise and Service Tax Appellate Tribunal

³ Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.