

**HIGH COURT RULING**[2011-TIOL-714-HC-KAR-ST](#)**Assistant Commissioner Of Central Excise, Hubli Vs Shri Gangappa Madar (Dated: June 2, 2011)**

Service – Grant of temporary status for daily wage labourers and casual labourers in central excise and customs department – CAT did not check whether it was really necessary for the labourers to satisfy conditions required for granting temporary status – Matter remanded to CAT for fresh consideration of all issues – Tribunal directed to take up matter expeditiously – Till contentious issues were decided by CAT, services of respondents who were in service shall not be dispensed with

[Also see analysis of the Order](#)[2011-TIOL-707-HC-KAR-ST](#)**M/s Sasken Communication Technologies Ltd Vs Joint Commissioner Of Commercial Taxes, Bangalore (Dated: April 15, 2011)**

Works Contract Tax – When copyright of software developed under a contract for development of software vests with the customer from day one, such contract does not fall within the mischief of 'works contract' – Not covered under the concept of deemed sale under Article 366(29-A) of Constitution to attract levy of sales tax under KVAT Act

[Also see analysis of the Order](#)[2011-TIOL-694-HC-AP-ST](#)**CCE, Guntur Vs M/s Sri Chaitanya Educational Committee (Dated: October 19, 2011)**

Service Tax – Commercial Training or Coaching service –Pre-deposit – Order of Tribunal in granting full waiver of pre-deposit is erroneous – The attachment of property under Section 73 C of the Finance Act, 1994 with permissible extensions ended on 3.9.2011 and there is no safeguard for revenue – Tribunal shall entertain appeal after the assessee makes a pre-deposit of Rs 80 crores under Section 35-F of the Central Excise Act, 1944.

[Also see analysis of the Order](#)[2011-TIOL-653-HC-MUM-ST](#)**The Security Guards Board For Greater Mumbai Vs CCE, Thane (Dated: September 21, 2011)**

Service Tax - Security service - The - Security Guards Board, is a statutory Authority. Whether the service itself is taxable, is a triable question - Pre-deposit order of Tribunal set aside: The Appellant is the Security Guards Board for Greater Mumbai and Thane District, a statutory authority constituted under Section 6 of the

Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981. The Act has been enacted by the State legislature for regulating the employment of private security guards employed in factories and establishments in the State of Maharashtra and for making better provisions for their terms and conditions of employment and welfare, through the establishment of a Board. The Board clarified that it is of the view that activities performed by sovereign/public authorities under the provisions of law are in the nature of statutory obligations which are to be fulfilled in accordance with law. The fee collected by them is for performing such activities and is deposited in the Government Treasury. Such activity is purely in public interest and it is undertaken as a mandatory and statutory function, and is not in the nature of a service provided to any particular individual for consideration. In view of these circumstances, the Tribunal was not justified in imposing a requirement of deposit. The Appellant is a statutory body. But apart from that, the question as to whether the Appellant carries on the business of rendering services relating to the security of any property including the business of providing security personnel is a serious triable question. Consequently an order for pre-deposit was not warranted in the circumstances of the case.

[Also see analysis of the Order](#)

[2011-TIOL-650-HC-P&H-ST](#)

**CCE, Chandigarh Vs M/s Federal Mogul Goetze (India) Ltd (Dated: September 28, 2011)**

Central Excise – CENVAT Credit – Service of transportation of employees to the factory is admissible for credit as input service under Rule 2(l) of the CENVAT Credit Rules, 2004 – Pendency of the appeal by the revenue in Supreme Court does not bar the High Court to examine the issue.

[2011-TIOL-642-HC-DEL-ST](#)

**All India Tent Dealers Welfare Organization Vs UoI (Dated: September 30, 2011)**

Service Tax – Hindu Marriage per se is not a Social Function, but when a "pandal or shamiana" is used for marriage, it earns the status of "social function": If the entire provision is properly understood, it is clearly discernible that Hindu marriage is not treated or regarded a social function per se. If the dictionary clause is appositely appreciated, there can be no trace of doubt that only when a "pandal or shamiana" is used for marriage, it earns the status of "social function" because the service component is involved. It is worth noting, the statute itself postulates that marriage is to be regarded as a social function and full effect has to be given to the same. That apart, the pre-requisite is the use of "pandal or shamiana" and, therefore, the contention raised by the learned counsel that Hindu marriage is not a contract but a sacred institution and hence, no service tax is imposable treating it as a social function has to be repelled.

[2011-TIOL-635-HC-KAR-ST](#)

**CCE & ST, Bangalore Vs M/s Adecco Flexione Workforce Solutions Ltd (Dated: September 8, 2011)**

Service Tax – When tax with interest is paid under Section 73(3), no notice to be issued. Sub-Sec.(3) of Sec. 73 of the Finance Act, 1994 categorically states, after the payment of service tax and interest is made and the said information is furnished to the authorities, then the authorities shall not serve any notice under Sub-Sec.(1) in

respect of the amount so paid. Therefore, authorities have no authority to initiate proceedings for recovery of penalty under Sec. 76 of the Act.

[Also see analysis of the Order](#)