

GIB/UP/VECTUS/2019/26.11.19/OTHERS-2

Others Category : CESTAT

State : Uttar Pradesh

Order No.: GIB/UP/VECTUS/2019/26.11.19/OTHERS-2

Name of Entry :
VECTUS INDUSTRIES LTD

Date : 26-11-2019

Breif Issue :

Issue involved:

- Whether the commission earned by the Managing Director of the appellant company, apart from his fixed salary, is in lieu of the services provided by him for promotion of the sales in the market, liable to service tax?

Relevance with GST:

- This ruling may have an impact on GST also as, as salary is covered under Schedule I of GST Act and no GST is payable on salary.
- There may be situation where it will be difficult to decide if something paid to employee is covered under salary or not under GST Act.
- This ruling has given an important benchmark that Income Tax Act will be primary source of determination whether something is salary or not.

Decision of Advance Ruling Authority :

Decision of the Authority:

- The CESTAT held that if the entire remuneration stands considered by Income Tax Authorities as salary, the same cannot be considered as service.
- Accordingly, the respective Authority i.e. CESTAT set aside the impugned order and remand the matter to the Original Adjudicating Authority for fresh consideration.

