

GIB/GJ/TORRENT/05-04-2018/HC-97

High Court Category : Exemption

State : Gujarat

Order No.: GIB/GJ/TORRENT/05-04-2018/HC-97

Name of Entry :

Torrent Power Ltd V.s Union India

Date : 05-04-2018

Breif Issue :

Facts & Issue Of The Case :

The petitioner is a public limited company in the state of Gujrat engaged in business of generation ,transmission and distribution of electricity. Also having registration under goods and service tax Act .The petitioner company is following rules under Section 43(2) of the electricity act ,like no person can demand or continue to receive the supply of electricity for any separate premises unless he had agreed with the licensee to pay to him such price as determined by Appropriate Commission. Notification No. 32/2010-service Tax was issued on 22.6.2010, exempting taxable services provided by transmission and distribution companies.

The petitioner wants to avail the tax on the transmission services provided by him. The liability of tax of group of services has to be determined under sub-section (3) of section 66F of the Finance Act. If the services are naturally bundled in the ordinary course of business, the bundle of services shall be treated as provision of the single service which gives the bundle its essential character and where the services are not naturally bundled in the ordinary course of business, the same is required to be treated as provision of the single service which gives such bundle its essential character is exempt from tax.

Decision of Advance Ruling Authority :

Decision :

In the opinion of this court, there is nothing in section 8 of the Act to read any such construction. what the section says is that the tax liability of a composite or a mixed supply shall be determined in the manner provided thereunder. In a given case, the tax liability may be nil, but that would not take such service out of the preview of section 8 of the Act, which would be attracted if the supply is either composite or mixed in nature, notwithstanding that the end result nil tax liability.

And in this case the court gave great relief for the Electricity distribution companies as well as to the consumers.