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News Alert
8 May 2014



Apex Court's larger bench rules on "Contract for Sale" v "Works Contract" in Kone Elevator case

The larger (5-Judge) bench of the Apex court, on a writ petition in Kone Elevator India Pvt Ltd v State of Tamil Nadu and ors (2014-TIOL-57-SC-CT-CB), held that the contract for manufacture, supply and installation of lifts in a building is a "works contract" and not a "contract for sale". The decision has been taken by majority rule with four members ruling in favour of the decision versus one against.

This larger bench has overruled the earlier decision of a 3-member bench of the Apex Court in State of AP v Kone Elevator India Pvt Ltd (2005-TIOL-30-SC-CT-LB), wherein it had been held that the main object of the contract was to sell the lifts, and that the works done for installation was incidental to the sale of lifts.

The Apex Court in that case had relied upon the decision of another larger bench of the Apex Court in Larsen & Toubro Limited and anr v State of Karnataka and anr (2013-TIOL-46-SC-CT-LB), wherein the legal test of a works contract as defined

under clause (29A)(b) of Article 366 had been analysed, and the SC had held that a single and indivisible contract for supply and labour was allowed to be split.

The Apex Court in the instant case held that the "dominant nature test" or "overwhelming component test" were not applicable to the transaction in hand. After the lifts were assembled and installed with skill and labour at site, it became a permanent fixture of the building, and hence it was not a case of sale of chattel or a chattel being attached to another chattel.

The case is a landmark decision, not only for contracts for sale and installation of lifts, but for all similar contracts. Many contracts in different industries have been treated as sales contracts because the labour and service elements were considered to be secondary in value compared to the supply of goods. This way of classifying works contracts has been held by the court to be incorrect. We can now expect significant action from all states in terms of reopening assessments etc..

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