

2024 (390) E.L.T. 692 (S.C.)

IN THE SUPREME COURT OF INDIA

B.V. Nagarathna and Nongmeikapam Kotiswar Singh, JJ.

N.V. MARKETING PVT. LTD.

Versus

CST, DELHI-I

Civil Appeal Nos. 2935-2936 of 2018, decided on 18-9-2024

Business Auxiliary Service - Lotteries - Lottery promotion and marketing - In impugned order CESTAT had followed Kerala High Court judgment in case of P. Muraleedharan [2012 (28) S.T.R. 344 (Ker.)] to hold that activity of promotion and marketing of State lotteries by assessee was leviable to service tax under Business Auxiliary Service as it was specifically included in definition of aforesaid services - On appeal to Supreme Court by assessee - *HELD* : Both parties to liz agreed that issue was no longer res integra having been decided in case of K. Arumugam [2024 (390) E.L.T. 294 (S.C.) = (2024) 21 Centax 491 (S.C.)] in favour of assessee therein, by holding that sale of lottery ticket being actionable claim, aforesaid activity was not taxable under BAS - Following this judgment, assessee's appeal was to be allowed and impugned order was to be set aside - Section 65(105)(zzb) read with Section 65(19) of Finance Act, 1994. [paras 1 to 3]

Appeal allowed in favour of assessee

CASE REVIEW

N.V. Marketing Pvt. Ltd. v. Commissioner — 2018 (17) G.S.T.L. 257 (Tri. - Del.) — **Reversed** [Para 1]

CASE CITED

K. Arumugam v. Union of India — (2024) 21 Centax 491 (S.C.) — *Followed* [Paras 1, 3]

[Order]. - Learned Counsel appearing for the respondent very fairly submitted that the issues which arise in these appeals are squarely covered by the recent judgment of this Court in *K. Arumugam v. Union of India*, Civil Appeal Nos. 2842-2848 of 2012, reported in 2024 SCC Online SC 2278/2024 (390) E.L.T. 294 (S.C.) = (2024) 21 Centax 491 (S.C.) and, hence, the said appeals may accordingly be disposed of.

2. Learned Counsel appearing for the appellant also endorses the said submission.

3. Consequently, the Civil Appeals are allowed and disposed of following the judgment in the aforesaid case.

4. Pending application(s) shall stand disposed of.