Tax alert: Procurement services provided independently by group company does not constitute intermediary services: Delhi GSTAT

15 June 2026

The Delhi GST Appellate Tribunal (GSTAT) has held that procurement services provided on own account as an independent contractor, did not qualify as intermediary services, as they were provided on a principal-to-principal basis.

In a nutshell

GSTAT has held that procurement services provided on own account as an independent contractor, could not be considered as intermediary services, as principal-to-principal service provision is distinguishable from intermediary

A person providing substantive procurement services independently, as a centralized procurement hub was core service and not an ancillary supply facilitating any main supply.

GST law provides for refund of taxes within a prescribed time. Such refunds could not be denied on the basis that it was an 'afterthought' wherein taxes were initially paid under a misconception.

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Background:

- The petitioner[1] D Co India, had entered into a Procurement Agreement with D Co Europe, a group entity functioning as the centralized procurement hub for the D Co Group.
- Pursuant to the agreement, D Co Europe provided procurement-related services such as identifying and approving suppliers, negotiating procurement terms, managing supplier relationships, and facilitating procurement of goods for D Co India.
- Initially, D Co India treated the services as 'import of services' and discharged IGST under reverse charge mechanism (RCM). Subsequently, it took a view that the services were in the nature of 'intermediary services' and the place of supply should be the location of the supplier, i.e. outside India as per Section 13(8)(b) of the IGST Act, and therefore the transaction would not be taxable in India.
- Accordingly, D Co India reversed the input tax credit (ITC) availed on the IGST paid under RCM and filed refund applications seeking refund of the same. The refund claims were rejected by the authorities. Aggrieved, the Appellant filed the present appeal before GSTAT.

GSTAT judgement

- The Tribunal examined whether the services rendered by D Co Europe constituted "intermediary services" or substantive procurement services rendered on its own account.
- The Tribunal observed that multiple Advance Rulings[2] had treated similar sourcing/ procurement arrangements as intermediary services. However, the High Court decisions[3] favoured the view that independent support/ procurement services provided on principal-to-principal basis are not intermediary services.
- It observed that, in case of any conflict, High Court judgments would prevail over Advance Rulings, as latter have only persuasive value and are not binding precedents, except on the applicant and concerned officer in the respect of the applicant.
- Regarding the applicability of **Circular No. 159/15/2021-GST dated 28 September 2021,** it was observed that it is not binding on High Courts and Tribunals[4]. However, it has a persuasive role and could be referred for interpretation. The services rendered by D Co Europe were not in the nature of ancillary supply, but rather a core service provided by D Co Europe to the entire D Group located anywhere in the world. Thus one of the conditions mentioned in the Circular was not satisfied.
- It was held that D Co Europe had rendered services on its own account and acted as an independent contractor and did not represent or bind D Co India in the course of its services.
- Accordingly, the services were held to be import of services with the place of supply being India and not intermediary services. Consequently, the transaction was liable to GST in India.
- The Tribunal disagreed with the lower appellate authority's view that the refund claim was an "afterthought" and held that as per the refund provisions, it could not be denied merely because tax was initially paid under a misconception.
- Accordingly, the appeals were dismissed and the orders rejecting the refund claims were upheld.

[1] M/s Dow Chemical International Private Limited vs. Commissioner of State Tax, Mazgaon [2026-VIL-26-GSTAT-DEL]
[2] Airbus Group India Pvt. Ltd [2021 (54) G.S.T.L. 195 (A.A.R.- GSTKar), Global Reach Education Services Pvt. Ltd [2018 (4) TMI 808]
[3] Columbia Sportswear India Sourcing Pvt. Ltd. [[2025] 174 taxmann.com 936 (Karnataka)], Blackberry India Pvt. Ltd. [2023-VIL-441-DEL-ST], Genpact India (P) Ltd., v. Union of India, [2022] 144 taxmann.com 201 (Punjab &Haryana) - *2022-VIL-751-P&H*.
[4] K.P. Varghese v. ITO [1981] 7 Taxman 13/131 ITR 597 (SC) - 1981-VIL-38-SC-DT, Ellerman Lines Ltd. v. CIT [1971] 82 ITR 913 (SC) - 1971-VIL-95-SC-DT

Deloitte Comments

The present ruling strengthens the position that centralized procurement, sourcing, vendor management, and business support arrangements between group entities may qualify as substantive services provided on a principal-to-principal basis rather than intermediary services.

Further, the Tribunal's observation that refund claims cannot be rejected merely on the grounds that the revised position is an "afterthought", is also favourable and can be used in similar situations.