GlobeOp Financial Services (India) Pvt. Ltd. v. Deputy Commissioner of State Tax & Ors.

Validity of a GST demand order of ₹70,57,98,208/- confirmed by verbatim copying of the show cause notice, without independent application of mind to the petitioner's detailed replies — whether such an order amounts to non-application of mind and viola

Date of Order: June 30, 2025
Case Law No: GIB-BHC-2025-51
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The petitioner is engaged in providing financial back-office services to an overseas entity under a service agreement. The department treated these services as "intermediary services" under Section 13(8)(b) of the IGST Act, 2017, holding that the place of supply was in India and hence the transactions could not qualify as "export of services." A show cause notice dated 28.11.2024 was issued. The petitioner filed detailed replies on 27.01.2025 and 06.02.2025 relying upon at least nine judicial precedents and a Board Circular dated 20.09.2021. However, the adjudicating authority passed an order dated 24.02.2025 confirming the GST demand of ₹70,57,98,208/- for the period April 2020 to March 2021, without independently addressing any of the contentions or precedents cited by the petitioner. A comparative chart submitted by the petitioner's counsel demonstrated that the so-called "reasoning" in the impugned order was a verbatim cut-and-paste of the allegations in the show cause notice itself.

Court Observations (Verbatim)

Para 8: "We are satisfied that the adjudicating authority has failed to independently apply its mind to the various contentions raised in the replies filed on behalf of the Petitioner. Instead, the adjudicating authority has chosen to copy or rather cut and paste verbatim the allegations in the show cause notice dated 28 November 2024 to pass them off as reasons supporting the impugned order."

Para 13: "Besides the grounds, the adjudicating authority is obliged to issue an order after

thoroughly considering all relevant arguments and to state the reasons supporting its decision briefly. Any decision made without considering the main contentions or without providing any supporting reasons would be indicative of a lack of application of mind. Simply cutting and pasting the allegations in the show cause notice or mechanically reciting them verbatim does not inspire confidence that due consideration has been shown to the cause, and the decision is made after its due consideration. Ultimately, these are aspects of natural justice principles that should guide the decision-making process in such cases."

Para 15: "The phrase 'consider' does not mean that the contents of the representation are transcribed in the impugned order and without any discussion on the contentions raised, a conclusion is reached. In this case, the so-called reasoning is merely a cut-and-paste of most of the contents of the show cause notice, as noticed above."

Para 17: "Section 75(6) of the CGST Act provides that the proper officer, in his order, shall set out the relevant facts and the basis of his decision. The emphasis of this provision is on the 'basis of decision'. This means the emphasis is on the reasons that support the decision. Merely cutting and pasting the allegations from the show cause notice does not amount to giving any independent reasons after due consideration the assessee's contentions or after due application of mind to those contentions."

Para 19: "Since this is a case of complete non-application of mind and violation of principles of natural justice, there is no point in directing the Petitioner to pursue the alternative remedy of appeal. A clear breach of natural justice is an exception to the general rule that statutory remedies should usually be exhausted before seeking this Court's extraordinary intervention."

Final Verdict

The impugned demand order dated 24.02.2025 was quashed and set aside. The matter was remanded to the adjudicating authority for fresh consideration and disposal of the show cause notice within three months, with a direction to follow principles of natural justice, including an opportunity of hearing and proper consideration of the petitioner's replies. All contentions on merits were left open.

In favour of the Assessee

Cases / Provisions Referred

Citation	Case Name
Writ Petition No.2836 of 2021 (Bombay HC, decided 11.06.2024)	Piramal Enterprises Limited v. State of Maharashtra & Anr.
(1985) SCC OnLine SC 178	Union of India & Anr. v. Tulsiram Patel
2017 SCC OnLine Hyd. 164	S. Kiranmayi v. Sri N. Sambasiva Rao

Statutory Provisions Referred:

- Section 13(8)(b) of the IGST Act, 2017 — Place of supply of intermediary services
- Section 73(9) of the CGST Act / MGST Act — Determination of tax and issuance of demand order
- Section 75(6) of the CGST Act — Requirement to set out relevant facts and basis of decision
- Section 7(5)(c) of the IGST Act — Inter-state supply provisions
- Section 8(2) of the IGST Act — Intra-state supply provisions
- Section 2(6) of the IGST Act — Definition of "export of services"

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