

Dow Chemical International Pvt. Ltd. vs. Commissioner of State Tax,

Whether procurement facilitation services received by an Indian company (Dow India) from its Swiss group entity (Dow Europe GmbH), functioning as a centralised procurement hub, constitute

Date of Order: June 4, 2026
Case Law No: GIB-GSTAT-2026-55
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background & Relevant Facts

The appellant, M/s. Dow Chemical International Pvt. Ltd. (Dow India), is an Indian company engaged in manufacturing and distributing chemical components. For streamlining its procurement operations, Dow India entered into a written Procurement Agreement dated 01.07.2021 with Dow Europe GmbH, a Switzerland-incorporated company and a related entity within the global Dow Group, functioning as a centralised procurement hub for the entire Dow Group worldwide.

Under the Procurement Agreement, Dow Europe undertook a comprehensive range of activities including identification, selection and approval of foreign suppliers, negotiation of terms and conditions of procurement agreements, development of procurement strategies, reviewing and signing of contracts and purchase orders, procurement governance, supplier risk management, supplier relationship management, procurement analytics, strategic sourcing, quality audits, and spend analytics. The consideration payable to Dow Europe was structured as 3.5% of the total purchases made by Dow India — i.e., no procurement, no payment.

During January 2022 to June 2022, Dow India, under the impression that services received from Dow Europe constituted "import of services" under Section 2(11) of the IGST Act, paid IGST under the Reverse Charge Mechanism (RCM) on the consideration paid to Dow Europe aggregating to Rs. 13,41,89,994/-. Subsequently, Dow India formed the view that Dow Europe was in fact an "intermediary" under Section 2(13) of the IGST Act and that the place of supply under Section 13(8)(b) was Switzerland (outside India), making the transaction non-taxable in India. Accordingly, Dow India reversed the ITC availed and filed refund

applications under Section 54(1) read with Rule 89 of the MGST Act/Rules for all six months.

The Adjudicating Authority rejected the refund claims. The First Appellate Authority (Joint Commissioner of State Tax, Appeals, Belapur) confirmed the rejection vide orders dated 11.09.2025, holding that Dow Europe provided services on its own account (principal-to-principal), not as an intermediary, and that the change in classification was an afterthought. Aggrieved, Dow India filed six appeals before GSTAT.

Court Observations (Verbatim)

"The Revenue has treated any services provided by the India Company to its counterpart outside India as intermediary service and not export of services and therefore, levied GST, holding India to be the place of supply. At the same breath, the Revenue has treated any services provided by the foreign company to an Indian Company as import of services and not intermediary services and levied GST on it, holding the place of supply to be in India. We are of the opinion that both the views cannot be taken. One view is to be taken."

"We are of the considered opinion that the second consideration is not satisfied because of the fact that both the Dow Europe and Dow India are, either direct or indirect, subsidiaries of one company, i.e. 'Dow INC', which is collectively, known as 'Dow Group'. Dow Europe, a company located in Switzerland, functions as the Centralized Procurement Hub for the entire Dow Group and thereby giving a core service to the entire Dow Group located throughout the world."

"We are of the opinion that the Dow Europe renders services on his own account to the service receivers located in India, and the acts of the said foreign company are those of an independent contractor, and it does not represent or bind the Indian client in the course of its services."

"In that view of the matter, we are of the opinion that services received by Dow India are in the nature of an import and the place of supply shall be in India, not in Europe. Thus, it will not come within the purview of Section 13(8)(b) of the IGST Act, and definition provided in Section 2(13) of the IGST Act."

"It cannot be stated that every application for refund of tax, paid to the revenue under a misconception, will be hit by the principles of action arising as an afterthought. To this extent, we disagree with the First Appellate Authority." [On the afterthought objection — GSTAT disagreed with the FAA on this limited point.]

"Services provided by Dow Europe cannot be termed as 'intermediary service' and as it is not in the nature of the ancillary service, rather it is a core service provided by it to one of its sisters concerned, who is operating under the global concern, i.e., 'Dow INC'."

Final Verdict

All six appeals dismissed. GSTAT held that services provided by Dow Europe GmbH to Dow India are import of services (not intermediary services), place of supply is India, and IGST under RCM was correctly paid. Refund claims rejected. Orders of the First Appellate Authority confirmed. □ Against Assessee.

ADDITIONAL FOOTNOTES

Cases Referred & Citations

S.No	Case	Forum	Citation
1	Airbus Group India Pvt. Ltd.	Karnataka AAR	2021 (54) GSTL 195 (AAR-GST-Kar) = 2021 (7) TMI 263
2	M/s. Toshniwal Brothers (SR) Pvt. Ltd.	Karnataka AAAR	2018-TIOL-197-AAR-GST
3	M/s. Gulf Turbo Solutions LLP	Maharashtra AAR	2022 (4) TMI 1343
4	Global Reach Education Services Pvt. Ltd.	West Bengal AAR	2018 (4) TMI 808
5	Vservglobal Private Limited	Maharashtra AAAR	2018 (11) TMI 959
6	Columbia Sportswear India Sourcing (P.) Ltd. vs. Union of India	Karnataka HC	[2025] 174 taxmann.com 936 (Karnataka), decided 26.04.2025
7	Pr. Commissioner, Central Excise & CGST - Delhi South vs. Blackberry India Pvt. Ltd.	Delhi HC	SERTA 7/2023, decided 12.07.2023
8	Genpact India (P) Ltd. vs. Union of India	Punjab & Haryana HC	[2022] 144 taxmann.com 201 (P&H)
9	K.P. Varghese vs. ITO	Supreme Court	[1981] 7 Taxman 13 / 131 ITR 597 (SC)
10	Ellerman Lines Ltd. vs. CIT	Supreme Court	[1971] 82 ITR 913 (SC)
11	CBIC Circular No. 159/15/2021-GST	CBIC	Dated 28.09.2021 — Scope of Intermediary Services