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

Whether procurement services by a Swiss group hub (Dow Europe GmbH) to its Indian affiliate are "intermediary services" with place of supply outside India, entitling refund of IGST paid under RCM as import of services.

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

CASE DESCRIPTION / SUMMARY

Background

Under a Procurement Agreement of 01.07.2021, Dow Europe, the group's centralised procurement hub, identified and approved foreign suppliers, negotiated terms and facilitated purchases for the appellant for a fee of 3.5% of purchases. The appellant paid IGST under RCM as import of services for January–June 2022, then claimed refunds of about Rs. 13.42 crore, contending that the services were intermediary services taxable outside India under Section 13(8)(b). The refunds were rejected and the rejection upheld in first appeal.

Final Verdict

The Tribunal noted that the CBIC tests in Circular 159/15/2021-GST are persuasive only, since **CBIC circulars bind departmental officers but not the Tribunal**, and that advance rulings (Airbus, Global Reach, Toshniwal) are not binding under Section 103. It accepted that three parties were involved, but held that the second test of two distinct supplies failed: Dow Europe, as the centralised procurement hub of the Dow Group, renders a core service on its own account as an independent contractor, without authority to bind the Indian entity, in line with Columbia Sportswear (Kar HC) and Blackberry India (Del HC). Holding that **the services are not ancillary but a core service, and therefore an import of services with place of supply in India, outside Section 2(13) and Section 13(8)(b)**, the Tribunal answered all questions against the appellant and dismissed the appeals. It did, however, disagree with the appellate authority's view that the refund claim was barred as an "afterthought", since Section 54 permits refund of tax paid under a misconception within the time limit. Assessee.

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