

M/s Alstom Transport India Ltd. v. Commissioner of Commercial Taxes & Ors.

Whether IGST under reverse charge is leviable on the secondment of expatriate employees by overseas group entities as an import of "manpower supply service", where no invoice was raised, in light of para 3.7 of CBIC Circular No. 210/4/2024-GST dated 2

Date of Order: July 15, 2025

Case Law No: GIB-KHC-2025-71

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CASE DESCRIPTION / SUMMARY

Background

The petitioner, engaged in railway and metro infrastructure, engaged employees of its overseas group companies on secondment for July 2017 to March 2023 under employment agreements with it. The expatriates were on its payroll and paid by it after TDS, while the overseas entities continued home-country social security benefits. From November 2020 the petitioner paid IGST under reverse charge on the debit-note amounts and availed ITC. A show cause notice dated 26.09.2023 proposed IGST of Rs. 59,57,19,228 on import of manpower supply services, and orders dated 16.10.2024 confirmed IGST of Rs. 57,94,94,146 with interest and penalty, despite the petitioner's reliance on the circular.

Final Verdict

The Court noted that Northern Operating Systems had applied substance over form on its own facts, and that secondment must be assessed case by case. It found that the expatriates were under the petitioner's exclusive control, integrated into its organisation, paid by it subject to Indian TDS and given statutory employment benefits, establishing a genuine employer-employee relationship within Entry 1 of Schedule III. Quoting para 3.7 of Circular 210/4/2024-GST, which deems the value of services from a foreign affiliate to be Nil where no invoice is issued and full ITC is available, and agreeing with the Delhi High Court in Metal One Corporation that the circular binds the authorities, the Court held that **even if arguendo such secondment arrangement is assumed to be a supply, the deeming fiction under the Circular neutralises any scope for further tax liability.** It ruled that **the secondment of employees does not amount to a taxable supply of manpower services under GST and is not amenable to IGST under reverse charge.** The writ

petition was allowed and the six orders dated 16.10.2024 were quashed.

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