

Metal One Corporation India Pvt. Ltd. v. Union of India & Ors.

Whether IGST under reverse charge is payable on secondment of expatriate employees by a foreign group company where no invoice is raised, in view of Rule 28 and Circular No. 210/4/2024-GST.

Date of Order: October 21, 2024
Case Law No: GIB-DHC-2024-21
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

Metal One Corporation India Pvt. Ltd. employed staff of its Japanese parent under individual employment agreements. After the Supreme Court decision in Northern Operating Systems, the department issued SCNs under Section 73 (29.09.2023) demanding IGST under reverse charge on "import of manpower supply services" for July 2017 to March 2023: about ₹1.94 crore for its Delhi registration and ₹58.95 lakh for its Maharashtra registration. The department valued the supply at the full salary cost as open market value under Rule 28. Similar SCNs and orders against Sony India, Petronas Energy India, Mitsui & Co. India and another petitioner were heard together. The petitioners did not press their challenge to whether secondment is a supply, so the question was confined to valuation under the second proviso to Rule 28 read with paragraph 3.7 of Circular No. 210/4/2024-GST dated 26.06.2024.

Final Verdict

Metal One Corporation India Pvt. Ltd. employed staff of its Japanese parent under individual employment agreements. After the Supreme Court decision in Northern Operating Systems, the department issued SCNs under Section 73 (29.09.2023) demanding IGST under reverse charge on "import of manpower supply services" for July 2017 to March 2023: about ₹1.94 crore for its Delhi registration and ₹58.95 lakh for its Maharashtra registration. The department valued the supply at the full salary cost as open market value under Rule 28. Similar SCNs and orders against Sony India, Petronas Energy India, Mitsui & Co. India and another petitioner were heard together. The petitioners did not press their challenge to whether secondment is a supply, so the question was confined to valuation under the second proviso to Rule 28 read with paragraph 3.7 of Circular No. 210/4/2024-GST dated 26.06.2024.

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