



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 16975 OF 2023 (T-RES)

BETWEEN:

IDP EDUCATION INDIA PVT LTD
A COMPANY UNDER THE
COMPANIES ACT (1), 1956, AND
HAVING ITS REGISTERED OFFICE AT
22/9, BERETANA AGRAHARA,
HOSRU MAIN ROAD,
BANGALORE 560100
AND REPRESENTED BY ITS HEAD OF TAXATION
SOUTH ASIA
MS PALLAVI SOOD

...PETITIONER

(BY SRI. KUMAR HARSHAVARDHAN,
SMT PREETHA MAHADEVAN
AND SRI. BHARATH JANARTHANAN., ADVOCATES)

AND:

1. THE UNION OF INDIA
THROUGH ITS SECRETARY,
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE, GOVERNMENT
OF INDIA, CENTRAL SECRETARIAT,
NORTH BLOCK, NEW DELHI 110001
2. JOINT COMMISSONER OF GST
APPEALS II BENGALURU, TRAFFIC TRANSIF,
MANAGEMENT CENTRE, BMTC BUILDING,
4TH FLOOR, ABOVE BMTC BUS STAND,
DOMLUR, OLD AIRPORT ROAD,
BENGALURU 560071





3. DEPUTY COMMISSIONER OF CENTRAL TAX
29/2, CRESCENT ROAD, 3RD FLOOR,
BASAVESHWARA BUILDING (OPP TO MALLIGE
MEDICAL CENTRE)
BANGALORE 560001

...RESPONDENTS

(BY SMT. SUBHA.S, CGC FOR R1;
SRI.ARAVIND V CHAVAN, ADVOCATE FOR R2 AND R3)

**

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT OR ORDER THEREBY STRIKING DOWN SECTION 13(8)(b) (ANNEXURE-B) READ WITH 8(2) (ANNEXURE-A) OF THE INTEGRATED GOODS AND SERVICES ACT, 2017 AS BEING ULTRA VIRES ARTICLE 245, ARTICLE 246A, ARTICLE 269A, ARTICLE 286, ARTICLE 14 AND ARTICLE 19(1)(g) OF THE CONSTITUTION OF INDIA, 1950 AND SECTION 5 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017, ETC.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

Petitioner in this petition seeks the following reliefs:

"(i) issue a Writ of Certiorari, any other appropriate writ or any other writ in the nature of Certiorari, or direction or order thereby striking down Section 13(8)(b) [ANNEXURE 'B'] read with 8(2)



[ANNEXURE 'A'] of the Integrated Goods and Services Act, 2017 as being ultra vires Article 245, Article 246A, Article 269A, Article 286, Article 14 and Article 19(1)(g) of the Constitution of India, 1950 and Section 5 of the Integrated Goods and Services Tax Act, 2017;

(ii) issue a Writ of Certiorari or any other appropriate writ, order or direction under Article 226/227 of the Constitution of India, calling for the records pertaining to the Petitioner relating to the refund claim of the Petitioner for the period of April 2019 till March 2020; after examining the legality and validity thereof, and bearing quash the Impugned Order DIN No.2022095000000999FEE dated 08.09.2022 passed by the Respondent No. 2 in OIA No.164/2022-23/JC-All/GST for the tax period 2019-20 [ANNEXURE 'C'];

(iii) issue a Declaration and/or a Writ of Certiorari or any other appropriate writ order under Article 226/ 227 of the Constitution of India, calling for the records pertaining to the refund claim of the Petitioner for the period starting from April 2019 till March 2020; and after examining the legality and validity thereof, declare that the services supplied by the Petitioner do not qualify as an intermediary and direct Respondent No. 2 to sanction the refund claim filed by the Petitioner, along with applicable statutory and equitable interest;

(iv) issue a writ of Mandamus or any other writ in the nature of Mandamus, or direction or order thereby directing Respondent No. 2 to grant a refund of Rs. 3,91,62,208 along with interest for the period starting from April 2019 till March 2020; and/or

(v) issue any other writ, order or direction as deemed fit and appropriate by this Hon'ble Court."



2. Heard the learned counsel for the petitioner and learned counsel for respondents and perused the material on record.

3. After reiterating the various contentions urged in the petition and referring to the material on record, learned counsel for the petitioner submits that the petitioner is not an intermediary as such, in the light of the Circular No.159/15/2021-GST dated 21.09.2021, the impugned order passed by the appellate authority, notices, orders, etc. deserve to be quashed.

4. It is further submitted that in the petitioner's own case, the Bombay High Court [(2025) 30 Centax 391 (Bom.)], the Rajasthan High Court [(2025) 34 Centax 374 (Raj.)] and the CESTAT, New Delhi [2021 (10) TMI 1174-CESTAT NEW DELHI], have passed orders in favour of the petitioner. Further, the Bombay High Court, in relation to identically situated persons, has quashed the impugned order, notice, etc, and directed the respondent to grant refund in favour of the petitioner therein.

5. Learned counsel for the petitioner also placed reliance upon the judgments of this Court in the case of (i) M/s. Amazon Development Centre India Pvt.Ltd. Vs. Commissioner of Central Tax GST (Appeals-II), Bangalore, Assistant Commissioner of



Central Tax, Bangalore [2025(5)TMI 150-Karnataka High Court],
(ii) M/s. Columbia Sportswear India Sourcing Pvt.Ltd. Vs. Union of
India [2025 (5)TMI 2139-Karnataka High Court] (iii) M/s. Athene
Technologies India LLP Vs. State of Karnataka [2025 (6) TMI 88 -
Karnataka High Court] and (iv) Nokia Solutions and Networks India
Pvt.Ltd. Vs. The Principal, Commissioner of Central Tax [2025-
VIL-415-KAR] and submits that the respondents are to be directed
to grant refund of the amount in favour of the petitioner.

6. Per contra, learned counsel for the respondents would
reiterate the various contentions urged in the statement of
objections and submit that there is no merit in the petition and the
same is liable to be dismissed.

7. The issue in controversy is directly and squarely covered
by the judgments of the Bombay High Court, Rajasthan High Court
as well as the CESTAT, New Delhi, in the petitioner's own case.
The relevant paragraphs of the judgment rendered by the
CESTAT, New Delhi, in respect of the petitioner's own case, read
as under:

*"8. We have gone through the records of the case and
considered the submissions on both sides. It is undisputed
that the appellant has an agreement only with IDP Australia.*



The appellant recruits or facilitates students in India, but does not get any remuneration from Australian universities. For the students who are recruited or admitted by the university in Foreign Country, recommended by appellant in India, IDP Australia gets paid by the Australian/Foreign universities. A share of that commission is given to the appellant by IDP Australia. This scheme of arrangement clearly shows that the IDP Australia is providing services to the foreign universities and is receiving consideration for the same. Insofar as recruitment of students in India is concerned, IDP Australia has created the appellant as a fully owned subsidiary, and has sub- contracted this work to the appellant. Nothing has been brought on record in the show cause notice or in the order to show that the appellant has a direct contract with the foreign universities. There is nothing on record to show that the appellant is liasioning or acting as intermediary between the foreign universities and IDP Australia. All that is evident from the records is that the appellant is providing the services which have been sub- contracted to it by M/s IDP Australia. As a subcontractor, it is receiving commission from the main contractor for its services. The main contractor - IDP Australia, in turn, is receiving commission from the foreign universities who pay a percentage of the tuition fee to IDP Australia. From the records, we find that Revenue has not established that the appellant is acting as an intermediary between M/s IDP Australia and the foreign universities, as alleged or held in the impugned order and the show cause notice. Hence, we find in favour of the appellant on merits.



9. We also find that on the exact same services a show cause notice was issued earlier covering the period 1.4.2012 to 31.3.2013 and which was dropped holding that the services rendered by the appellant to IDP Australia, amounted to export of services. All that has changed is that DGCEI has picked up an issue which has already been settled and took a different view and issued the subsequent show cause notice and confirmed the demand. If the DGCEI was aggrieved by the earlier order which was passed, the right course could have been for it to appeal to a higher judicial forum. A show cause notice issued on the same issue which has already been settled, simply because DGCEI holds a different view, is in our considered view not sustainable. On this ground also, the impugned order needs to be set aside.

10. In view of the above, the impugned order is set aside and the appeal is allowed with consequential relief, if any."

8. A similar view has been taken by the Bombay High Court (Nagpur Bench) in the case of **KC Overseas Education Pvt.Ltd. Nagpur Vs. The Union of India and others** in **Writ Petition No.3914/2024 and connected matter**, the CESTAT, Chandigarh, in the case of **M/s. Oceanic Consultants Pvt.Ltd. Vs. Commissioner of Central Excise and Service Tax, Chandigarh-I** [2024 (8) TMI 399], and the Delhi High Court in the



case of ***Commissioner of Delhi Goods And Service Tax DGST Delhi Vs. Global Opportunities Private Limited Through its Authorised Representative [2025 (10) TMI 371]***.

9. Further, the refund sanctioning order has been implemented in favour of the petitioner pursuant to the aforesaid judgments rendered by the Bombay High Court and the Rajasthan High Court. It is also relevant to state that under identical circumstances, this Court has come to the conclusion that the writ petitioners therein were not intermediaries in the judgments of this Court in the case of (i) M/s. Amazon Development Centre India Pvt.Ltd. Vs. Commissioner of Central Tax GST (Appeals-II), Bangalore, Assistant Commissioner of Central Tax, Bangalore [2025(5)TMI 150-Karnataka High Court], (ii) M/s. Columbia Sportswear India Sourcing Pvt.Ltd. Vs. Union of India [2025 (5)TMI 2139-Karnataka High Court] (iii) M/s. Athene Technologies India LLP Vs. State of Karnataka [2025 (6) TMI 88 - Karnataka High Court] and (iv) Nokia Solutions and Networks India Pvt.Ltd. Vs. The Principal, Commissioner of Central Tax [2025-VIL-415-KAR].

10. Under these circumstances, I am of the considered opinion that the impugned order passed by the respondent



deserves to be quashed and the petition disposed of in terms of the said judgments.

11. Accordingly, I pass the following:

ORDER

- (i) Writ Petition is ***allowed***;
- (ii) Impugned order dated 08.09.2022 passed by the respondent No.2 in OIA No.164/2022-23/JC-All/GST for the tax period 2019-20, at Annexure C, is hereby quashed.
- (iii) Respondents are directed to grant refund/sanction in favour of the petitioner together with applicable interest and make payment as expeditiously as possible and at any rate, within a period of three months from the date of receipt of a copy of this order.

**Sd/-
(S.R.KRISHNA KUMAR)
JUDGE**