



GST UPDATE

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While best efforts have been made to summarise the Judgement for educational purposes, this is not a legal opinion. It is suggested that Judgement passed by the Hon'ble Court must be referred to before making any decisions. In case of any query, please feel free to get in touch with us at gst@cbcandco.com.

Citation:	2024 (2) TMI 1121 - MADRAS HIGH COURT		
Court:	Hon'ble Madras High Court	Date of Judgement:	16 th February, 2024
Law:	Goods and Service Tax		
Topic:	Refund		
Facts of the Case:	<p>The petitioner operates the business of providing online services through its website to clients situated outside India. They have paid Goods and Service Tax (GST) for the services rendered to these clients. Considering the international nature of their clientele, the petitioner has treated these services as an "export of service" under Section 2(6) of the IGST Act, 2017, and has applied for a refund under Section 54 of the IGST Act.</p> <p>However, the refund claims were rejected citing two main reasons: first, that the export proceeds were received in Indian rupees instead of freely convertible foreign currency, and second, that the petitioner failed to produce export invoices as required under Section 31 of the CGST Act, 2017, making it difficult to establish the location of the service recipients.</p> <p>Appellate Authority upheld the order of the lower authority and rejected the refund. Hence, writ petition was filed with the Hon'ble High Court. The primary issue at hand is whether the petitioner is entitled to a refund of the tax borne on input and final services exported to overseas customers.</p>		
Held:	<p>There is no dispute regarding the services provided by the petitioner to its foreign clients, which fall under the definition of export services as per Section 2(b) of the IGST Act, 2017. PayPal acts as an intermediary that receives remittances in freely convertible foreign exchange and deposits it in CITI Bank which deposits INR in the bank account of the petitioner. Hence, receipts routed through PayPal in Indian currency do not negate the export of services by the petitioner.</p>		

Regulation 3(3) of the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016 allows authorized dealers to permit receipts for the export of goods/software from a third party, as per Reserve Bank guidelines.

Hence, when PayPal, acting as an intermediary of the petitioner, is collecting export proceeds in foreign currency and depositing it with CITI bank, who in turn converts it into INR and deposits it in the bank account of the petitioner, it can be treated as receipt of foreign currency in terms of the RBI and FEMA Guidelines.

Consequently, the service provided by the petitioner can be treated as export of services. Hence it is entitled to a refund of taxes paid on exports and unutilized input tax credit used in exporting services.