


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 1910/2024

M/s. Savio Jewellery, 224, Apex Mall, Tonk Road, Jaipur Through Partner Ashish Sand S/o Rajendra Kumar Sand, Aged About 40 Years, R/o C-7, Gokul Vatika, Near Jawahar Circle, J.I.n. Marg, Durgapura, Jaipur (Raj.)

----Petitioner

Versus

1. Commissioner, Central Goods And Service Tax, N.C.R. Building, Statue Circle, C-Scheme, Jaipur.
2. The Assistant Commissioner, Central Goods And Service Tax Division E, Central Excise Building, Sector-10, Vidhyadhar Nagar, Jaipur.
3. Superintendent, Central Goods And Service Tax, Audit Circle, Jaipur Second, N.c.r. Building, Statue Circle, C-Scheme, Jaipur.
4. Union of India through its Principal Secretary, Ministry of Finance, New Delhi
5. State of Rajasthan through its Principal Secretary, Department of Finance, Secretariat, Jaipur.

----Respondents

For Petitioner(s)	:	Ms. Dipti Jindal Mr. R.C. Agarwal with Ms. Neetu Bhansali
For Respondent(s)	:	Mr. Bharat Vyas, AAG with Ms. Pratyushi Mehta Mr. Ajay Shukla with Mr. Raghav Sharma & Mr. Pushpendra Badgoti

HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MRS. JUSTICE SHUBHA MEHTA

Order

02/05/2024

1. Petitioner has preferred this civil writ petition *inter aila* claiming the following relief:-

"1. Impugned order dated 30.11.2023 passed by the respondents to the extent of tax imposed on exhibition services received by the petitioner in non-taxable territory from the person located in non-taxable territory on RCM basis, may kindly be quashed and set aside.

2. Show cause notices issued by the respondents on 25.07.2023 and 01.12.2022 to the extent of non-payment of GST on exhibition services, may kindly be quashed and set aside.

3. The interest and penalty imposed by the respondents on the above mentioned amount may also be quashed and set aside.

4. Any other appropriate order, which may be found just and proper in the facts and circumstances of the case, be passed in favour of the petitioners.

5. Cost of the writ petition may also be awarded in favor of the petitioners."

2. It is contended by counsel for the petitioner that Section 1 of Central Goods and Services Tax Act, 2017(hereinafter referred as 'CGST Act') and Section 1 of Integrated Goods and Services Tax Act, 2017(hereinafter referred as 'IGST Act') clearly mentions that provisions of the Act shall extend to the whole of India. It is argued that services received outside India cannot be taxed in India and the same is contrary to Section 1 of IGST Act. It is also contended that petitioner was dealing with jewellery and he participated in exhibition which took place outside India. The services received outside India cannot be taxed under the IGST in India.

3. Learned AAG and counsel appearing for CGST have opposed the writ petition. It is contended that petitioner is liable to pay IGST for the very reason that Section 13 of the IGST Act provides for services received outside India and sub-section(5) of Section

13 of IGST Act includes fair and exhibition. It is also contended that a notification was issued on 28.06.2017 by Government of India under Section 5(3) of IGST Act which clearly provides as under:-

SI No.	Category of Supply of Services	Supplier of Service	Recipient of Service
(1)	(2)	(3)	(4)
1	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.

4. The above notification has not been challenged by the petitioner. Authorities have not committed any illegality and the same cannot be challenged by way of writ jurisdiction as the petitioner has alternate remedy available to him that is by way of filing of appeal.

5. We have considered the contentions and perused the relevant provisions.

6. The relevant portion of Section 13 of IGST Act reads as under:-

“13. Place of supply of services where location of supplier or location of recipient is outside India--

(1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

(5) The place of supply of services supplied by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or

organisation, shall be the place where the event is actually held”

7. As per sub-section(3) of Section 5 of IGST Act, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. A notification dated 28.06.2017 has been issued in exercise of powers conferred under sub-section(3) of Section 5 of IGST Act, which is not under challenge. Sub-section(5) of Section 13 of the IGST Act, includes the places of supply of services. In the present case, the supply of services has taken place outside India and as per the notification the receiver of service is the person who is registered in the taxable territory. Petitioner is a registered person who is located in the taxable territory. We do not find any reason to entertain the writ petition as the services received outside India is already taxable at the hand of the receiver of services, who is a registered person in taxable territory i.e. India.

8. Consequently, the writ petition being devoid of merits is dismissed.

9. Stay application also stands disposed.

(SHUBHA MEHTA),J

(PANKAJ BHANDARI),J