



JUDGEMENT

No GST Liability on Salaries of Seconded Employees as per CBIC Circular No. 210/4/2024-GST dated 26.06.2024

Issued By:	Delhi High Court
In Case Of:	Metal One Corporation India Pvt Ltd
Order No:	W.P.(C) 14945/2023 & CM APPL. 59655/2023
Order Date:	22 nd October 2024

FACTS & OBSERVATIONS

- Sony India Pvt. Ltd., an Indian entity, employed staff seconded from its foreign parent company, Metal One Corporation Japan, under individual employment agreements.
- Dispute arose regarding GST liability on salaries paid to these seconded employees, considering the Supreme Court's decision in CCE & Service Tax vs. Northern Operating Systems (P) Ltd. which classified such arrangements as manpower supply services.
- Tax demands and SCNs were issued under Section 73(5) of the GST Act, citing potential GST liability on reimbursed salaries, despite Sony India's compliance and discharge of tax obligations.
- Appellant cited the CBIC Circular dated 26.06.2024 which states that the value of service rendered by seconded employees should be treated as 'Nil' for GST purposes in view of the second proviso to rule 28 as the transactions are between 2 related persons.

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- The Court held that the Northern Operating Systems ruling could not be universally applied to all secondment cases, particularly given the facts and compliance steps taken by Sony India.
- The Court recognized that the CBIC Circular set a national precedent, instructing that services by seconded employees from a related person should be valued as 'Nil,' thereby negating any GST liability on such transactions.
- The SCNs issued became effectively redundant, as no actionable tax liability remained after applying the CBIC Circular.
- Based on observations, Court absolved Sony India Pvt. Ltd. from GST liabilities, penalties, and interest on seconded employee salaries.

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