



JUDGEMENT

IGST Not Payable on Employee Secondment from Foreign Affiliates to Indian Entity

Issued By:	Karnataka High Court
In Case Of:	M/s Alstom Transport India Ltd
Order No:	WP No 1779 of 2025
Order Date:	15 th July 2025

FACTS & OBSERVATIONS

- Employees of overseas group companies were seconded to work in India between July 2017 and March 2023; they were placed on Alstom India's payroll and paid after TDS deduction under the Income Tax Act.
- The department issued a Show Cause Notice demanding IGST, alleging that the arrangement constituted an import of manpower supply services under reverse charge.
- The taxpayer relied on CBIC Circular No. 210/4/2024-GST dated 26.06.2024, which deems the open market value as 'Nil' in related party transactions with full ITC, where no invoice is raised.
- Alstom contended that as no invoices were issued and salaries were paid directly, the secondment does not qualify as a taxable supply of services.

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- The Karnataka High Court held that the CBIC Circular is binding and the value of supply must be deemed 'Nil' in absence of an invoice and availability of full ITC.
- The Court observed that seconded employees, being on the Indian entity's payroll, had an employer-employee relationship falling under Schedule III of the CGST Act.
- Citing the Delhi HC ruling in Metal One Corporation India Pvt. Ltd., the Court affirmed that the legal fiction of 'Nil' value overrides invocation of Rule 28.
- The IGST demand was set aside, holding that the secondment arrangement did not constitute a taxable import of manpower services.

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