



W.P.(MD)No.3129 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2025

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

W.P.(MD)No.3129 of 2022
and
W.M.P(MD)No.2727 of 2022

L S Mills Limited,
Represented by its Chief Financial Officer M.Manikandan,
D.No.351, Madurai Road,
Theni – 625 531. ... Petitioner

Vs.

- 1.Union of India,
Represented by its Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110 001.
- 2.Central Board of Indirect Taxes and Customs,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110 001.



W.P.(MD)No.3129 of 2022

3. The Principal Chief Commissioner of GST,
No.26/1 Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

4. The Assistant Commissioner of Central GST & Central Excise,
Dindigul II Division,
Dindigul.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare that Sl.No.10 of Notification No.10/2017-Integrated Tax (Rate) dated 28.06.2017 and Sl.No.9(ii) Notification No.8/2017-Integrated Tax (Rate) dated 28.06.2017 and the consequential show cause notice issued by the fourth respondent in SCN No.04/2021-GST dated 15.12.2021 as null and void and violative of Article 245, 269A of the Constitution of India and also violative of Section 1, Section 7(4) and Section 5(3) of the Integrated Goods and Service Tax Act, 2017.

For Petitioner : Mr.S.Karunakar

For Respondents : Mr.P.Paul Pandi, SPC for R1 & R2

: Mr.N.Dilip Kumar for R3 & R4
Standing Counsel



W.P.(MD)No.3129 of 2022

ORDER

WEB COPY (Order of the Court was made by **DR.ANITA SUMANTH, J.**)

The issue that arises for consideration in this Writ Petition pertains to the validity of declaration under Sl.No.10 of Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017 and Sl.No.9(ii) Notification No.8/2017-Integrated Tax (Rate) dated 28.06.2017, which are challenged as being ultra vires of the Constitution as well as the provisions of the Integrated Goods and Service Tax Act, 2017.

2.Learned counsel for petitioner relies on the Judgment of the Hon'ble Supreme Court of India in *Union of India Vs. Mohit Minerals Private Limited*, dated 19.05.2022 [2022 (61) G.S.T.L. 257 SC].

3.The operative portion of the Judgment is as follows:

“142.In the present case, the question is whether the imposition of IGST on supply of services can be sustained when there is a concomitant imposition of IGST on supply of goods. However, we must first analyse the context in which the IGST is levied on the import of goods in this case.

143.The provisions of composite supply in the CGST Act (and the IGST Act) play a specific role in the levy of GST. The idea of introducing ‘composite supply’ was to ensure that various elements of a transaction are not dissected and the levy is imposed on the bundle of supplies altogether. This finds specific mention in the illustration provided under Section 2(30) of CGST Act,



WEB COPY



W.P.(MD)No.3129 of 2022

where the principal supply is that of goods. Thus, the intent of the Parliament was that a transaction which includes different aspects of supply of goods or services and which are naturally bundled together, must be taxed as a composite supply.

144.It is true that in this case, the first leg of the transaction between the foreign exporter and the Indian importer is a composite supply, while the second leg, between the foreign exporter and the shipping line may, from a perspective, be regarded as a standalone transaction. Both of them are independent transactions and ordinarily, the IGST could be levied on both sets of transactions- one as supply of goods (under the ambit of composite supply) and the other as supply of services. However, the impugned notifications seek to tax the importer as the deemed recipient of the supply of service. The ASG has advanced an interpretation of Sections 5(3) and 5(4) of the IGST Act, read with Section 2(93) of the CGST Act to contend that the importer can be classified as the 'recipient' of the services. On this interpretation, we have upheld the validity of the impugned notifications under Sections 5(3) and 5(4) of the IGST Act in Section D.2-D.5 of this judgment. The respondents as a matter of fact urged that (i) the Indian importer is not privy to the contract between the foreign exporter and the foreign shipping line; (ii) the Indian importer does not pay consideration to the foreign shipping line; and (iii) the Indian importer does not receive any services from the foreign shipping line since the transportation services are provided by the foreign shipping line to the foreign exporter. The ASG, while advancing arguments on behalf of the Union Government, has opposed these submissions. The Union Government has urged that this Court must look beyond the text of the contract between the foreign shipping line and the foreign exporter to identify the Indian importer as the recipient of the



WEB COPY



W.P.(MD)No.3129 of 2022

services. This Court has upheld the validity of the impugned notifications on this ground. The Union Government is contradicting the main plank of its submission now by contending that the two legs of the transaction are separate standalone agreements. That would imply, that while on the one hand the Union Government seeks to levy tax on the Indian importer by going beyond the text of the contract between the foreign shipping line and foreign exporter (for the purpose of identifying the Indian importer as the recipient of services), on the other hand, as far as the submissions on composite supply are concerned, the Union Government urges that the contracts must be viewed as separate transactions, operating in silos. We are unable to subscribe to this view. The Union of India cannot be heard to urge arguments of convenience – treating the two legs of the transaction as connected when it seeks to identify the Indian importer as a recipient of services while on the other hand, treating the two legs of the transaction as independent when it seeks to tide over the statutory provisions governing composite supply.

145. This Court is bound by the confines of the IGST and CGST Act to determine if this is a composite supply. It would not be permissible to ignore the text of Section 8 of the CGST Act and treat the two transactions as standalone agreements. In a CIF contract, the supply of goods is accompanied by the supply of services of transportation and insurance, the responsibility for which lies on the seller (the foreign exporter in this case). The supply of service of transportation by the foreign shipper forms a part of the bundle of supplies between the foreign exporter and the Indian importer, on which the IGST is payable under Section 5(1) of the IGST Act read with Section 20 of the IGST Act, Section 8 and Section 2(30) of the CGST Act. To levy the IGST on the supply of the service component of the transaction



would contradict the principle enshrined in Section 8 and be in violation of the scheme of the GST legislation. Based on this reason, we are of the opinion that while the impugned notifications are validly issued under Sections 5(3) and 5(4) of the IGST Act, it would be in violation of Section 8 of the CGST Act and the overall scheme of the GST legislation. As noted earlier, under Section 7(3) of the CGST Act, the Central Government has the power to notify an import of goods as an import of services and vice-versa:

“7. Scope of supply—

[...]

(3) Subject to the provisions of [sub-sections (1), (1A) and (2)] 16, the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.”

No such power can be noticed with respect to interpreting a composite supply of goods and services as two segregable supply of goods and supply of services.

146. The High Court in the impugned judgment has observed that:

“What has led to the present day problems in the implementation of the GST:

132. The GST is implemented by subsuming various indirect taxes. The difficulty which is being experienced today in proper implementation of the GST is because of the erroneous misconception of law, or rather, erroneous assumption on the part of the delegated legislation that service tax is an independent levy as it was prior to the GST and



WEB COPY



W.P.(MD)No.3129 of 2022

it go vivisect the transaction of supply to levy more taxes on certain components completely overlooking or forgetting the basic concept of composite supply introduced in the GST legislation and the very idea of levying the GST. Prima facie, it appears that while issuing the impugned notification, the delegated legislature had in mind the provision of the Finance Act, 1994, rather than keeping in mind the object of bringing the GST by making the Constitutional (101st) Amendment Act, 2016 to merge all taxes levied on the goods and services to one tax known as the GST.

133. It appears that despite having levied and collected the integrated tax under the IGST Act, 2017, on import of goods on the entire value which includes the Ocean Freight through the impugned notifications, once again the integrated tax is being levied under an erroneous misconception of law that separate tax can be levied on the services components (freight), which is otherwise impermissible under the scheme of the GST legislation made under the CA Act, 2016.

134. All the learned senior counsel are right in their submission that if such an erroneous impression is not corrected and if such a trend continues, then in future even the other components of supply of goods, such as, insurance, packaging, loading/unloading, labour, etc. may also be artificially vivisected by the delegated legislation to once again levy the GST on the supply on which the tax is already collected.

[...]

215. Thus, having paid the IGST on



WEB COPY



W.P.(MD)No.3129 of 2022

the amount of freight which is included in the value of the imported goods, the impugned notifications levying tax again as a supply of service, without any express sanction by the statute, are illegal and liable to be struck down.”

(emphasis supplied)

147. We are in agreement with the High Court to the extent that a tax on the supply of a service, which has already been included by the legislation as a tax on the composite supply of goods, cannot be allowed.

PART E

(E) Conclusion

148. Based on the above discussion, we have reached the following conclusion:

(i) The recommendations of the GST Council are not binding on the Union and States for the following reasons:

(a) The deletion of Article 279B and the inclusion of Article 279(1) by the Constitution Amendment Act 2016 indicates that the Parliament intended for the recommendations of the GST Council to only have a persuasive value, particularly when interpreted along with the objective of the GST regime to foster cooperative federalism and harmony between the constituent units;

(b) Neither does Article 279A begin with a non-obstante clause nor does Article 246A state that it is subject to the provisions of Article 279A. The Parliament and the State legislatures possess simultaneous power to legislate on GST. Article 246A does not envisage a repugnancy provision PART E to resolve the inconsistencies between the Central and the State laws on GST. The ‘recommendations’ of the GST Council are the product of a collaborative dialogue involving the Union and States. They are recommendatory in nature.



WEB COPY



W.P.(MD)No.3129 of 2022

*To regard them as binding edicts would disrupt fiscal federalism, where both the Union and the States are conferred equal power to legislate on GST. It is not imperative that one of the federal units must always possess a higher share in the power for the federal units to make decisions. Indian federalism is a dialogue between cooperative and uncooperative federalism where the federal units are at liberty to use different means of persuasion ranging from collaboration to contestation;
and*

(c) The Government while exercising its rule-making power under the provisions of the CGST Act and IGST Act is bound by the recommendations of the GST Council. However, that does not mean that all the recommendations of the GST Council made by virtue of the power Article 279A (4) are binding on the legislature's power to enact primary legislations;

(ii) On a conjoint reading of Sections 2(11) and 13(9) of the IGST Act, read with Section 2(93) of the CGST Act, the import of goods by a CIF contract constitutes an "inter-state" supply which can be subject to IGST where the importer of such goods would be the recipient of shipping service;

(iii) The IGST Act and the CGST Act define reverse charge and prescribe the entity that is to be taxed for these purposes. The specification of the recipient – in this case the importer – by Notification 10/2017 is only clarificatory. The Government by notification did not specify a taxable person different from the recipient prescribed in Section 5(3) of the IGST Act for the purposes of reverse charge;

(iv) Section 5(4) of the IGST Act enables the Central Government to specify a class of registered persons as the recipients, thereby conferring the power of creating a deeming fiction on the delegated



WEB COPY



W.P.(MD)No.3129 of 2022

legislation;

(v) *The impugned levy imposed on the 'service' aspect of the transaction is in violation of the principle of 'composite supply' enshrined under Section 2(30) read with Section 8 of the CGST Act. Since the Indian importer is liable to pay IGST on the 'composite supply', comprising of supply of goods and supply of services of transportation, insurance, etc. in a CIF contract, a separate levy on the Indian importer for the 'supply of services' by the shipping line would be in violation of Section 8 of the CGST Act.*

149. For the reasons stated above, the appeals are accordingly dismissed.

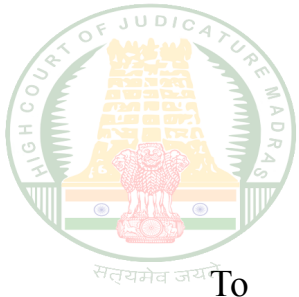
150. Pending application(s) if any, stand disposed of."

4. As a consequence of the above, the show cause notice issued by the Assistant Commissioner of Central GST & Central Excise, dated 15.12.2021 is quashed. The Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

[A.S.M.J.] & [C.K.J.]
13.10.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes
ps

10/12



W.P.(MD)No.3129 of 2022

To
WEB COPY

- 1.Union of India,
Represented by its Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110 001.
- 2.Central Board of Indirect Taxes and Customs,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110 001.
- 3.The Principal Chief Commissioner of GST,
No.26/1 Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.
- 4.The Assistant Commissioner of Central GST & Central Excise,
Dindigul II Division,
Dindigul.



WEB COPY



W.P.(MD)No.3129 of 2022

DR.ANITA SUMANTH, J.
AND
C.KUMARAPPAN, J.

ps

W.P.(MD)No.3129 of 2022

13.10.2025