# DESAI SAKSENA & ASSOCIATES

**02nd January, 2026**

## Friday Tax Alert

## When Public Health Meets GST Policy: Rethinking Tax on Air Purifiers

### FACTS OF THE CASE:

1. Kapil Madan filed the present writ petition as a Public Interest Litigation before the Delhi High Court, challenging the levy of 18% GST on air purifiers and HEPA filters classified under HSN Code 84213920.

2. The petitioner contended that air purifiers and HEPA filters play a vital role in protecting public health, particularly in Delhi and NCR, where air pollution levels are alarmingly high.

3. Reliance was placed on Notification S.O. 648(E) dated 11.02.2020 issued under Section 3(b)(iv) of the Drugs and Cosmetics Act, 1940.

4. As per the said notification, devices intended for diagnosis, prevention, mitigation or alleviation of disease are treated as medical devices.

5. Medical devices covered under the notification attract a concessional GST rate of 5%.

6. Despite performing preventive and health-protective functions, air purifiers and HEPA filters continued to be taxed at 18%.

7. The petitioner also relied upon the Parliamentary Standing Committee Report dated 12.12.2025.

8. Aggrieved by the levy of higher GST, the petitioner sought directions to classify air purifiers as medical devices and tax them at 5%.

### A. GROUNDS RAISED BY THE PETITIONER

1. Air purifiers perform preventive and protective health functions.

2. The definition of medical devices under notification is broad and functional.

3. Levy of 18% GST is arbitrary and unreasonable.

4. Higher GST violates Articles 14 and 21 of the Constitution.

5. Parliamentary Committee recommended GST reduction.

6. No rational basis to tax air purifiers at higher rate.

### B. GROUNDS RAISED BY THE RESPONDENTS

1. GST rates are decided by GST Council.

2. Rate reduction requires Council recommendation.

3. Judicial restraint in fiscal matters.

4. Procedural constraints in convening meetings.

**CONCLUSION**

The Delhi High Court recognised the essential public health role played by air purifiers and HEPA filters, particularly in the context of severe air pollution. While acknowledging that GST rate fixation lies within the domain of the GST Council, the Court observed that there appeared to be no rational justification for taxing such health-protective devices at a higher rate. Emphasising the persuasive value of the Parliamentary Standing Committee's recommendations, the Court directed urgent consideration of the issue by the GST Council. The matter was accordingly kept open for further policy determination.

***Kapil Madan v. Union of India [2025] 181 taxmann.com 897 (Delhi) [24-12-2025]***

## GST on Inter-Company Cross-Border Services: Export Benefits Vs Receipt of Foreign Exchange

**FACTS OF THE CASE:**

1. DHL Express (India) Pvt. Ltd. ("DHL India") is engaged in providing international courier and shipment delivery services and is part of the global DHL network.

2. DHL India entered into a Network Agreement with its foreign group entity, DHL International GmbH, Germany ("DHL Germany").

3. Under the said agreement, DHL India and DHL Germany provided courier and shipment delivery services to each other's customers in their respective jurisdictions.

4. No inter-company consideration was charged between DHL India and DHL Germany for such services, which were referred to as "Unbilled Shipments".

5. Despite the absence of consideration, DHL India discharged GST on such services by treating them as a taxable supply under Section 7(1)(a) read with Schedule I of the CGST Act, 2017.

6. DHL India thereafter claimed that since the recipient of service was located outside India, the services qualified as export of services and zero-rated supply under Section 16(1) of the IGST Act, 2017.

7. The Department denied zero-rating on the ground that receipt of consideration in convertible foreign exchange, as required under Section 2(6) of the IGST Act, was not fulfilled.

8. Aggrieved by the denial of zero-rating and refund, DHL India filed a writ petition before the Delhi High Court.

**A. GROUNDS RAISED BY THE DHL**

1. Supplies between related parties without consideration are deemed taxable supplies under Section 7 read with Schedule I of the CGST Act.

2. Once tax is paid on such services, denial of export benefits leads to an incongruous and inequitable situation.

3. GST law should not place an assessee in a position where tax is payable but export benefits are denied.

4. Sections 7 of the CGST Act and Sections 16(1) and 2(6) of the IGST Act require harmonious interpretation.

5. Absence of consideration should not defeat the character of export when the recipient is located outside India.

6. Similar issues are pending before multiple High Courts, indicating the need for judicial clarity.

**B. GROUNDS RAISED BY THE GST DEPARTMENT**

1. Receipt of consideration in convertible foreign exchange is a mandatory condition for export of services.

2. In absence of such receipt, services cannot be treated as zero-rated supplies.

3. Reliance was placed on the Bombay High Court decision directing assessees to follow statutory refund procedures.

4. As per Mafatlal Industries Ltd. v. Union of India, refund claims must follow statutory mechanisms.

**CONCLUSION**

The Delhi High Court recognized that while services rendered without consideration between related parties are taxable under GST, denial of export benefits solely due to non-receipt of foreign exchange creates an inherent inconsistency in the statutory framework. The Court emphasized the need for a harmonious interpretation of Sections 7 of the CGST Act and Sections 16(1) and 2(6) of the IGST Act. Acknowledging the wider implications of the issue across industries, the Court refrained from granting immediate refund relief and instead sought clarification from the CBIC.

***Dhl Express (India) (P.) Ltd. v. Union of India [2025] 181 taxmann.com 697 (Delhi) [10-12-2025]***

# Desai Saksena & Associates

**From:**

**Tax Team of Desai Saksena and Associates**
**Chartered Accountants**

CA Varsha Nanwani (Senior Manager - Taxation)
Vikas Jogle (Manager - International Taxation)
CA Neelu Dusseja (Senior Manager - Indirect Taxation)
CA Neha Patel (Manager - Taxation)
CA Ajay Sachani (Manager - Taxation)
Digvijay Hirwani (Assistant Manager - Taxation)
Alok Sharma (Deputy Manager - Indirect Taxation)

**Contacts:**

**If you have any questions or would like to have additional information on the topics covered in this alert, please email one of the following DSA professionals:**

- ✓ CA Varsha Nanwani (Senior Manager – Taxation)
  varsha@dsaca.co.in
- ✓ Vikas Jogle (Manager – International Taxation)
  vikas@dsaca.co.in
- ✓ CA Neelu Dusseja (Senior Manager – Indirect Taxation)
  neelu@dsaca.co.in
- ✓ CA Neha Patel (Manager - Taxation)
  neha@dsaca.co.in
- ✓ CA Ajay Sachani (Manager – Indirect Taxation)
  ajay@dsaca.co.in
- ✓ Digvijay Hirwani (Assistant Manager - Taxation)
  digvijay@dsaca.co.in
- ✓ Alok Sharma (Deputy Manager – Indirect Taxation)
  sharma.alok12@gmail.com