

18th July, 2025

Friday Tax Alert

GST: Delhi High Court Sets Aside IGST Demand on Internal HO Expenses

KEI Industries Ltd. challenged a demand order issued by the GST Department (Delhi East Zone) for ₹59.03 crore in IGST. The department alleged that the company's Head Office had rendered (HO) services to its Branch Offices (BOs) without issuing services to its Branch Offices (BOs) without issuing invoices or cross invoices or cross-charging, and thus was liable to pay IGST on such internal allocations (e.g., salaries, administrative costs).

Facts of the Case:

- **Petitioner:** M/s KEI Industries Ltd., a company with multiple GST registrations, operating through a Head Office (HO) and several Branch Offices (BOs) across India.
- **Respondent:** Union of India and the Additional Commissioner, Central GST, Delhi East Zone.
- **Dispute Origin:** The GST department issued an Order-in-Original dated 31 January 2025, demanding ₹59.03 crore in IGST from the petitioner. The demand was based on the allegation that the HO had rendered services to its BOs without issuing tax invoices or cross-charging the value of such services.
- **Department's Allegation:**
 - The HO incurred internal expenses such as employee salaries, administrative costs, and other overheads.
 - These were allegedly used by BOs, and thus constituted taxable supplies under Section 7 of the IGST Act.
 - Since no GST was paid on these internal services, the department treated them as deemed supplies and raised a demand for IGST, interest, and penalty.
- **Petitioner's Challenge:**
 - Filed a writ petition under Article 226 of the Constitution of India.
 - Argued that no invoice was issued, and the BOs were eligible for full Input Tax Credit (ITC).
 - Cited CBIC Circular No. 199/11/2023-GST dated 17 July 2023, which clarified:
 - If full ITC is available and no invoice is issued, the value of supply may be deemed Nil under Rule 28 (second proviso) of CGST Rules.
 - Internal cost components, including salary of HO employees, need not be included in valuation.
 - Relied on the precedent set in Metal One Corporation India Pvt. Ltd. v. Union of India, where the Delhi HC held that no GST is payable if the value is deemed Nil and no invoice is issued.

Decision of the Court:

- **Impugned IGST Demand Set Aside** The court quashed the ₹59.03 crore IGST demand raised by the GST department on the ground that the Head Office (HO) had allegedly rendered services to its Branch Offices (BOs) without cross-charging.
- **No Tax Liability Without Invoice & Full ITC** The court held that when no invoice is issued and the recipient (BO) is eligible for full Input Tax Credit (ITC), the value of supply is deemed Nil under the second proviso to Rule 28 of the CGST Rules.
- **Binding Nature of CBIC Circular No. 199/11/2023-GST** The adjudicating authority failed to consider the CBIC Circular dated 17 July 2023, which clearly stated that internal cost allocations (including salaries) need not be valued for GST purposes if full ITC is available. The court emphasized that such circulars are binding on the department.

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- **Reliance on Judicial Precedent** Metal One Corporation The court reaffirmed its earlier ruling in Metal One Corporation India Pvt. Ltd. v. Union of India, which held that in the absence of an invoice and with full ITC, no GST demand is sustainable.
- **Remand for Fresh Adjudication** The matter was remanded to the GST department for fresh consideration, explicitly directing them to evaluate the case in light of:
 - CBIC Circular No. 199/11/2023-GST
 - The Metal One Corporation judgment
- **In Favor of Assessee** The decision was pronounced in favor of KEI Industries Ltd., reinforcing taxpayer protection against arbitrary valuation and demand.

KEI Industries Ltd. vs. Union of India [2025] 174 taxmann.com 1205 (Delhi) [22-05-2025]

GST Portal Now Enabled to File Appeal Against Waiver Rejection Order (SPL-07)

Under the GST Amnesty Scheme, eligible taxpayers were permitted to apply for waiver of interest and penalties for specified periods of non-compliance by submitting Form SPL-01 or SPL-02. Based on these applications, jurisdictional authorities issued either:

- Form SPL-05 – Acceptance Order
- Form SPL-07 – Rejection Order

Until now, there was no provision on the GST Portal to appeal against SPL-07 rejection orders. This created a procedural gap for taxpayers seeking redressal.

The GST Portal has now been enabled to accept online appeals against SPL-07 (Waiver Rejection Orders) through Form APL-01.

- **Steps to File Appeal Against SPL-07**
 - **Login** to the GST Portal: www.gst.gov.in
 - Navigate to: Services → User Services → My Applications
 - Select **Application Type**: "Appeal to Appellate Authority"
 - Click on **New Application**
 - In the form:
 - Select Order Type: "Waiver Application Rejection Order"
 - Enter SPL-07 details and grounds for appeal
 - Upload supporting documents (e.g., SPL-01/SPL-02, DRC-03, correspondence)
 - **Submit** the application
 - An **Acknowledgement Reference Number (ARN)** will be generated for tracking.
- Appeals filed under this category cannot be withdrawn on the portal. Taxpayers are advised to exercise due diligence before submission.
- If a taxpayer had withdrawn an earlier appeal (e.g., against a demand order) to apply for waiver, and now wishes to restore that appeal, they may do so by filing an undertaking under the "Orders" section of the waiver case folder.

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