

**Punjab and Haryana High Court also granted interim stay on GST demand on salaries paid to seconded employees in Indian Currency**

M/s Mitsubishi Electric India Private Limited (**“the Petitioner”**) entered into a Secondment and Cost Reimbursement Agreement dated March 31, 2019, with Mitsubishi Electric Corporation, Japan, the parent company wherein certain employees have been seconded for service in India.

Relying upon the judgement of the Hon’ble Supreme Court in the case of ***C.C., C.E. & S.T. – Bangalore (Adjudication) Etc. v. M/s Northern Operating Systems Pvt. Ltd. [Civil Appeal No. 2289-2293 of 2021 dated May 19, 2022]***, wherein it was clarified that manpower supply service would be a taxable service w.e.f. May 19, 2022, the Revenue Department (**“the Respondent”**) initiated an investigation on August 11, 2022, regarding GST implications and conducted internal due diligence.

The Petitioner paid GST of INR 8,00,46,776 on the total amount of INR 44,47,04,312/- paid by the Petitioner to the parent company along with interest of Rs.2,79,80,800/- in compliance with the aforementioned judgement of the Supreme Court. Thereafter, the Respondent closed the proceedings initiated against the Petitioner without the issuance of a Show Cause Notice (**“SCN”**) as per Section 73(6) of the CGST Act leaving the rights open for investigation of remaining tax duties and liabilities and other issues for the similar period.

Further, the Respondent vide communication dated August 2, 2023, put Petitioner to notice as to whether proper tax along with interest has been deposited by the Petitioner on the Indian part of the payment made by the Petitioner for which the reply dated August 31, 2018, was filed by the Petitioner. The Respondent vide Order dated September 18, 2023, wherein the Petitioner was advised to pay the additional amount Rs.20,46,87,723/- along with applicable interest failing which SCN under Section 73(1) of the CGST Act, would be issued. The Petitioner submitted a detailed representation dated September 27, 2023, wherein the Petitioner raised

the objection stating that the amount deposited in the Indian currency of the salary component was not covered and a closure letter has already been issued in favour of the Petitioner. However, the Petitioner was issued SCN dated September 29, 2023 (“**Impugned Notice**”) under Section 73(8) of the CGST Act, stating that no penalty in respect of tax and invoice, would be imposed if the amount of tax along with interest is paid within 30 days of issuance of Impugned Notice.

Aggrieved by the Impugned Notice and proceedings initiated by the Respondent, the Petitioner filed a Writ Petition [*CWP 25351 of 2023*] before the Hon’ble Punjab and Haryana High Court.

The Counsel for the Petitioner contended that a similar issue has come up for consideration before the Hon’ble Karnataka High Court in the case *M/s Alstom Transport India Ltd. v. State of Karnataka [WP 23915 of 2023]* wherein an interim order dated November 2, 2023, was passed, thereby holding that writ petition would be rendered infructuous if no interim protection is granted.

The Court vide Order dated November 9, 2023, issued a Notice of Motion and further stayed the proceedings initiated by the Respondent in pursuance of the Impugned Notice.

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