Education Consultancy Services to Foreign Universities Not Intermediary Services; Refund of IGST on Export of Services Allowed

The Hon'ble Delhi High Court in the case of ***Fateh Education Consulting Private Limited v. Assistant Commissioner & Ors [W.P.(C) 17500/2025 order dated May 08, 2026]*** held that education consultancy/marketing and recruitment support services rendered by an Indian entity to foreign universities would qualify as 'export of services' and not 'intermediary services' under Section 2(13) of the IGST Act, where the assessee rendered services on its own account, received consideration from foreign universities, had no authority to bind such universities, and merely incidentally assisted students in the admission process. The Court accordingly set aside the rejection of refund and directed grant of refund with statutory interest.

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Facts:

Fateh Education Consulting Private Limited **("the Petitioner")** was engaged in providing education consultancy/marketing and recruitment support services to foreign universities. The Petitioner filed a writ petition under Article 226 of the Constitution of India challenging the order dated October 30, 2025 passed by the Assistant Commissioner, Central Tax, GST Division, Wazirpur, rejecting refund of ₹2,63,38,771/- claimed as refund of IGST paid on export of services for the period September 2023 to March 2024 under Section 54 of the CGST Act, 2017

Assistant Commissioner, CGST Division, Wazirpur **("the Respondent")** issued a Show Cause Notice dated October 08, 2025 calling upon the Petitioner to furnish agreements with foreign service recipients, invoices, FIRCs/e-BRCs, reconciliation statements and evidence to demonstrate that the services rendered were not "intermediary services" under Section 2(13) of the IGST Act, 2017. Thereafter, the Respondent rejected the refund claim vide order dated October 30, 2025 holding that the Petitioner was promoting courses of foreign universities, identifying prospective students, assisting recruitment/admission, and receiving commission linked to tuition fees, thereby acting as an agent/intermediary of foreign universities.

The Petitioner contended that receipt of commission from foreign universities does not by itself make the Petitioner an intermediary. The Petitioner submitted that it rendered consultancy, counselling, marketing and recruitment support services directly to foreign universities under contractual arrangements, received consideration only from such universities and not from students, had no authority to bind universities, could not guarantee admissions, and therefore satisfied all requirements of “export of services”.

The Respondent contended that the Petitioner was acting as an intermediary within the meaning of Section 2(13) of the IGST Act, since it facilitated recruitment/admission of students to foreign universities and acted as an agent of such universities. The Respondent further contended that the relationship between parties was one of principal and agent and not principal-to-principal.

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Aggrieved by rejection of refund by treating the Petitioner as an intermediary and denying export benefits, the Petitioner approached the Hon’ble Delhi High Court by way of writ petition under Article 226 of the Constitution of India seeking quashing of the impugned order and direction for grant of refund with interest.

Issue:

Whether education consultancy, marketing and recruitment support services rendered by an Indian entity to foreign universities qualify as “export of services” or are liable to be classified as “intermediary services” under Section 2(13) of the IGST Act?

Held:

The Hon’ble Delhi High Court in ***W.P.(C) 17500/2025*** held as under:

- Observed that, education consultancy/marketing services rendered to foreign universities were held to qualify as export of services and not intermediary services merely because Indian students were incidentally assisted in the admission process.

- Noted that, the view taken in Global Opportunities was consistent with the judgment of the Bombay High Court in K.C. Overseas Education Pvt. Ltd. v. Union of India, wherein materially similar services rendered to foreign universities were held not to fall within the definition of "intermediary".

- Noted that, the judgment in ***Commissioner of Delhi Goods and Service Tax DGST v. Global Opportunities Private Limited, through its Authorized Representative [2025 SCC OnLine Del 6316]*** and held that a person supplying services on its own account cannot be treated as an intermediary merely because such services facilitate or further the business objective of the foreign recipient.

- Observed that, the determinative factors are the contractual recipient of service, the person liable to pay consideration, and the nature of services supplied, and not the place where incidental beneficiaries are located.

- Noted that, the Petitioner had entered into agreements with foreign universities for providing education consultancy, marketing and recruitment support services; did not charge students; had no authority to bind the foreign university; could not guarantee admissions; and received consideration only from foreign universities.

- Observed that, the factual matrix of the present case was materially similar to ***Global Opportunities(supra)*** and even the Respondent did not dispute such similarity.

- Held that, the impugned order dated October 30, 2025 rejecting refund by treating the Petitioner as intermediary services could not be sustained and accordingly set aside the

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same. Directed that, refund along with applicable statutory interest be processed and granted within two months.

Our Comments:

The present judgment follows and reinforces the consistent judicial trend that education consultancy and marketing support services rendered by Indian entities to foreign universities are not “intermediary services” where such entities render services on principal-to-principal basis and receive consideration directly from foreign universities.

The Delhi High Court in its ruling in ***Global Opportunities Private Limited(supra)***, wherein the Court held that consultancy and student recruitment support services rendered to foreign universities constituted export of services because the Indian entity supplied services on its own account and did not facilitate supply between two other persons. The Court emphasized three determinative factors namely: (i) nature of service supplied; (ii) contractual recipient of service; and (iii) person liable to pay consideration.

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In ***K.C. Overseas Education Pvt. Ltd. v. Union of India [2025:BHCNAG:2166-DB]***, the Bombay High Court held that services rendered to foreign universities for identifying prospective students and assisting admissions did not amount to intermediary services since the universities were the recipients of service and paid consideration in foreign exchange. The Court observed that merely because students incidentally benefitted, the Indian entity could not be treated as intermediary.

Further the judgment also draws support from ***Commissioner of Service Tax-III, Mumbai v. Vodafone India Ltd [Civil Appeal Nos. 10815-10819/2014],*** wherein the Supreme Court held that a person who supplies services on its own account cannot be treated as an intermediary merely because such services may facilitate or further the business objective of the foreign recipient. The determinative factor is not the place where the incidental beneficiary may be located, but the contractual recipient of the service, the person liable to pay consideration, and the nature of the service supplied. Therefore, marketing and support services provided on principal-to-principal basis cannot automatically be classified as intermediary services merely because they facilitate the business of overseas entities.

Relevant Provisions:

Section 2(13) of the Integrated Goods and Services Tax Act, 2017

"(13) "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;"

Section 2(6) of the Integrated Goods and Services Tax Act, 2017

"(6) "export of services" means the supply of any service when,-

(i) the supplier of service is located in India;

(ii) the recipient of service is located outside India;

(iii) the place of supply of service is outside India;

(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and

(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;"

Section 54 of the Central Goods and Services Tax Act, 2017

"54. Refund of tax.-

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(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in such form and manner as may be prescribed.

(2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of two years from the last day of the quarter in which such supply was received.

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(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than-

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

…"

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