

M/s. NBCC (India) Limited v. Additional Commissioner CGST Delhi South

Case number: W.P.(C) 6687/2025 and CM APPL. 30335/2025

Citation: 2025:DHC:11115-DB

Decision date: 9 December 2025

GST demand against NBCC for Kidwai Nagar lease proceeds set aside on Ministry's agency-liability position

Court: Delhi High Court

Bench: Hon'ble Ms. Justice Prathiba M. Singh and Hon'ble Ms. Justice Shail Jain

Decision stage: Final demand-setting-aside on the Ministry of Finance's stated no-merit position; no remand. Not an independently reasoned general merits precedent.

01 Facts of case and issues

NBCC challenged the CGST Delhi South adjudication order dated 29 January 2025 concerning the Kidwai Nagar (East) redevelopment project. Under a 16 July 2013 memorandum of understanding with the Ministry of Urban Development, NBCC acted as implementing agency for residential accommodation and commercial spaces. A tripartite escrow agreement with the Ministry and Union Bank of India governed the lease proceeds.

The Ministry memorandum reproduced in the judgment records a Rs. 45.36 crore GST demand on receipts of approximately Rs. 252.01 crore during FY 2017-18. NBCC's defence was that the Ministry retained ownership and control, while NBCC neither appropriated the lease proceeds as its revenue nor supplied the leasing service as principal. The immediate issue was whether this demand could stand against NBCC in that agency arrangement.

Pinpoint: Paragraphs 2-9, pp. 1-2; paragraph 13, reproduced Ministry memorandum clauses 1.1 and 2(i)-(iii), pp. 4-5.

02 Discussion by Hon'ble Court

The Court had earlier asked the GST Department and the Ministry to resolve their positions through a meeting of the concerned Joint Secretaries. That direction concerned the FY 2017-18 challenge and noted that proceedings had also begun for subsequent years. The judgment records a meeting on 10 July 2025, a Department of Revenue affidavit and NBCC's further representation dated 12 August 2025.

Paragraph 13 then reproduces the Ministry of Finance's office memorandum dated 30 November 2025. Its analysis identifies Section 86 as imposing joint and several liability when an agent supplies or receives taxable goods for a principal. The memorandum considers that provision inapplicable to services and regards proceedings against NBCC as unwarranted where the Ministry is the principal supplier and remains available to accept any GST demand.

The Court's own dispositive reasoning is paragraph 14: because the Ministry had clearly opined that the demand lacked merit, the impugned order was set aside. The distinction matters. The goods/services analysis is the Ministry's reproduced reasoning, on which relief was granted; it is not a separately

02 Discussion by Hon'ble Court

developed judicial examination of every possible liability of a service agent. Paragraphs 7-9 also discuss exemption and reverse charge, but identify no applicable notification or transaction-by-transaction conditions.

Pinpoint: Inter-ministerial process: paragraphs 10-12, pp. 2-4. Ministry's analysis: paragraph 13, memorandum clauses 3-4, p. 5. Court's operative reasoning: paragraph 14, p. 5.

03 Judicial decision and operative relief

The order dated 29 January 2025 was set aside, and the writ petition and pending applications were disposed of. The Court ordered no remand or fresh adjudication. It did not separately direct a refund, decide a quantified demand against the Ministry or dispose of the subsequent-year proceedings mentioned in the earlier directions.

Pinpoint: Paragraphs 14-15, pp. 5-6; subsequent-year reference: paragraph 10, quoted direction 13, p. 3.

04 In favour of

NBCC, the petitioner, through final substantive relief against the challenged demand, based on the Ministry's stated position.

This is a final setting-aside of the identified adjudication order, rather than an interim stay or a procedural remand. Its practical reach is nevertheless tied to the recorded principal-agent arrangement and the Ministry's position. It should not be presented as an adjudicated exemption for the entire project, every government lessee, every financial year or all services supplied through agents.

Pinpoint: Paragraphs 3-9 and 13-15, pp. 1-2 and 4-6.

05 AKHB REVIEW POINT

AKHB analysis: For a comparable demand, establish who owns and leases the property, signs the lease, issues invoices, receives the consideration beneficially and controls the escrow. Preserve the implementing agreement, escrow terms, Ministry directions and accounting records. An escrow label alone does not establish either agency or exemption.

Keep the principal's leasing supply distinct from any independently supplied project-management or agency service. Section 86's goods-specific liability cannot, by itself, answer every question about a service agent's own taxable supplies. Equally, the Ministry's availability to meet a demand does not establish that a particular liability has been adjudicated against it.

Test exemption and reverse-charge treatment against the precise notification, recipient status and tax period. Notification 3/2018-Central Tax (Rate), dated 25 January 2018, inserted the government-renting entry for registered recipients during the disputed financial year. The judgment does not analyse that temporal boundary. Obtain current case orders before relying on the decision.

Pinpoint: AKHB commentary based on paragraphs 3-14; CGST Act Sections 2(5), 9 and 86; Notification 3/2018-Central Tax (Rate), inserted entry 5A.

Sources and limitations

Relevant provisions

CGST Act Section 86, discussed within the reproduced Ministry memorandum. AKHB contextual checks: Sections 2(5), 9(1) and 9(3); Notification 3/2018-Central Tax (Rate), amending Notification 13/2017-Central Tax (Rate).

Statutory note

Section 86's goods-specific wording was checked against CBIC's official Act compilation as on 1 January 2022, physical p. 120 (printed p. 119), and the accessible CBIC HTML text. This is a bounded provision check, not certification of the entire current Act or all intervening amendments. Notification 3/2018-Central Tax (Rate) inserts entry 5A for government/local-authority renting to persons registered under the CGST Act. It supplies a reason to check the relevant period and recipient status, not an independent determination that NBCC's transactions satisfy its conditions. No blanket exemption for government departments or autonomous bodies is certified here.

Treatment note

Checked 12 October 2026. Bounded searches of official Delhi High Court and Supreme Court sources by case number, party names and neutral citation did not establish a later appellate, review, stay or modifying order concerning this judgment. No appeal-free or unstayed status is inferred from those search results. A separately issued official copy of the 30 November 2025 Ministry memorandum was not located; its contents are verified only as reproduced in paragraph 13. This is not a complete live-docket or citator review; current status requires rechecking before reliance.

Scope of source review

Complete six-page judgment read and individually viewed, including the meeting-attendance image on p. 3 and neutral-citation artwork on p. 1. Relevant provisions in the identified CBIC compilation and the complete two-page Notification 3/2018-Central Tax (Rate) separately checked. No full review of the entire Act compilation is claimed.

Source notes

The decision date is 9 December 2025; upload/signing date is 11 December 2025. Neutral citation 2025:DHC:11115-DB is visible in the original's page artwork although absent from the collection index and ordinary extracted text. Paragraph 13 contains the Ministry memorandum; paragraph 14 is the Court's own operative reasoning. The Rs. 45.36 crore figure is described as GST demand in that memorandum, without a separately verified interest/penalty breakdown. Original SHA-256 and fresh official download are identical. PDF parsing and visible signature artwork do not establish cryptographic signature validity.

Primary source

Source description: Complete official Delhi High Court judgment; decision 9 December 2025, uploaded 11 December 2025. Archived original preserved byte-for-byte and fresh official fetch matched exactly.

Official source: [Open source document](#)

Source pages: 6

Outcome type: final high court substantive relief

Additional source

CBIC official CGST Act compilation as on 1 January 2022

Official source: [Open source document](#)

Pinpoint: Section 86: physical p. 120, printed p. 119. Context: Section 2(5), physical p. 4; Section 9(1), physical p. 25; Section 9(3), physical p. 26. Dated compilation, not a claim to have verified every later amendment.

CBIC CGST Act HTML text

Official source: [Open source document](#)

Pinpoint: Chapter XVI, Section 86: agent/principal joint and several liability expressly concerns taxable goods. Accessible official text checked 12 October 2026; page contains historical text and is not represented as a fully current consolidation.

Notification 3/2018-Central Tax (Rate), 25 January 2018

Official source: [Open source document](#)

Pinpoint: Complete two-page notification; p. 1, clause (i), inserts entry 5A into Notification 13/2017-Central Tax (Rate), specifying government/local-authority renting to registered recipients under reverse charge.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official judgment and identified primary sources. No human legal review is claimed.

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Source checked: 12 October 2026