

Fateh Education Consulting Private Limited v. Assistant Commissioner, CGST Division, Wazirpur and Another

Case number: W.P.(C) 17500/2025

Citation: 2026:DHC:4052-DB

Decision date: 8 May 2026

Foreign-university consultancy and recruitment support: own-account services and tax-paid export refund

Court: Delhi High Court

Bench: Hon'ble Mr. Justice Nitin Wasudeo Sambre and Hon'ble Mr. Justice Ajay Dignpaul

Decision stage: Final High Court merits decision setting aside intermediary-based refund rejection and directing refund; later appellate status not established by the bounded search.

01 Facts of case and issues

Fateh provided education consultancy, marketing and recruitment-support services to foreign universities. It sought refund of Rs. 2,63,38,771 under CGST Section 54 for September 2023 to March 2024, describing the claim as export of services with payment of IGST. Its supporting material included university agreements, export invoices, e-BRCs/FIRC and reconciliations. This was a tax-paid refund claim, not a claim for unutilised ITC under an LUT.

Following an 8 October 2025 show-cause notice, Fateh submitted a reply and further remittance documents and attended a hearing. The Assistant Commissioner rejected the claim on 30 October 2025: course promotion, student identification and admission assistance, coupled with tuition-linked commission, were treated as agency/intermediary activity. Fateh challenged that classification under Article 226. It relied on its University of Manchester agreement, under which it could neither bind the university nor guarantee admission and which disclaimed a principal-agent relationship. The issue was whether those services were supplied on Fateh's own account or constituted intermediary services under IGST Section 2(13).

Pinpoint: Paragraphs 1–5, physical pp. 2–3; paragraphs 7–9, pp. 4–6.

02 Discussion by Hon'ble Court

The Court applied *Global Opportunities*, which treated the foreign university as the recipient of educational consultancy invoiced to and paid for by it. Assistance incidentally reaching Indian students did not by itself convert that supply into intermediary activity. *K.C. Overseas Education* supplied a materially similar comparison; the Court also described the authorities considered in *Global Opportunities*, including *Ernst & Young* and the service-tax decisions.

Paragraph 17 identifies the contractual recipient, the person liable to pay and the nature of the supplied service as the relevant factors. Advancing a foreign customer's business objective does not, without more, make an own-account service provider an intermediary. The reasoning does not establish that every commission paid from abroad qualifies for export treatment.

Applying that test, paragraph 18 finds that Fateh contracted with foreign universities for its own consultancy, marketing and recruitment-support work, received their consideration, charged students nothing, lacked authority to bind the universities and could not guarantee admission. Revenue accepted

02 Discussion by Hon'ble Court

that its services were materially similar to those in Global Opportunities, while preserving the arguments advanced there. The Court considered those adopted arguments and held the rejection unsustainable. The result rests on applying the classification rule to the recorded facts, rather than on a direction for a fresh factual inquiry.

Pinpoint: Paragraphs 11–14, physical pp. 6–7; paragraphs 15–19, pp. 7–10. Earlier authorities are described as used in Fateh; their complete case records are not separately re-reviewed here.

03 Judicial decision and operative relief

The 30 October 2025 rejection order was set aside. The Court directed that the refund be processed and granted with applicable statutory interest, in accordance with law, within two months. The writ petition and any pending applications were disposed of.

This is substantive refund relief, not a remand merely to reconsider intermediary status. The operative paragraph does not specify an interest rate, calculation start date or separately quantified interest amount. Actual payment is not established by the judgment.

Pinpoint: Paragraphs 20–21, physical p. 10; refund claim amount and period at paragraphs 1–2, p. 2.

04 In favour of

Fateh, the taxpayer: intermediary-based rejection quashed and refund with applicable statutory interest directed, subject to the operative requirement of accordance with law.

Final High Court determination of the classification dispute and consequential refund direction. Neither subsequent payment nor the complete appellate history is certified.

Pinpoint: Paragraphs 18–21, physical pp. 9–10.

05 AKHB REVIEW POINT

AKHB analysis: Document the precise service supplied, the university's contractual obligations, who controls admissions, who owes consideration and whether the consultant can bind either party. Keep period-wise agreements, invoices, remittance certificates and reconciliations ready; a commission label alone is insufficient to decide classification.

For comparable historical claims, demonstrate an actual own-account supply and satisfy every export and refund condition. Do not infer that foreign payment or the absence of student charges alone proves eligibility. A business genuinely arranging another person's supply requires separate analysis.

Preserve the distinction between tax-paid refund and unutilised-ITC refund routes. The claim period crosses the 1 October 2023 Section 16 change, while the later Section 13(8)(b) omission has its own commencement. Neither change should be presented as the Court's reasoning here. For implementation, reconcile the sanctioned principal and statutory interest against the operative order; do not assume that the two-month direction proves disbursement.

Pinpoint: AKHB commentary based on paragraphs 2, 8–9 and 15–20; Circular 159/15/2021-GST, paragraphs 2.1, 3.1–3.4 and 5; period-specific statutory sources below. These are practical checks, not additional judicial directions.

Sources and limitations

Relevant provisions

Judgment: CGST Act 2017, Section 54; IGST Act 2017, Section 2(13); Section 5 appears in the adopted Revenue submissions. Constitution, Article 226. Statutory context: IGST Sections 2(6), 13(2), former 13(8)(b) and 16; Finance Act 2026, Sections 1(2) and 157; General Clauses Act 1897, Section 5(1)(b).

Statutory note

Section 2(13) excludes own-account supplies. Section 2(6) separately requires the prescribed supplier, recipient and place-of-supply locations, permitted receipt of consideration and the distinct-establishment condition; an overseas payer alone does not satisfy all conditions. The payment wording includes Indian rupees wherever RBI permits. Section 16's former tax-paid option in subsection (3)(b) was replaced from 1 October 2023 by the revised subsection (3) and notification-based subsection (4); Fateh does not separately adjudicate that transition. Finance Act 2026, Section 157 omits Section 13(8)(b). It is outside both deferred-commencement lists in Section 1(2); read with General Clauses Act Section 5(1)(b), the omission operates from assent on 30 March 2026. No express retrospective date appears in Section 157. For later supplies, apply the remaining place-of-supply rules and all export conditions; Fateh's historical claim was decided on own-account classification.

Treatment note

Checked 12 October 2026: no later order altering Fateh's 8 May 2026 judgment was established in targeted Delhi High Court and Supreme Court name, case-number and citation searches. This does not establish that no appeal, stay, review or later order exists. For the cited precedent only, the separately read Supreme Court order in Global Opportunities, SLP(C) 2752/2026, dated 27 January 2026 dismisses that SLP and extends refund time by two months. That order predates Fateh and is not appellate treatment of Fateh; it contains no separate intermediary-classification analysis. No exhaustive citator, complete-docket or refund-compliance certification is claimed.

Scope of source review

All ten physical pages of Fateh, including paragraphs 1–21, every reproduced passage, footnote, appearance and signature block, were read and individually visually inspected. The two-page Global Opportunities Supreme Court order was separately read and viewed. Global Opportunities High Court paragraph 15 was checked for the statutory extracts; Finance Act pp. 1 and 78 and General Clauses Act physical pp. 15–16 were targeted statutory checks. CBIC Section 16 amendment-history text and the identified notification and circular were checked within the stated scope.

Source notes

The neutral citation appears visibly above the QR code but is absent from extracted text; it was verified from the original page images. The quoted November 2025 interim order in paragraph 6 prints "30th October, 20205"; the judgment consistently identifies the challenged order as 30 October 2025 elsewhere. The note uses the final judgment's verified date. Original source bytes remain unchanged. PDF parsing and page inspection are not cryptographic signature authentication. The contracts and administrative refund file were not independently obtained; their facts are reported as recorded by the Court.

Primary source

Source description: Complete ten-page official Delhi High Court judgment, freshly retrieved and byte-matched to the preserved original.

Official source: [Open source document](#)

Source pages: 10

Judgment author: Ajay Digpaul, J. (oral judgment)

Outcome type: final high court merits

Additional source

Global Opportunities, Delhi High Court, 25 September 2025

Official source: [Open source document](#)

Pinpoint: Paragraph 15, physical pp. 9–10: IGST Sections 2(6), 2(13), 13(2) and the historical Section 13(8)(b). Targeted statutory cross-check; Fateh paragraphs 15–19 supply the present note’s reliance on this precedent.

Supreme Court: Global Opportunities, 27 January 2026

Official source: [Open source document](#)

Pinpoint: SLP(C) 2752/2026, paragraphs 1–3, physical pp. 1–2. Entire order read and visually checked; this is not an order in Fateh.

Finance Act 2026, official Gazette text

Official source: [Open source document](#)

Pinpoint: Physical p. 1: assent and Section 1(2); p. 78: Section 157 omitting IGST Section 13(8)(b).

General Clauses Act 1897, court-hosted statutory text

Official source: [Open source document](#)

Pinpoint: Section 5(1)(b), physical pp. 15–16 (printed pp. 13–14). Only bare statutory wording relied on, not editorial case notes.

CBIC Tax Information Portal: IGST Section 16 and amendment history

Official source: [Open source document](#)

Pinpoint: Section 16(3)–(4) and footnote 2 reproducing pre-1 October 2023 subsection (3). Official indexed text retrieved; direct-page fetch failed.

Notification 27/2023–Central Tax, 31 July 2023

Official source: [Open source document](#)

Pinpoint: Sole operative paragraph, p. 1: Finance Act 2021 Section 123 effective from 1 October 2023. Entire page read and viewed.

CBIC Circular 159/15/2021-GST, 20 September 2021

Official source: [Open source document](#)

Pinpoint: Paragraphs 2.1 and 3.1–3.4, pp. 1–3; paragraph 5, p. 4. Used for AKHB’s fact-specific classification caution, not presented as a circular relied on by Fateh.

Disclosures and source rights

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

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