IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.262(4&5)

1. **CWP-18774-2024**

IDP Education India Private Limited ....Petitioner

Versus

Union of India and others ....Respondents

2. **CWP-29033-2024**

IDP Education India Private Limited ....Petitioner

Versus

Union of India and others ....Respondents

Date of decision: 09.12.2025

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Kumar Harshvardhan, Advocate and
Mr. Rana Gurtej Singh, Advocate (through VC)
for the petitioner.

Ms. Ridhi Bansal, Advocate and
Ms. Sidhi Bansal, Advocate
for the respondents.

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DEEPAK SIBAL, J. (Oral)

1. The present order shall dispose of afore referred two writ petitions as the issue of law and fact involved in them is similar.

2. The facts, in brief, are that the petitioner is a subsidiary of IDP Education Limited which is an Australian publicly listed Company (for short, 'IDP Australia'). The petitioner had entered into an agreement dated

01.07.2017 with IDP Australia to assist students from India to secure admission in Universities in Australia. In lieu of providing of such services, IDP Australia transfers to the petitioner, a percentage of the "student placement service fee" collected by IDP Australia. The relationship between the petitioner and IDP Australia was and is on a principal-to-principal basis as the petitioner only provides assistance to the students from India to seek admission in Universities in Australia through IDP Australia and that the final decision with regard to admission of such students rests only with IDP Australia. The petitioner classified its afore referred services to IDP Australia as "export" in terms of Section 2(6) of the Integrated Goods and Services Tax Act 2017 (for short - the IGST Act) and therefore, did not pay taxes in relation to such exports. However, as per the respondent authorities the petitioner qualified as an "intermediary" in terms of Section 2(13) of the IGST Act and since the place of supply of services by the petitioner was in India, in terms of Section 13(8)(b) of the IGST Act, through the impugned demand/show cause notice the petitioner has been required to deposit the applicable taxes.

3. The facts being not in dispute, at the outset, learned counsel for the petitioner has drawn our attention to a recent judgment dated 05.05.2025 by a Division Bench of the Bombay High Court wherein in the petitioner's case itself, the issue raised in these two petitions was considered and decided in the petitioner's favour. In this regard, the following paragraphs of the said judgment in ***IDP Education Pvt. Ltd. vs. Union of India*** (2025) 30 Centax 391(Bom.) may be usefully referred to:-

"6.The facts in brief are that the Petitioner is a subsidiary of IDP Education Ltd., a company set up in Australia ("IDP Australia"). IDP Australia enters into agreements with various foreign universities for providing assistance to students in getting recruitment for education courses in those universities. For providing such services, foreign universities pay IDP Australia certain percentage of fees charged to the students as student placement services fee.

7. In order to meet its obligation towards the foreign universities, IDP Australia has in turn entered into Support Services Agreement dated 1st July 2017 with the Petitioner. The Petitioner under the said agreement is obliged to provide support services to IDP Australia with respect to Indian students intending to opt for courses offered by the foreign universities. For this purpose, IDP Australia shares certain percentage of fee received by it from the foreign universities with the Petitioner. The Petitioner does not have any contractual obligation with the universities or with the students and does not raise any invoice or receive any consideration from the universities or the students. It is the case of the Petitioner that the services rendered by them to IDP Australia are on a principal-to-principal basis under a bi-partite contract.

8. It is also the case of the Petitioner that for the period prior to introduction of the GST regime, the same issue was agitated by the Revenue and the issue came to be settled in favour of the Petitioner vide CESTAT's Final Order dated 28th October 2021 covering the period April 2014 to September 2015. This Order of CESTAT

was challenged before the Delhi High Court and was dismissed due to delay.

9. Further, the Petitioner submits that the CBIC, vide its Circular No.159/15/2021-GST dated 20.09.2021, has clarified that the concept of intermediary was borrowed in GST from the Service tax regime and broadly there is no change in the scope of intermediary services in the GST regime vis-a-vis the Service tax regime. There being no change in the facts under the GST regime, basis the CESTAT order which has attained finality, the Petitioner should not be held as an intermediary and should be granted refund as claimed by them, is the submission. The Petitioner has also placed on record, orders of other jurisdictions in their own case where refund has been granted to them under the GST regime and those orders have also attained finality.

10. On the other hand, the learned Counsel for the Respondents submits that based on the findings given in the impugned order, the Petitioner squarely falls within the term "intermediary" and therefore, the refund claimed by them has been rightly rejected.

11. We have perused the records and find that in identical facts and circumstances in the Petitioner's own case, the CESTAT vide its Order dated 28th October 2021 has given a categorical finding that the Petitioner is not an intermediary. While an attempt has been made to differentiate the CESTAT Order on the basis that the agreement examined by CESTAT was a different agreement, we find that it is only due to periodical renewal of the agreement the reference of the agreement differs, whereas, the scope of the services remained the

> same. Since the CESTAT order has now attained finality, we see no reason to take a different view in the present case. Also, we find force in the submissions of the counsel for the Petitioner that the issue is squarely covered by the CBIC Circular dated 20.09.2021, in as much as it is clarified that the provisions of law for intermediary under the service tax regime and the GST regime broadly remain the same. In view of the above, the Respondents cannot be now allowed to take a different view. We thus, hold that the Petitioner is not an "intermediary" and is entitled to a refund as claimed by them. We, therefore, remand the matter back to the adjudicating authority for processing the refund claim in terms of this order along with applicable interest within a period of 4 weeks from the date of uploading of this order."

4. Learned counsel for the petitioner has further relied on a Division Bench judgment dated 04.09.2025 of the Rajasthan High Court, also rendered in the petitioner's case and in its favour. The operative part of the Division Bench judgment of the Rajasthan High Court in ***IDP Education Pvt. Ltd. vs. Union of India*** (2025) 34 Centax 374 (Raj.) reads as follows:-

> "7. Having considered the documents and also having considered the judgment of the Hon'ble Bombay High Court in petitioner's own case in IDP Education India Pvt. Ltd. (supra) with which we respectfully agree, it is clear that the services provided by petitioner are qua IDP Australia under specific contract or arrangement with it. Not more than two parties are involved in this arrangement, namely, petitioner and IDP Australia. For someone to be called an "Intermediary", there needs to be existence of three parties in the contract, in the absence of which, petitioner cannot be called as "Intermediary". In the present case, the services rendered by

petitioner are only to IDP Australia and, therefore, certainly qualifies to be "Export" as held by CESTAT in the order referred above and the Hon'ble Bombay High Court.

8. We agree with petitioner's case that the impugned order has incorrectly concluded that petitioner has facilitated and arranged placement services between the Foreign Universities, IDP Australia and the students. Petitioner has no say in the final admission process nor do they have any contractual arrangement with the Foreign Universities or the students and hence, their services are only rendered to IDP Australia under a bi partite arrangement.

9. It will be apposite to reproduce paragraph No. 11 of the judgment passed in IDP Education India Pvt. Ltd. (supra):

> "11. We have perused the records and find that in identical facts and circumstances in the Petitioner's own case, the CESTAT vide its Order dated 28th October, 2021 has given a categorical finding that the Petitioner is not an intermediary. While an attempt has been made to differentiate the CESTAT Order on the basis that the agreement examined by CESTAT was a different agreement, we find that it is only due to periodical renewal of the agreement the reference of the agreement differs, whereas, the scope of the services remained the same. Since the CESTAT order has now attained finality, we see no reason to take a different view in the present case. Also, we find force in the submissions of the counsel for the Petitioner that the issue is squarely covered by the CBIC Circular dated 20.09.2021, inasmuch as it is clarified that the provisions of law for intermediary under the service tax regime and the GST regime broadly remain the same. In view of the above, the Respondents cannot be now allowed to take a different view. We thus, hold that the Petitioner is not an "intermediary" and is entitled to a refund as claimed by them. We, therefore, remand the matter back to the adjudicating authority for processing the refund claim in terms of this order along with applicable interest within a period of 4 weeks from the date of uploading of this order."

> 10. In view of the above, when petitioner has been considered as an exporter in other State jurisdictions, there is no reason for respondents to take a different view before us."

5. Learned counsel appearing for the respondent-revenue fairly states that the case of the petitioner would be squarely covered in its favour by the afore referred two judgments of the High Courts of Bombay and Rajasthan especially when both the judgments have not been challenged by the revenue allowing them to attain finality as also on account of the fact that both the afore referred judgments also stand implemented.

6. In the light of the above and because we concur with the views expressed in both the afore-referred judgments of the Bombay and Rajasthan High Courts, the present petitions being CWP No.18774 of 2024 and CWP No.29033 of 2024 are allowed resulting in the quashing of the impugned order dated 22.03.2024 and show cause notice dated 25.07.2024, respectively.

7. A photocopy of this order be placed on the file of the connected case.

(DEEPAK SIBAL)
JUDGE

(LAPITA BANERJI)
JUDGE

December 09, 2025
Jyoti 1

Whether speaking/reasoned Yes/No
Whether reportable Yes/No