



CWP-17809-2024

1

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

234

CWP-17809-2024 (O&M)
Date of Decision: 15.01.2026

Punjab State Electricity Regulatory CommissionPetitioner

Versus

Union of India and othersRespondents

**CORAM: HON'BLE MS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI**

Present: Ms. Radhika Suri, Sr. Advocate with
Mr. Abhinav Narang, Advocate and
Mr. Parnika Singla, Advocate for the petitioner.

Mr. Sourabh Goel, Advocate for the respondents.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for quashing Show Cause Notice No.79 dated 28.06.2024 (Annexure P-11), whereby respondent No.2 has levied GST on the amount received by the petitioner as petition fee, ARR processing fee and license fee. It is the case of petitioner that said amount is received for discharging functions under Section 86 of the Electricity Act, 2003, which are judicial, quasi-judicial and inherently of statutory nature.

2. Learned counsel for petitioner submits that controversy involved in this writ petition is identical to one as had arisen before Delhi High Court in W.P (C) 10680 of 2024 titled as *Central Electricity Regulatory Commission Versus The Additional Director Directorate General of GST Intelligence (DGGI) and another*, decided on 15.01.2025 along with connected matter.



3. After considering the arguments on behalf of petitioner, stand of respondents in aforesaid matter and scrutinizing applicable provisions of law, it has been held by Delhi High Court that regulation of tariff, inter-State Transport transmission of Electricity or issuance of licence cannot be construed as activities undertaken or functions discharging furtherance of business but they are in extention of statutory obligation placed upon a Commission to regulate these subjects. Relevant portion of the decision dated 15.01.2025 reads as under:-

“24. It becomes pertinent to note that the CGST Act not only deals with the supply of goods or services per se, it also brings within its ambit composite and mixed supplies in terms of Section 8. Composite supplies are those which are spelt out and enumerated in serial 6 of Schedule II. The supply of services generically is dealt with in serial 5. Undisputedly, the regulatory function discharged by Commissions can neither be said to be akin to renting of immovable property, construction of a complex or building, temporary transfer or permissive use or enjoyment of an intellectual property right, development, design of software, transfer of the right to use goods and which are subjects enumerated in serial 5 of Schedule II. The regulatory power which is wielded by Commissions under the provisions of the Electricity Act would also not fall within the ambit of clause (e) of serial 5 and which speaks of an obligation to refrain from doing an act or toleration of an act or situation.

25. Of equal significance is the definition of "business" and "consideration" as it appears in the statute. Section 2(17) defines "business" as follows:-

"2. Definitions. In this Act, unless the context otherwise requires-

xxxx	xxxx	xxxx
------	------	------

(17) "business" includes-

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;*
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);*
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;*
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;*
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of*



the facilities or benefits to its members;

(f) admission, for a consideration, of persons to any premises;

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and;

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;"

26. *The expression "consideration" is found in Section 2(31) which reads thus: -*

"2. Definitions. In this Act, unless the context otherwise requires.-

xxxx

xxxx

xxxx

(31) "consideration" in relation to the supply of goods or services or both includes-

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both. whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;"

27. *The definition clauses referred to above assume significance in light of the language employed in Section 7 and which speaks of the supply of goods, services or both provided by a person for consideration being in the course or furtherance of business. When we revert to Section 2(17), we find that the statute defines the said expression to mean any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity irrespective of whether it be for a pecuniary benefit or not. Clauses (b) and (c) of Section 2(17) are again coupled to clause (a). Clause (d) of Section 2(17) is concerned with the supply or acquisition of goods, while clauses (e), (f), (g) and (h) would also have no application whatsoever considering the nature of activities which are contemplated therein.*

28. *That thus leaves us to consider whether the power to*



regulate, as exercised, could be said to be an activity akin to trade, commerce, manufacture, profession, vocation, adventure, voyager and which are activities enumerated in Section 2(17) (a). We find ourselves unable to fathom how a power of regulation which stands statutorily vested in a Commission could be countenanced to fall within the ambit of any of those activities. It becomes pertinent to note that while Section 2(17) (i) also encompasses activities or transactions undertaken by the Central or State Governments or a local authority, the said clause too would have no application since a Commission which comes to be constituted under the Electricity Act cannot be equated with the Central or State Governments. The expression "local authority" is defined by Section 2(69) to include local bodies such as Panchayats, Municipalities, Municipal Committees, Cantonment Boards or Regional Councils and other authorities which may come to be constituted in terms of Articles 371, 371A, 371J or the Sixth Schedule to the Constitution. A Commission which is constituted under the Electricity Act would undisputedly not fall within the ken of such authorities.

29. The word "consideration", in our considered opinion, would necessarily have to draw colour and meaning from Section 2(31) and which speaks of payment made in respect of, in response to or for the inducement of a supply of goods. Suffice it to note that it was not even remotely sought to be contended by the respondents that the payments in the form of fee as received by Commissions were an outcome of an inducement to supply goods or services.

30. More importantly we find that by virtue of Section 7, a supply would necessarily have to be of goods or services not only for consideration but more importantly in the course or furtherance of business. We have in the preceding parts of this decision clearly found that the regulatory function discharged by Commissions would clearly not fall within the scope of the word "business" as defined by Section 2(17). Thus, even if the fee so received by such Commissions were to be assumed as being consideration received, it was clearly not one obtained in the course or furtherance of business. We are thus of the considered opinion that the view as expressed by the respondents in the SCNs impugned before us are rendered wholly arbitrary and unsustainable.

31. As was noted hereinbefore, Schedule III in express and unambiguous words excludes services rendered by a court or tribunal. Once that exclusion had come to be expressly incorporated, we fail to appreciate how the respondents could have undertaken an exercise to bifurcate or draw a wedge between the adjudicatory and regulatory role of Commissions. Mixed as well as composite supplies of services or goods are aspects which are duly and independently defined and explained. Even those provisions cannot possibly be interpreted or stretched so as to hold that the fees received by Commissions could have been subjected to tax. The assumption of jurisdiction in terms of the notices impugned before us is thus



found to be ex facie wholly untenable.

32. *Of significance is the respondent observing "Therefore, anything other than goods, money and securities will also include the activities of "regulating the tariff of generating companies owned or controlled by the Central Government, regulating the inter-State transmission of electricity, to issue licenses to persons to function as transmission licensee and electricity trader with respect to their inter-State operations; to levy fees for the purposes of this Act" falls under the scope of "Supply of Services" in para 6.1 of the impugned SCN.*

33. *We find ourselves unable to accept, affirm or even fathom the conclusion that regulation of tariff, inter-State transmission of electricity or the issuance of license would be liable to be construed as activities undertaken or functions discharged in the furtherance of business. The respondents have clearly failed to bear in consideration the indubitable fact that even if these be functions which could be understood to be in the exercise of a regulatory function, those were being discharged by a quasi-judicial body which undoubtedly had all the trappings of a tribunal. The grant of a license to transmit or distribute is clearly not in furtherance of business or trade but in extension of the statutory obligation placed upon a Commission to regulate those subjects.*

34. *We are also of the firm opinion that even though Section 2(102) of the CGST Act defines the expression "services" to mean "anything other than goods", the expansive reach of that definition would have to necessarily be read alongside Schedule III and which excludes services per se rendered by a court or tribunal established under any law. The provision made in Schedule III is clearly intended to insulate and exempt the functions discharged by a court or tribunal from the levy of a tax under the CGST.*

35. *The Electricity Act makes no distinction between the regulatory and adjudicatory functions which it vests in and confers upon a Commission. Those functions are placed in the hands of a quasi-judicial body enjoined to regulate and administer the subject of electricity distribution. Electricity, undoubtedly, is a natural resource which vests in the State. We have thus no hesitation in observing that the SCNs infringe the borders of the incredible and inconceivable."*

4. It is informed that this decision was challenged by the department by filing SLP (Civil) No. 19662 of 2025, which has been dismissed by Hon'ble the Supreme Court on 21.07.2025 (Annexure P-27), thus matter has attained finality.

5. Learned counsel for the respondents fairly states that the controversy involved in present writ petition is indeed identical and he is



CWP-17809-2024 6

unable to draw out any distinction which would call for different dispensation in this matter.

6. Accordingly, present writ petition is allowed and show cause notice No.79 dated 28.06.2024 is set aside. Pending application(s), if any, is/are disposed of.

(LISA GILL)
JUDGE

15.01.2026

Rajeev (rvs)

(RAMESH CHANDER DIMRI)
JUDGE

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