



MAJESTY LEGAL

Advocates & Solicitors

DELHI HIGH COURT:- “SCOPE OF INTERMEDIARY SERVICES”

(M/S ERNST & YOUNG LIMITED VS. ADDITIONAL COMMISSIONER CGST¹)

The Hon’ble Delhi High Court set aside the impugned order of GST² Authorities where it had rejected the Ernst and Young’s application seeking refund of ITC³ with respect to services exported by it, on the ground that it was an intermediary. Further, the Hon’ble High Court ruled that services provided by M/s Ernst and Young Limited (India) to overseas EY⁴ Entities, is not an Intermediary Service.

HIGHLIGHTS OF THE CASE:

- In this case, the petitioner was providing technical assistance, professional services and business advisory services etc. to overseas EY’s entities of UK, US, Australia, and New Zealand. The Adjudicating and Appellate Authorities held that services provided by the petitioner were intermediary services.
- The Hon’ble High Court remarked that services provided by person as opposed to arranging or facilitating the supply from another supplier, is not an “Intermediary” within the scope of Section 2(13⁵) of IGST⁶ Act. Additionally, EY was the actual supplier of the professional services and had not arranged or facilitated the supply from any third party, therefore it cannot be considered as intermediary service. Additionally, the Adjudicating Authority was directed to process the petitioner’s refund application as expeditiously as possible.

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¹ W.P.(C) 8600/2022

² Goods and Services Tax

³ Input Tax Credit

⁴ Ernst and Young

⁵ An Intermediary means a broker, an agent or any other person who arranges or facilitates the supply of goods or services or both, between two or more persons, but does not include a person who supplies such goods or services on his own account

⁶ Integrated Goods and Services Tax Act, 2017

⁷ Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of the above highlights is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.