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GRC BULLETIN

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Case Law

GST Compliance and Cross-Border Services: Insights from the Vodafone Ruling

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JUDICIAL INSIGHT

Case Title

[Vodafone Idea Ltd. v. Union of India & Ors. 2024]

GST COMPLIANCE AND CROSS-BORDER SERVICES: INSIGHTS FROM THE VODAFONE RULING

WHAT WAS AT ISSUE?

Whether the recharge vouchers and talk time provided to overseas entities for distribution (under a Principal-to-Principal basis) constituted an export of services under GST.

WHO WON?

Vodafone Idea Ltd — The Bombay High Court ruled in their favor.

WHY IT MATTERS?

This judgment clarifies that services rendered to overseas entities can qualify as exports even when the end consumer is located in India, as long as the contractual recipient is outside India and the consideration is received in convertible foreign exchange. It sets a precedent for similar cross-border B2B service structures.

FACTS

- This case revolves around a key dispute under the Central Goods and Services Tax Act, 2017 (CGST Act) involving Vodafone Idea Ltd., a major telecom service provider in India. The central issue concerns whether telecom services provided by Vodafone to foreign telecom operators (FTOs)—specifically for international roaming subscribers visiting India—qualify as "export of services" under Indian GST laws.
- Vodafone had entered into agreements with foreign telecom companies (like Verizon USA), allowing their subscribers to roam on Vodafone's network while in India. The end-users (i.e., international subscribers) had no direct contractual relationship with Vodafone. Instead, the FTOs were billed by Vodafone in convertible foreign exchange.
- Despite this, the GST authorities passed adverse orders, stating that the actual recipient of the service was the end-user (subscriber), not the FTO. Based on this reasoning, the authorities held that the services did not constitute exports and were therefore subject to GST liability in India.

Key Legal Issues:

- **Who is the real recipient of the service under Section 2(93) of the CGST Act** — the foreign telecom operator or the roaming subscriber?

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- Does the service rendered to FTOs qualify as an **"export of service"** under Section 2(6) of the **IGST Act**?
- Could the appellate authority **dismiss the appeal for being time-barred** and still proceed to **decide the case on merits**?
- Should the **Allahabad High Court** follow precedents from other High Courts, such as the **Bombay High Court**, which have ruled in favor of treating such services as exports?

Court's Verdict:

The **Allahabad High Court set aside the appellate order dated March 2, 2023**, citing:

- **Procedural irregularities** and incorrect application of legal principles.
- Failure to consider binding precedent, particularly the ruling of the **Bombay High Court**, which was **accepted by the CBIC**.
- Inadequate evaluation of the **contractual framework**, financial flows, and intent behind the agreements.

The Court remanded the matter back to the appellate authority with directions to:

- Re-examine the case in light of **established judicial precedent**.
- Evaluate the **true nature of recipient relationships** and **GST export provisions**.
- Give due weight to the **principles of cross-border service taxation** and policy consistency.

The writ petitions were allowed, and Vodafone's claims will now be reconsidered under judicial supervision.

Why This Matters for Compliance Professionals:

This case has far-reaching implications for companies operating in the **telecom, IT, and cross-border service** sectors. It reinforces the need for:

- Precise determination of **service recipients** in global contracts.
- Adherence to **judicial consistency** across jurisdictions.
- Structured documentation to **demonstrate export nature** of services in case of GST disputes.

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