

DESAI SAKSENA & ASSOCIATES

06th June, 2025

Friday Tax Alert

From:

**Tax Team of Desai Saksena and Associates
Chartered Accountants**

CA Varsha Nanwani (Senior Manager - Taxation)
Vikas Jogle (Manager - International Taxation)
CA Neelu Dusseja (Senior Manager - Indirect Taxation)
CA Neha Patel (Manager - Taxation)
CA Ajay Sachani (Manager - Taxation)
Digvijay Hirwani (Assistant Manager - Taxation)
Alok Sharma (Deputy Manager - Indirect Taxation)

Contacts:

If you have any questions or would like to have additional information on the topics covered in this alert, please email one of the following DSA professionals:

- ✓ CA Varsha Nanwani (Senior Manager – Taxation)
varsha@dsaca.co.in
- ✓ Vikas Jogle (Assistant Manager – International Taxation)
vikas@dsaca.co.in
- ✓ CA Neelu Dusseja (Senior Manager – Indirect Taxation)
neelu@dsaca.co.in
- ✓ CA Neha Patel (Manager - Taxation)
neha@dsaca.co.in
- ✓ CA Ajay Sachani (Manager – Indirect Taxation)
ajay@dsaca.co.in
- ✓ Digvijay Hirwani (Assistant Manager - Taxation)
digvijay@dsaca.co.in
- ✓ Alok Sharma (Deputy Manager – Indirect Taxation)
sharma.alok12@gmail.com

DESAI SAKSENA & ASSOCIATES

Supreme Court Upholds Pre-Deposit via Electronic Credit Ledger: A Landmark decision in GST Litigation.

FACTS OF THE CASE:

1. **Taxpayer:** M/s Yasho Industries Ltd., a manufacturer and exporter of specialty chemicals.
2. **Issue:** Whether pre-deposit payments under Section 107(6)(b) of the CGST Act can be made using the Electronic Credit Ledger instead of the Electronic Cash Ledger.
3. **Revenue's Position:** The GST Department insisted that pre-deposit must be paid exclusively in cash, rejecting payments made via Input Tax Credit (ITC).
4. **Taxpayer's Action:** Yasho Industries deposited the mandatory 10% pre-deposit using the Electronic Credit Ledger (Form GST PMT-02) via Form GST DRC-03.
5. **Legal Challenge:** The taxpayer approached the Gujarat High Court, arguing that the CBIC Circular dated 06.07.2022 explicitly allowed pre-deposit payments through the Electronic Credit Ledger.

PROCEEDINGS BEFORE THE GUJARAT HIGH COURT

1. The Gujarat High Court ruled in favor of Yasho Industries, holding that pre-deposit payments via ITC are valid.
2. The Court relied on the CBIC Circular, which clarified that ITC balances can be used for pre-deposit payments.
3. The Revenue Department challenged the ruling by filing a Special Leave Petition (SLP) before the Supreme Court.

SUPREME COURT DECISION

1. The supreme court dismissed the Special Leave Petition, affirming the high court's ruling.
2. The Court held that taxpayers are not required to use the Electronic Cash Ledger for pre-deposit payments.
3. This decision provides relief to businesses, allowing them to use ITC balances for pre-deposit, reducing cash flow burdens.

CONCLUSION:

The Supreme Court dismissed the Revenue's SLP, effectively upholding the Gujarat High Court's decision. The Court agreed that Section 107(6) does not prescribe the mode of payment for pre-deposit and that no statutory bar exists on using ITC for such payment.

- Pre-deposit is procedural, not substantive tax liability.
- Electronic cash ledger funds are already with the government, making them a legitimate means for payment.
- Restricting payment modes through administrative interpretation violates the spirit of GST as a facilitative and seamless tax system.

This judicial endorsement provides final clarity on the matter, and no further ambiguity remains regarding the permissibility of using ITC for pre-deposits.

Union of India vs. Yasho Industries Ltd. [2025] 174 taxmann.com 878 (SC) [19-05-2025]

DESAI SAKSENA & ASSOCIATES

Retailer Discounts Not Taxable Services: Delhi HC

FACTS OF THE CASE:

Vardhman Electronics ("the Petitioner") is a retailer selling various household appliances and other electronic goods. They were served a Show Cause Notice dated September 26, 2023 issued by the Additional Commissioner, CGST Delhi, Audit-II. Consequently, an order dated January 30, 2025 ("the Impugned Order") was passed by the Additional Commissioner, CGST Delhi West ("the Respondent") confirming demand of short payment of tax amounting to INR 9,85,22,360/- and additional penalties.

The Respondent contended that the Petitioner is given discounts by various manufacturers. However, the Revenue Department seeks to construe such discounts as income on which GST is payable.

1. **Petitioner:** Vardhaman Electronics, a retailer selling household appliances and electronic goods.
2. **Respondent:** Additional Commissioner, CGST Delhi West.
3. **Issue:** The Revenue Department issued a Show Cause Notice on September 26, 2023, arguing that discounts received by retailers from manufacturers should be treated as consideration for services rendered, making them liable for GST.
4. **Impugned Order:** On January 30, 2025, the Additional Commissioner confirmed a GST demand of ₹9.85 crore, along with penalties.
5. **Legal Action:** Vardhaman Electronics challenged the order before the Delhi High Court, arguing that discounts are not taxable services.

LEGAL GROUNDS

1. **Definition of Supply Under GST Act:**
 - As per Section 7(1)(a) of the CGST Act, supply includes all forms of goods or services made for consideration.
 - The petitioner argued that discounts do not constitute a taxable supply, as they are not a direct consideration for services.
2. **Valuation of Taxable Supply:**
 - Section 15(1) of the CGST Act states that the value of taxable supply is the transaction value, i.e., the price actually paid or payable.
 - The petitioner contended that discounts are price reductions, not payments for services.
3. **Judicial Precedents:**
 - The petitioner cited previous rulings where discounts were not treated as taxable consideration.
 - The court prima facie agreed that discounts cannot be considered as a taxable service.

CONCLUSION:

The Delhi High Court ruled that discounts given by manufacturers to retailers cannot be considered as taxable services under the Goods and Services Tax (GST) regime. The court stayed the GST demand of ₹9.85 crore imposed on Vardhaman Electronics, stating that such discounts do not constitute consideration for services rendered.

DESAI SAKSENA & ASSOCIATES

The court has stayed the impugned order issued by the Additional Commissioner, CGST Delhi West, which confirmed the demand. The case is now set to be heard before the Joint Registrar on July 18, 2025, and before the Court on September 25, 2025.

Vardhaman Electronics v. Additional Commissioner, CGST Delhi West & Ors. [W.P. (C) 6334/2025 & CM APPL.28843/2025 dated May 13, 2025]

TEAM WORK · BRIGHT MINDS · INNOVATIVE IDEAS ·