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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision 26th September, 2025***

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W.P.(C) 10171/2025 & CM APPL. 42261/2025**M/S THE ORIENTAL INSURANCE
COMPANY LIMITED****.....Petitioner****Through: Mr. Yogendra Aldak, Mr. Kunal
Kapoor and Mr. Yatharth Tripathi,
Advs. (M:8010333998)****versus****ADDITIONAL COMMISSIONER CGST
DELHI NORTH & ANR.****.....Respondents****Through: Mr. Anurag Ojha, SSC with Mr. Dipak
Raj & Mr. Shashank Kumar, Advs.****CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE SHAIL JAIN****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, challenging the following:
 - (i) Order-in-Appeal No. 262/Commr./Central-Tax/Appeal-I/ Delhi/2024 dated 11th July 2024 passed by the Id. Commissioner (Appeals-i), CGST, Delhi;
 - (ii) Order-in-Original No. 58/ADC/D.N./Manish Kumar Jha/2023 dated 29th December, 2023 passed by the Respondent No. 1 and
 - (iii) The Show Cause Notice [FORM GST DRC-01] bearing Reference No. 50/GST/2023-24 dated 27th September, 2023 issued by the Respondent No.2.
3. The question that has been raised in this case is as to whether re-



insurance services which are availed of by the Petitioner- M/s Oriental Insurance Company Limited would be liable for GST for the period between 01st July 2017 to 24th January 2018.

4. *Vide* order dated 18th July 2025, Mr. Ojha, Id. SSC was directed to seek instructions in this matter.

5. Today, Mr. Ojha, Id. SSC for the Respondent has sought instructions and submits that the Order-in-Original and the Order-in-Appeal in this case were passed prior to the issuance of the ***Circular No. 228/22/2024-GST*** on 15th July 2024 (hereinafter, '*circular*') and therefore, the benefit of the said circular may not be extendible to the Petitioner. The relevant portion of the said circular reads as under:

“6. GST liability on the reinsurance of specified general and life insurance schemes.

6.1 Representations have been received to either exempt or regularize the GST liability, for the period from 01.07.2017 to 24.01.2018, on reinsurance of specified general insurance and life insurance schemes, which are exempt from GST.

6.2 Certain specified general insurance and life insurance schemes are exempt from GST under SI. Nos. 35 and 36 of notification No. 12/2017-CT(R) dated 28.06.2017. Vide entry at SI. No. 36A of the said notification, reinsurance of the aforesaid exempted insurance schemes has also been exempted w.e.f. 25.01.2018.

6.3 GST Council in its 53rd meeting held on 22nd June, 2024 has recommended to regularize the GST liability on such reinsurance of exempt general insurance and life insurance schemes for the past period, i.e. from 01.07.2017 to 24.01.2018, on 'as is where is' basis.

6.4 Thus, as recommended by the GST Council, GST liability on the services by way of reinsurance of the insurance schemes specified in SI. Nos. 35 and 36 of



notification No. 12/2017-CT(R) dated 28.06.2017 is regularized for the period from 01.07.2017 to 24.01.2018 on 'as is where is' basis."

6. However, Id. Counsel for the Petitioner has taken the Court through a decision of a Co-ordinate Bench of this Court in **W. P. (C) 4136/2024** titled '**AXA France Vie-India v. Union of India & Ors.**', wherein this very issue relating to another insurance company has been considered by this Court and it has been observed as under:

"7. It appears that on 18 January 2018, the GST Council introduced a new entry in Notification No.12/2017 dated 28 June 2017 exempting reinsurance services when offered in relation to government insurance schemes. It becomes pertinent to note that the said exemption notification at Serial No.40 had made

"40	Heading 9971 Or Heading 9991	Services provided to the Central Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.	Nil	Nil"
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8. The said original notification saw an amendment which was promulgated on 25 January 2018 and in terms of which Entry 36A came to be introduced and the said amending entry read as follows: -

(1)	(2)	(3)	(4)	(5)
"36A	Heading 9971 or Heading 9991	Services by way of reinsurance of the insurance schemes specified in serial number	Nil	Nil"

9. A doubt appears to have arisen in light of the amended Serial No.36A while speaking of services by way of reinsurance specifying it to be relatable to Serial



Nos. 35 or 36 in the original notification. There was thus, perhaps an inadvertent error in failing to take note of Serial No.40 which too formed part of the original notification dated 28 June 2017.

10. Upon this apparent error coming to light, yet another amending notification came to be issued on 26 July 2018 and clause (k) of which provided as follows:-

“(k) against serial number 36A, in the entry in column (3), after figures “36”, the word and figures “or 40” shall be inserted;”

11. Entry 36A thus came to include Serial No.40 specifically. The issue which therefore remained for consideration was whether the aforesaid amendments would be liable to be viewed as curative, and thus being applicable to the period prior to 27 July 2018, the date from which the said notification was stated to be applicable and whether the same would clarify the position which would obtain prior thereto.

12. These aspects ultimately fell for deliberation before the GST Council in its meeting held on 22 June 2024 and in which the recommendations of the Fitment Committee for regularization of payment of GST on reinsurance services came to be accepted.

13. This becomes apparent from a reading of Note 5.46 and the decision expressly taken by the Council in that regard and which is reproduced hereinbelow:-

“5.46 Joint Secretary, TRU then presented the next agenda item relating to a request to clarify that reinsurance services of the insurance schemes for which total premium is paid by the Government (Sl. No. 40 of the notification No. 12/2017 CTR) are exempt from GST for the period 01.07.2017 to 26.07.2018. She stated that in the 28th GST Council meeting held on 21.07.2018, it was decided to exempt re-insurance of insurance schemes already exempt under Sl. No. 40 of Notification No. 12/2017-CTR. The said



exemption was notified w.e.f. 27.07.2018. The issue was examined by the Fitment Committee and it recommended to regularize the payment of GST on reinsurance services of the insurance schemes for which total premium is paid by the Government (SI No. 40 of Notification No. 12/2017-CT(R) dated 28.06.2017) for the period from 01.07.2017 to 26.07.2018 on „as is where is“ basis by way of issuance of a Circular.

Decision: The Council approved the recommendation of the Fitment Committee to regularize the payment of GST on reinsurance services of the insurance schemes for which total premium is paid by the Government (SL No. 40 of Notification No. 12/2017-CT(R) dated 28.06.2017) for the period from 01.07.2017 to 26.07.2018 on 'as is where is' basis by way of issuance of a Circular. ”

14. Pursuant to the said decision taken by the GST Council, a clarificatory Circular came to be issued by the Department of Revenue in the Ministry of Finance on 15 July 2024 and insofar as GST liability on reinsurance is concerned it was clarified as under:-

““6. GST liability on the reinsurance of specified general and life insurance schemes. 6.1 Representations have been received to either exempt or regularize the GST liability, for the period from 01.07.2017 to 24.01.2018, on reinsurance of specified general insurance and life insurance schemes, which are exempt from GST. 6.2 Certain specified general insurance and life insurance schemes are exempt from GST under Sl. Nos. 35 and 36 of notification No. 12/2017- CT(R) dated 28.06.2017. Vide entry at Sl. No. 36A of the said notification, reinsurance of the aforesaid exempted insurance schemes has also been



exempted w.e.f. 25.01.2018. 6.3 GST Council in its 53rd meeting held on 22nd June, 2024 has recommended to regularize the GST liability on such reinsurance of exempt general insurance and life insurance schemes for the past period, i.e. from 01.07.2017 to 24.01.2018, on „as is where is“ basis.

6.4 Thus, as recommended by the GST Council, GST liability on the services by way of reinsurance of the insurance schemes specified in Sl. Nos. 35 and 36 of notification No. 12/2017-CT(R) dated 28.06.2017 is regularized for the period from 01.07.2017 to 24.01.2018 on „as is where is“ basis.”

15. The GST Council as well as the Union Government, thus appear to have taken a conscious decision to regularize the period between 01 July 2017 and 26 July 2018.

16. Undisputedly, the impugned order relates to that very period. While it is true that on 20 December 2023, when the impugned order came to be passed, these clarifications had not been rendered, undisputedly, the same would not sustain in light of the stand which has been taken by the respondents and is principally noticed hereinabove.”

7. Heard. In the present case, the benefit in respect of re-insurance services is being sought for the period between 01st July 2017 to 24th January 2018. In respect of the said period, the **Circular No. 228/22/2024-GST** dated 15th July 2024 has extended the benefit. The GST Council, in its 53rd Meeting held on 22nd June, 2024, recommended the said clarification, which was thereafter incorporated *vide* issuance of the said circular. The relevant portion of the recommendation of the GST Council reads as under:

“6. GST liability on reinsurance services of specified insurance schemes covered by Sr. Nos. 35 & 36 of



notification No. 12/2017-CT (Rate) dated 28.06.2017 may be regularized on 'as is where is' basis for the period from 01.07.2017 to 24.01.2018"

8. Since the Order-in-Original dated 29th December, 2023 and the Order-in-Appeal dated 11th July 2024 were passed prior to the issuance of the circular, the concerned authorities obviously did not take note of the same. However, the benefit of the circular cannot be denied to the Petitioner. In view thereof, the circular would be squarely applicable in the case of the Petitioner. The decision in *AXA France Vie-India (Supra)* would also be applicable in the present case.

9. Accordingly, the Order-in-Original dated 29th December, 2023 and the Order-in-Appeal dated 11th July 2024 are set aside. For the said period, the benefit of circular dated 15th July 2024 is extended to the Petitioner.

10. The petition, along with the pending applications, if any, is disposed of in the aforesaid terms.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

SEPTEMBER 26, 2025

kk/ck

(corrected & released on 4th October, 2025)