

HC: The cost of fuel used by the recipient of service cannot be added to the value of supply (i.e., freight charges) by the Goods Transport Agency (GTA).

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REFER THE DECISION OF THE HON'BLE UTTARAKHAND HIGH COURT IN THE CASE OF

New Jai Hind Transport Service vs. Union of India, [2024] 167 taxmann.com 133 (Uttarakhand), Dated: 27th September, 2024

FACTS:

The petitioner M/s. New Jai Hind Transport Service provided services of GTA to its customers. The petitioner filed an application before the GST Advance Ruling Authority (AAR) seeking the advance ruling on the following question:

“Whether the value of free diesel filled by service recipient under the accepted terms of contractual agreement in the fleet(s) placed by GTA service provider will be subject to the charge of GST by adding this free value diesel in the value of GTA service, under the Central Goods and Services Tax Act, 2017 & Uttarakhand Goods and Service Tax Act, 2017?”

The Id. AAR ruled that the value of diesel filled by the service recipient in the vehicle(s) provided by the petitioner, on an FOC basis as per the terms of the agreement, will be subject to the charge of GST by adding the free value of diesel to arrive at the transaction value of GTA service. The petitioner challenged the said order which was upheld by the Appellate Authority for Advance Ruling Uttarakhand. Aggrieved by the same, the petitioner filed an appeal before the court of law.

Hon'ble High Court Judgement:

The Hon'ble Court referred to the decision of the Hon'ble Apex Court in the matter of *Commissioner of Service Tax & others vs. Bhayana Builders (P) Ltd. (2018) 3 SCC 782* and held that as per the agreement, the cost of fuel was to be borne by the service recipient and **therefore, it cannot be added in the transaction value of goods transport agency service under sections 15(1) and 15(2)(b) of the CGST Act, 2017.**