AKSHAY SHAH
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DIRECT TAX NEWS

CAN DEATH COMPENSATION BE TREATED AS INCOME AND TAXED, ASKS GUJARAT HC

The Gujarat High Court has sought to know whether compensation received by the kin of a victim can be considered income and liable to income tax.

The Court was on Monday hearing a plea filed by the husband of a woman killed by terrorists during the hijacking of the Pan American World Airways flight in 1986.

A division bench of Justices JB Pardiwala and Nisha Thakore posed a question to the I-T department, whether the amount received as compensation can be termed as income to be taxed under the Income Tax Act.

“Your principal argument is that this compensation is not income and cannot be taxed...We will not go by sympathy, but it makes sense that something which has been received by way of compensation, can we term it as an income so as to tax it?” the court asked.

It posted the matter for further hearing on March 14.

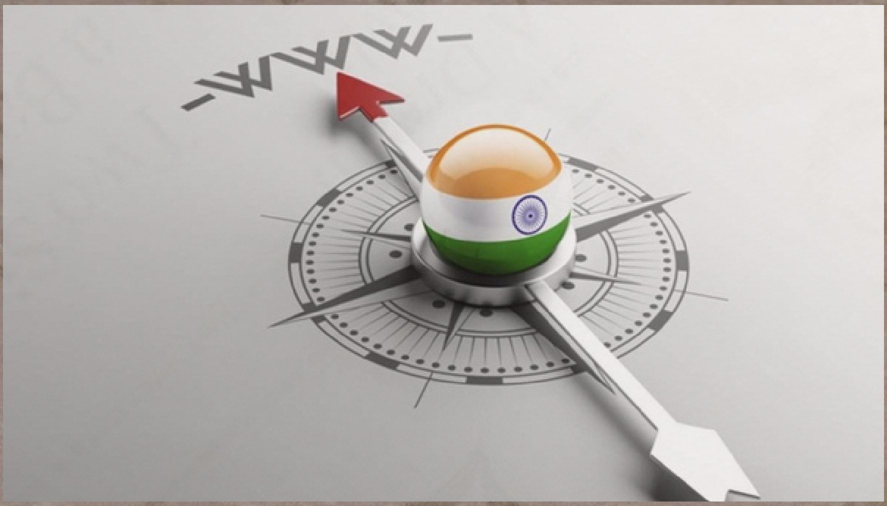
Petitioner Kalpesh Dalal had approached the Court after receiving a notice from the I-T department for payment of income tax on ₹20 crore he received as compensation for the death of his wife Trupti in the hijack of the Pan Am flight, when it was on way to New York from Mumbai, and was forced to land in Karachi.

Trupti was among the over 50 people killed by hijackers.

A New York court had awarded a compensation of ₹20 crore to Dalal between 2013-14 and 2014-15, but he had not shown the compensation as income in the tax returns filed for the assessment year 2014-15.

The I-T department first issued summons to the petitioner in 2014, to which Dalal had responded saying the amount was compensation received as a result of a lawsuit in the US. The department reopened the case last year, seeking to reassess Dalal’s income and issued him a notice, after which he moved the high court. In his plea, Dalal objected to the notice sent to him by the I-T department last year, seeking to levy tax on the amount.

INDIATECH SAYS NEW GST RULES CONTRADICT DIGITAL INDIA MISSION



Start-up industry body IndiaTech.Org has sought a review of GST on online transactions as it is adversely impacting small businesses and travel companies.

In a communication to the Finance Minister, Road and Transport Minister, IT Minister, DPIIT, GST Council, and several state governments, the industry body said that the move will impact small retailers, start-ups and travel companies who have just began selling online.

Currently, businesses that supply goods up to the revenue of ₹40 lakh and those that supply services up to revenue of ₹20 lakh don't have to pay additional GST, irrespective of whether they are selling online or offline.

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According to a recent update in rules, businesses will lose this benefit when selling online. This means that even small and early stage companies will have to pay GST if they sell online, irrespective of the revenue. As a result, small businesses now have to mandatorily register under GST when selling online.

One of the segments to be drastically impacted is the online travel ticketing space, especially non-AC buses and transports.

Transportation services provided by way of non-air-conditioned contract carriage and stage carriage are currently exempt from payment of GST. However, the government, vide Notification 16/2021-CGST (Rate) and Notification No 17/2021-CGST (Rate) dated November 18, 2021, intends to make online operators liable to pay GST in respect of these services when supplied through any online means. Thus, the aforesaid services, which are per se exempt under GST law, become taxable merely because they are supplied online through many travel start-ups.

"The above move will not only increase the overall cost of such services booked through online means as compared to the same booked offline by standing in the bus top or queuing in places where tickets are sold. It will counter start-ups emerging in this space and unnecessarily force travellers to book tickets offline, which may never have been the intent of the government that aims to promote digital and start-up growth," the letter said

GST AUTHORITIES EXPAND PROBE INTO ALLEGED TAX EVASION BY BHARATPE

Fintech firm BharatPe is facing an expanded probe by GST authorities into the allegations of tax evasion that surfaced at the company following a tussle between former MD and Co-Founder Ashneer Grover and the BharatPe board. According to a source close to the company, the probe is in continuation of the search operations that happened in October 2021 and BharatPe is cooperating with the authorities. Reports said the authorities are looking into BharatPe's books to check if fake invoices were made for services. The Ministry of Corporate Affairs is also allegedly looking into how Ashneer Grover was treated during the tussle between the company and board.

In a company statement released on March 2, BharatPe had said, "Grover family and their relatives engaged in extensive misappropriation of company funds, including, but not limited to, creating fake vendors, through which they syphoned money away from the company's expense account and grossly abused company expense accounts in order to enrich themselves and fund their lavish lifestyles."

On February 22, the company had terminated the services of its Head of Controls and wife of Grover, Madhuri Jain, on charges of financial irregularities.

CHARGING OF ELECTRIC VEHICLES: SHOULD IT BE EXEMPT OR ATTRACT 18% GST?

India is among a handful of countries that support the global electric vehicle ('EV') 30@30 campaign. It is targeting to have at least 30% new vehicle sales to be electric by 2030. Having an accessible and robust network of EV charging infrastructure is a pre-requisite to achieve the said ambitious target.

The functioning of an EV is based on the battery installed in it. The battery provides the necessary power to the EV which inter-alia enables it to operate. The EV charging involves supply of direct current (DC) to the battery pack. As electricity distribution system supplies the alternate current (AC) power, a converter is required to provide DC power to the battery.

The charging stations may either have an AC based EVSE or DC based EVSE. The Electric Vehicle Supply Equipment ('EVSE') is the basic unit of EV charging infrastructure. The EVSE accesses power from the local electricity supply and utilizes a control system and wired connection to safely charge Evs.

The Ministry of Power in its clarification relating to the requirement of licensing by the charging stations under the Electricity Act, 2003 clarified that charging of an EV battery by a charging station involves a service requiring the consumption of electricity by the charging station. The activity does not involve any sale of electricity. Thus, charging stations do not require any licence under the Electricity Act.

If one adopted under GST, the activity of charging would attract GST at the rate of 18%. However, the supply of electrical energy, if treated as sale of electricity, the same would be exempted from GST

TODAY'S QUOTE

Ambition is the path to success. Persistence is the vehicle you arrive in.

- Bill Bradley

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