



Abhishek A Rastogi

Partner

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Practice:

Indirect Tax

Education:

LL.B., Law Center II, Delhi
University (2011)
CA, The Institute of Chartered
Accountants of India (2004)
B.Com. (Hons.), Shri Ram College
of Commerce, Delhi University
(2000)

Professional Affiliations:

Bar Council of Maharashtra &
Goa
Bar Council of Customs, Excise
and Service Tax Appellate
Tribunal, Mumbai
Institute of Chartered
Accountants of India

Abhishek A Rastogi is a Partner in the Indirect Tax practice group in the Mumbai office. Abhishek has argued several landmark cases before various Tribunals, High Courts, and the Supreme Court. He has authored dozens of commentaries on indirect taxes.

Representative Matters:

In his areas of expertise, Abhishek has advised and represented clients in a variety of matters including:

- Writ petitions for various importers in Delhi High Court and Supreme Court to challenge IGST applicability on imports under Advance Authorisation Licenses. Final relief in the form of IGST exemption was granted to the Petitioners. SLP filed by Revenue was also dismissed;
- Writ petitions challenging pre-import condition for benefits under Advance Authorisation scheme. Gujarat High Court declared pre-import condition as ultra vires. Abhishek is currently arguing the matter in Supreme Court against Revenue's SLP;
- Dozen of writ petitions before Gujarat, Bombay, Delhi, Chennai and P&H High Courts to challenge Rule 96(10) restrictions for rebate option;
- Writ petitions to challenge the GST transitional provisions and the time limit prescribed therein. Delhi High Court allowed Petitioners to avail credit and held that tax credits would fall within Right to Property under Article 300A;
- Writ petitions in different Courts on constitutionality of Entry 62 of List II of the Constitution and principles of promissory estoppel with respect to entertainment tax benefits to amusement parks and multiplex owners. State Governments announced partial SGST exemption pursuant to writ petition. Bombay High Court has instructed Maharashtra Cabinet to take a decision and partial money has been received;
- Writ petitions before various Courts to challenge taxability of ocean freight under the reverse charge mechanism under GST and service tax regime. Gujarat High Court has held IGST on ocean freight as unconstitutional;
- Writs to defend threats of arrest/actual arrests by GST Authorities in investigations concerning irregular availment



of credits and secured favourable orders in criminal writs from Supreme Court, Bombay & Delhi High Courts;

- Writ petition for exemption on import of oxygen concentrators and cylinders by individuals and corporates;
- Writ to challenge place of supply for intermediary services before Gujarat and Bombay High Court;
- Writ petitions for denial of C forms and Form F subsequent to implementation of GST;
- Writ petition challenging recovery of entertainment tax against the shareholders;
- Writs to challenge restriction of input tax credits on services used for construction of immovable property for hospitality and other Sectors;
- Writ against blockage of credits in case of gifts;
- Writ petition for online gaming companies to prevent coercive action till GoM decides the industry issues;
- Writ against prohibition on export of non-woven fabric for medical use during COVID;
- Writ petitions on deduction of Social Welfare Surcharge, Education Cess and SHE Cess on imports when Basic Customs Duty is exempted by way of debit of SEIS/MEIS scrips;
- Writs arguing transitional credit of cesses into GST, transitional credit of pre-GST stock beyond one year, denial of transitional credit on capital goods procured by units in exempted zones;
- Writs for denial of Tran-3 credit due to technical glitches;
- Writs against denial of credit due to procedural lapses;
- Writs against coerced recovery due to classification dispute of denatured ethyl alcohol;
- Writ petition for Port Operators to challenge physical export condition to EPCG licenses, currency related issues and cost recovery charges;
- Appeals and writs pertaining to service tax and GST refund claims before CESTAT and various High Courts.
- Legal remedy against denial of SEIS benefits for providing management consulting services along with IT/IT enabled services;
- Writ to challenge constitutional validity of RBI circular on 'virtual currencies' before the Supreme Court;
- Writ to challenge taxability of development rights received from land-owners in case of joint development agreements;



- Writ to challenge CBIC circular levying IGST on the in-bond transfer of imported goods in a Customs Bonded Warehouse. CBIC amended circular post filing of Writ;
- Writ petition to challenge differential tax treatment for sub-contractors and contractors providing works contract services to the Government. GST Council revised rate of GST subsequent to the petition;
- Writ petition to challenge provisions related to interest on GST under section 50;
- Writ to obtain benefits under Target plus scheme for exporters;
- Writ to challenge recovery of GST against sale and purchase or renewable energy certificates;
- Writ to challenge forced recovery of GST prior to insolvency commencement date;
- Writ petition for withdrawal of excise duty exemption on domestic procurement of goods guaranteed to R&D institutions;
- Writ petition to challenge non-availability of ITC on duty paid for non-fulfilment of export obligations;
- Writ to challenge denial of transitional credit on capital goods for units enjoying area-based exemption under the erstwhile indirect tax regime;
- Writ petition for applicability of reverse charge on legal services and voluntary registration. Government remedied cause of action by including LLPs within the ambit of partnership firms;
- Writ petitions before Delhi and Gujarat High Courts to challenge provisions of inverted duty structure and reverse charge. Pursuant to writ, authors have been given option to pay GST under forward charge and reverse charge on procurement from unregistered dealers has been withdrawn;
- Writs to challenge reduction of the quantum of refunds under the budgetary support schemes before J&K High Court;
- Appeals involving excise valuation and fixation of special rate for refunds under area-based exemption notification;
- Appeals on applicability of service tax on GTA services received in J&K by an Oil & Gas company;
- Favourable Advance Ruling on a proposed Job work transaction by an Oil & Gas company;
- Advance Ruling for classification of kitchen and bath fittings;
- Various writs to challenge orders of National Anti-Profitteering Authority regarding profiteering by real estate, FMCG, Food & Beverages companies including a



favourable order for a large franchisor whereby Delhi High Court ordered to drop proceedings;

- Writs to challenge Service Tax and GST on license fees levied by Government of Goa for operation of casinos;
- Writ to challenge restriction on rebate benefits in case an up-front exemption or benefit of reduced rate is taken on inputs (for merchant exports);
- Appeal on revenue sharing before the Allahabad Tribunal for an entertainment sector;
- Writs against denial of benefit under Amnesty Scheme in cases such as quantification of tax dispute, interest coverage for differential tax and coverage of fine;
- Appeal for a telecom player with respect to reversal of CENVAT credit for trading in securities;
- Appeal before Tribunal with respect to refund of KKC;
- Appeal against demand of service tax on account mismatch between ST-3 and Financial Statements;
- Appeal against demand of service tax on contribution of advertisement expenses by franchisee in common fund;
- SLP in respect of denial of interest at compounded interest rate under payment of small scale and Ancillary Industrial Undertaking Act, 1993
- Writ Petitions against impleading banks for freezing of bank accounts on government instructions;
- Writ against demand of CVD on imports under Advance Authorization scheme;
- Appeal on a Customs classification issue to demand CVD on natural Gum Arabic;
- Writ against issuance of summons by authorities without jurisdiction;
- Appeals and writs for banks in relation to various high stake matters such as interchange fees, head office branch transactions, bullion import, CBLO, DICGC, subvention, NPCI, penal interest charges, currency conversion; and
- SLP for Customs valuation (condition of sale) dispute for promotion expenses incurred for celebrities.

Publications and Presentations:

Abhishek has authored the following contributions:

- **"GST - Professional's Guide - 4th edition"** published by Taxman (2018);



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- **"Professional's Guide to Service Tax - 8th edition"** published by LexisNexis (2017);
- **"Pocket Guide to Service Tax - 6th edition"** published by LexisNexis (2017);
- **"Datar's Central Excise - 7th Edition"** published by LexisNexis (2015);
- **"Handbook on FTP (2015-2020)"** published by LexisNexis (2015);
- **"Service Tax Law and Practices"** published by Taxman (2012);
- **"How to save Service Tax"** published by Taxman (2012);
- **"Guide to Goods and Services Tax"** published by Taxman (2010);
- **"Illustrative Guide to GST"** published by Taxman (2009); and
- **"New Face of Indirect Taxes in India"** published by Taxman (2009).

Recognitions and Awards:

Abhishek has been acknowledged for his experience and expertise by:

- World Tax as highly regarded in Indirect Tax and Highly regarded in Tax controversy for 2021 and 2022;
- Asian Legal Business as India's Super 50 lawyer in 2020 and 2021;
- Asia law as notable practitioner in Tax category;
- International Tax Review award in Tax category;
- Legal Era for 40 under 40 Leadership Award; and
- Economic Times for 40 under Forty Award.