



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7806 OF 2025

ICICI Lombard General Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

AND
WRIT PETITION NO. 8314 OF 2025

HDFC Ergo General Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

AND
WRIT PETITION NO. 8313 OF 2025

Bajaj Allianz General Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

AND
WRIT PETITION NO. 8362 OF 2025

IFFCO Tokio General Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

AND
WRIT PETITION NO. 8360 OF 2025

SBI General Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

AND
WRIT PETITION NO. 6771 OF 2025

Aditya Birla Health Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

AND
WRIT PETITION NO. 14901 OF 2025

Generali Central Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

**AND
WRIT PETITION NO. 6891 OF 2025**

Star Health and Allied Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

**AND
WRIT PETITION NO. 6978 OF 2025**

Royal Sundaram General Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

**AND
WRIT PETITION NO. 7687 OF 2025**

Indusind General Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

**AND
WRIT PETITION NO. 14865 OF 2025
(Not on board. Taken on board.)**

Care Health Insurance Limited ...Petitioner
Vs
Union of India & Ors. ...Respondents

Mr. Vikram Nankani, Senior Advocate with Mr. Prithwiraj Choudhari, Mr. Aansh Desai i/b Pythagoras Legal for the Petitioner.
Mr. Yogendraprasad Ramdin Mishra with Ms. Niyati Mankad, Ms. Priyanka Singh for the Respondent in WP/7806/2025
Mr. Siddharth Chandrashekhar with Ms. Niyati Mankad, Ms. Priyanka Singh for the Respondent in WP/14685/2025
Mr. Ram Ochani with Ms. Sangeeta Yadav for Respondent No.4 in WP/8313/2025, WP/8314/2025.
Mr. Jitendra B. Mishra with Mr. Abhishek R. Mishra for the Respondent in WP/6891/2025.

**AND
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L.) NO. 12881 OF 2025**

New India Assurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

**AND
WRIT PETITION (L.) NO. 7000 OF 2026**

Oriental Insurance Co. Ltd. ...Petitioner
Vs
Union of India & Ors. ...Respondents

Mr. Rohan P. Shah, Senior Advocate with Mr. Harish Bindumadhavan, Mr. Mahir Chablani, Mr. Prathamesh Gargate, Ms. Dimpal Jangaid for the Petitioner in WPL No.12881/2025.

Mr. Karan Adik with Ms. Mamta Omle for the Respondent in WPL No. 12881/2025.

Mr. Sriram Sridharan with Mr. Shanmuga Dev, Ms. Aditi Jain for the Petitioner in WP(L) No.7000/2026.

Ms. Shruti D. Vyas with Ms.Niyati Mankad, Ms. Priyanka Singh for the Respondents in WP(L) No.7000/2026.

**CORAM: G. S. KULKARNI &
FARHAN P. DUBASH, JJ.
DATE: 26 MARCH 2026.**

P.C.

1. We have heard learned counsel for the petitioners and learned counsel for the respondent/revenue on this batch of petitions. A reply affidavit of Mr. Dharm Singh Meena, Assistant Commissioner of Division-IX, CGST & Central Excise, Mumbai Central Commissionerate, in writ petition no. 7806 of 2025, as tendered by Mr. Mishra, learned counsel for the Revenue on behalf of respondent nos.1 to 4, is taken on record. Insofar as the other petitions are concerned, reply affidavits are yet to be filed.

2. Learned senior counsel for the petitioners have advanced extensive submissions challenging the impugned show cause notices issued to the petitioners and the orders passed pursuant thereto. By the impugned show cause notices, the department has sought to demand GST with retrospective effect for the period from 2017-18 upto 30 September 2023, so as to tax the insurance policies subscribed from the petitioners by the SEZ units. This demand is premised on the basis that, by virtue of the Finance Act, 2021, as notified by the Central Government under a notification dated 27 July 2023, the appointed day as fixed was 1 October 2023 for the amendment to Section 16 of the IGST Act, 2017 to be brought into force.

3. It needs to be stated that by virtue of Section 123 of the Finance Act, 2021, an amendment was sought to be made to Section 16 of the IGST Act, when in clause (b) of sub-section (1), after the words “supply of goods or services or both,” the words “for authorised operations” were inserted. The relevant extract of the provisions of Section 16 of the IGST Act prior to the amendment by the Finance Act, 2021 (No. 13 of 2021) and post the said amending Act are required to be noted, which reads thus:-

“Prior to the amendment by Act No. 13 of 2021

16. Zero rated supply. (1) “zero rated supply” means any of the following supplies of goods or services or both, namely:—

(a) export of goods or services or both; or

(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Post amendment by Act No.13 of 2021

16. Zero rated supply. - (1) “zero rated supply” means any of the

following supplies of goods or services or both, namely:-

- (a) export of goods or services or both; or
- (b) supply of goods or services or both [for authorised operations] to a Special Economic Zone developer or a Special Economic Zone unit.”

4. In issuing the impugned notice, the petitioner contends that the designated officer has completely misinterpreted and/or misapplied the provisions of the amending Act, particularly the notification dated 31 July 2023, which merely notifies that the amending Act (supra) would come into force with effect from 01 October 2023 as the said Officer has erroneously treated this notification as a clarification issued by the Ministry of Finance (Department of Revenue), Central Board of Indirect Taxes and Customs. A clear finding to this effect has been recorded in paragraph 139.3 of the impugned order, wherein the officer appears to have misconstrued the notification bringing the amendment into force as a clarification issued by the Ministry. The relevant observations are required to be noted which read thus:-

“The clarification, issued through Notification No. 27/2023- Central Tax dated 31.07.2023 and effective from 01.10.2023, established that such services must be utilized solely for the authorized operations of SEZ.”

5. It is the petitioner’s case that there is no dispute that the insurance services provided by the petitioners/insurance companies to SEZ units, which were otherwise the recipients of such services, qualified as ‘zero-rated’ supplies under Section 16 of the IGST Act, 2017, and have been treated as such by the department prior to the amending Act being brought into force. This position is further supported by drawing the Court’s attention to Instruction F. No.

D.12/19/2013-SEZ dated 02 January 2018, wherein at Serial No. 26, 'General Insurance Business Services' were included in the context of IGST exemption. In fact, there were 66 such services which were exempted and were forming part of the default services approved by the Department of Commerce. The said instruction dated 02 January 2018 is also relevant in such context, and is required to be noted which reads thus:-

“To
All Development Commissioners
Special Economic Zone

Subject: - Uniform list of services to be followed in SEZs - Reg.

Sir/Madam

I am directed to refer to this Ministry's letter No. D. 12/25/2012-SEZ dated 16th September, 2013 and subsequent letters of even number dated 19th November, 2013, 19th June, 2014 and 9th July, 2014 vide which a list of 66 services which may be permitted by all Unit Approval Committees (UACs) as default authorised services was conveyed (copies enclosed).

2. The BoA was appraised that consequent to implementation of GST Act, some State Government are not extending the benefits of IGST exemption for default services, Since, SEZs are exempt from IGST and the above matter was placed before 80th BoA meeting held on 17th November, 2017. The BoA, after deliberations, approved the reiteration of the default authorized operations as approved, earlier.

Encl: Annexure - List of 66 services”

(emphasis supplied)

6. It is the petitioners case that, up to 30 September 2023, there was no dispute whatsoever regarding the supply being treated as a “zero-rated supply,” and the same was accepted by the Department. The petitioners contend that the amendment in question must be interpreted to operate prospectively, considering well-established principles governing the interpretation of taxing statutes, such provisions cannot be construed to have a retrospective effect. It is hence their

submission that the supplies undertaken during the period from 01 July 2017 (when the GST regime was introduced) up to 30 September 2023 cannot be subjected to tax on retrospective basis, as is sought to be done by issuance of the impugned show cause notices and the consequent orders.

7. In support of such contention, Mr. Shah, learned counsel for the petitioner in Writ Petition No. 12881 of 2025, has drawn our attention to the decision of the learned Single Judge of the Madras High Court in **Lenovo (India) Pvt. Ltd. Vs. Joint Commissioner of GST (Appeals-1)**¹ in Writ Petition Nos.23604, 23605 and 23607 of 2022, decided on 06 November 2023. In the said judgment, the Court has categorically held that the amendment in question operates prospectively, as observed in paragraph 14.7 thereof.

8. Accordingly, the issue that falls for consideration of the Court in the present proceedings is as to whether the designated officer at all had the jurisdiction to issue the impugned show cause notices to retrospectively demand tax in light of the statutory position prevailing during the period from 01 July 2017 to 30 September, 2023, i.e. prior to the amendment to Section 16 with effect from 01 October 2023, by which the words “for authorized operations” were incorporated.

9. The petitioner has further contended that, in any event, it is untenable for the designated officer, to categorize the services availed by the SEZ from the petitioners, to be not for the benefit of the SEZ units, particularly in view of the scheme and object under the Special Economic Zones Act, 2005.

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10. Mr. Yogendraprasad Mishra, Mr. Ram Ochani and Mr. Karan Adik, learned counsel for the respondents, have supported the impugned orders. Mr. Mishra contended that this is a clear case where the policies have been issued for the benefit of the employees, and therefore, the petitioners cannot contend otherwise. He further submitted that, particularly in view of the amendment, such supply of services cannot be regarded as supply to the SEZ units, per se; rather it should be treated as a supply between the petitioners/ insurance companies and its employees, who are the ultimate beneficiaries of such services. Accordingly, it is submitted that the designated officer was correct in issuing the show cause notice and passing the impugned order for recovery of tax.

11. *Prima-facie*, we find much substance in the contention urged on behalf of the petitioners that the designated officer would not have jurisdiction to retrospectively levy tax on the petitioners in respect of the supply in question, namely the sale of insurance policies to the SEZ units. This, also in view of the fact that Section 2 (93) of the CGST Act defines the "recipient" of supply of goods or services or both, *inter alia*, to be the person who is liable to pay the consideration for such supply. In the present case, it is the SEZ units which have subscribed to the policies of the petitioners, albeit for the benefit of their employees, who, according to the petitioners, are integral to the SEZ unit and the overall SEZ scheme.

12. In this view of the matter, we are of the opinion that arguable issues are raised by the petitioners, which would require consideration at the final hearing.

The petitioners would be required to be granted interim protection. Hence the following order:-

ORDER

- i. Rule. Respondents waive service.
- ii. Pending the hearing and final disposal of the petitions, the impugned order arising from the show cause notices in question in all these petitions shall remain stayed.
- iii. The respondents are directed to file reply affidavit/s within a period of four weeks from today and a copy of the same be served on the other parties well in advance. After pleadings of the petitions are complete, liberty to the parties to move the proceedings for final hearing.

(FARHAN P. DUBASH, J.)

(G. S. KULKARNI, J.)