

Division Bench of Bombay High Court upholds constitutional validity of IGST provisions w.r.t intermediary service in case of Dharmendra M. Jani

In the case of Dharmendra M. Jani, earlier, the Bombay High Court (HC) (Division Bench) had a difference of opinion on the constitutional validity of provisions with respect to intermediary service (i.e., Section 13(8)(b) and Section 8(2) of the Integrated Goods and Services Tax Act, 2017 (IGST Act)). Therefore, the matter was referred for opinion to the third judge.

Recently, the third judge upheld the validity of provisions with respect to intermediary under the IGST Act. Accordingly, it has been held that the said provisions are legal, valid, and constitutional. Further, the judge stated that the operation of these provisions is confined in their operation to the provisions of the IGST Act only, and the same cannot be made applicable for the levy of tax on services under the CGST and MGST Acts. (please click [here](#) to view our tax alert).

Pursuant to the above, the Bombay HC (Division Bench) has upheld the constitutional validity of the relevant provisions with respect to an intermediary. The Division Bench has ruled that the provisions of Sections 13(8)(b) and 8(2) of the IGST Act are legal, valid, and constitutional and, accordingly, dismissed the writ petition.

It is relevant to note that the final ruling does not refer to another part of the conclusion of the third judge, i.e., the operation of Sections 13(8)(b) and 8(2) of the IGST Act is restricted only to the provisions of the IGST Act and cannot be applied to the CGST Act/MGST Act.