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ZOMATO'S RS 800 CRORE GST DISPUTE: A STATUTORY ANALYSIS

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Joint Commissioner of CGST & Central Excise, Thane Commissionerate vs. Zomato Limited (now officially transitioning to its new corporate entity identity, Eternal Limited)

INTRODUCTION AND CONTEXT

The case focuses on India's taxation of the gig economy and platform economy. The case revolves around an ₹803.4 crore GST demand by the department in a landmark dispute highlighting the grey area in the statute where Zomato and the department are at odds.

Zomato argues that its delivery charge is a component of composite supply under Section 8 of the CGST Act, and the delivery fees should not be considered revenue. Additionally, the delivery charges collected by Zomato are reimbursed to the delivery partners, and nothing goes into Zomato's pocket.

The department, however, considers it another service by Zomato and is demanding ₹401.7 crore as tax plus interest and ₹401.7 crore as penalty for the period from October 2019 to March 2024.

REGULATORY FRAMEWORK OVERVIEW

Section 9(5) of the CGST Act authorizes the government to notify specific services where the Electronic Commerce Operator (ECO) is responsible for paying GST on intra-state supplies.[1] After the 45th GST Council meeting, the government shifted the liability for collecting and

[1] Central Board of Indirect Taxes and Customs, Section 9, CGST Act 2017, available at https://taxinformation.cbic.gov.in/content/html/tax_repository/gst/acts/2017_CGST_act/active/chapter3/section9_v1.00.html (last visited 17 July 2026).

depositing GST on restaurant services to electronic commerce operators under the notified framework[2] This helped in preventing revenue leakage from unregistered restaurants.

The food delivery platform was explicitly mentioned under Section 9(5) of the CGST Act to collect taxes from customers on food ordered from their platform and was termed as an E-Commerce Operator, covered under the Reverse Charge Mechanism. It is forcefully shifted to a completely distinct third party — the Electronic Commerce Operator (ECO).

CASE FACTS AND DISPUTE

The core dispute lies in the taxability of delivery fees collected by Zomato on behalf of its delivery partners and is the only piece of contention and constant tussle between the department and the aggregator.

It also raises a point under Section 8 of the CGST Act, "Composite Supply", which mandates that for a supply to be deemed composite, it must consist of two or more taxable supplies naturally bundled and supplied in conjunction with each other in the ordinary course of business. Zomato links the delivery to the food, as delivery alone would not be able to fulfil the criteria of food delivery.

NATURE OF TAX LIABILITY

As stated in Section 9(5) of the CGST Act, the legislature has explicitly mentioned E-Commerce operators such as Zomato and Swiggy to be covered under the Reverse Charge Mechanism.

CLASSIFICATION OF SERVICES

The question arises whether to classify delivery services as Composite Supply or Mixed Supply under Section 8, which determines the tax liability of composite and mixed supplies.

Section 8(a) of the CGST Act defines taxability of composite supply, while Section 8(b) lays rules for taxability of mixed supplies.

Now the grey area in statute is whether to treat Delivery Services as a Composite Supply or Mixed Supply[3]

[2] Karuna, 2026.
[3] Kumar et al., 2023.

JUDICIAL PRECEDENTS REVIEW

In Abbott Healthcare Pvt. Ltd. v. Commissioner of Commercial Taxes (Kerala High Court, 2020), the High Court ruled that a bundle of services is taxed as a composite supply only if a single taxable person provides both principal and ancillary supplies.

Zomato can contend that the Restaurant service is distinct from the delivery services, where the restaurant services are provided by hotels or the Restaurants and the delivery services are provided by the gig workers. Also, the billing of Zomato is in such a way that it charges the GST component on its platform fees and food only and not on delivery charges as of now.

The Ruling: The Apex Court analyzed the concept of "secondment" and held that the substance of the contract (who controls the worker) matters more than the form. If a company has effective control, the worker is an employee/service provider of the company.

Zomato also contends that it is a mere facilitator in delivery, reimbursing the entire amount to delivery men and adding nothing to its revenue.

CASE LAW: UNION OF INDIA V. INTERCONTINENTAL CONSULTANTS AND TECHNOCRATS PVT. LTD. (SUPREME COURT, 2018)

The Ruling: In the Service Tax regime (pre-GST), the Supreme Court ruled that reimbursable expenses incurred by a service provider as a "pure agent" cannot be included in the taxable value of the service.

IMPLICATIONS FOR INDUSTRY

If the courts apply the "Northern Operating Systems" logic, they may rule that Zomato exercises enough algorithmic control over riders to treat the delivery service as Zomato's own service, making it fully taxable.

Application to Zomato: If Zomato can prove it acts strictly as a "Pure Agent" for the rider under Rule 33 of the CGST Rules, the delivery fee should be excluded from Zomato's taxable turnover. However, the Revenue will counter this by citing the Section 9(5) Deeming Fiction, arguing that the statute overrides the agent status.

No final court judgment or judicial decision has been issued in the ₹803.4 crore tax demand case as of June 2026.

The matter is currently in the pre-recovery statutory appeal stage. The only definitive ruling on record is the executive adjudication order issued by the Joint Commissioner of CGST & Central Excise, Thane, which confirmed the tax liability.

CONCLUSION

If Zomato loses the case, then the poor gig workers will have to suffer, as Zomato will surely reduce the delivery fee to reduce its burden, and the liability of ₹804 crore will take a toll on the reserves of Zomato. Zomato will continue to aggressively pass on high delivery fees and taxes to customers, which could potentially reduce the total number of orders placed on the app, indirectly lowering the volume of gigs available to riders.

Furthermore, a major question of law would be settled, and a precedent would be set after years of long debate on whether delivery charges are distinct from food charges or are a composite supply of service.

Also, if the decision is against the E-Commerce operators, online delivery is going to be costlier, and all the e-commerce operators are on one side and the department on the other, disguised behind the name of Zomato.