



**Bombay High Court**  
**D P Jain & Co.**

***D P Jain & Co. Infrastructure Pvt Ltd vs UOI  
Writ Petition No. TS-333-HC(BOM)-2026-GST***

**Dated: 07<sup>th</sup> May 2026**

**Facts of the Case:**

- D P Jain & Co. Infrastructure Pvt Ltd (Petitioner), executed 3 corporate guarantees in favour of its subsidiaries to secure term loans and all of these corporate guarantee where sanctioned before 26.10.2023.
- Each guarantee deed had explicit clause declaring petitioner had not received and shall not receive any security, fee, commission, or any other consideration from borrower for giving the guarantee.
- State tax authority investigated FY 2017-18 to 2022-23, verified all records found that no GST was Levied. Later DGGI Coimbatore issued summons alleging non-payment of GST.



- Subsequently, Central Government inserted Rule 28(2) in CGST Rules via Notification 52/2023 dated 26.10.2023, and also circular 204/16/2023 dated 27.10.2023 declared corporate guarantee as taxable supply of service even when provided without consideration.
- Rule 28(2) was further amended retrospectively from 26.10.2023 via Notification 12/2024 dated 10.07.2024.
- Based on these, DGGI issued show cause notice No. 02/2025-GST dated 28.01.2025 demanding GST on all three guarantees. Petitioner challenged circulars, Rule 28(2), show cause notice and summons before Bombay HC via writ petition.



## High Court Observations:

- Court examined definitions of consideration, supply, services and guarantee under CGST Act and Contract Act. Corporate guarantee held to be in-house financial support mechanism not commercial product offered to public.
- Sharp distinction drawn between corporate guarantee (in-house, for subsidiary support) and bank guarantee (commercial, issued to public at large). Revenue's argument that petitioner covers commercial exposure akin to banking - expressly rejected.
- On taxability, Court held supply u/s 7(1)(a) requires consideration. Corporate guarantee is contingent contract enforceable only on borrower's default, no consideration flows in normal course.



- All 3 deeds had explicit zero-consideration clauses, undisputed on record.
- Court relied on Supreme Court in Edelweiss Financial Services — corporate guarantees to group companies without consideration not taxable.
- Taxability needs both provider and flow of consideration — neither Finance Act 1994 nor GST Act permits levy without consideration.
- Show cause notice and DGCI summons accordingly quashed.



## Our Comments:

- Already many High Courts (such as Bombay High Court, Punjab & Chandigarh High Court, Delhi High Court) have provided stay for recovery proceedings in cases of GST demand on corporate guarantee.
- This positive judgement further lays a strong precedent non levy of GST for guarantees provided before amendment i.e. pre 26/10/2023.
- However, said issue is likely to be litigated further before Supreme Court and is expected to settle post that, unless for any clarification by GST council in upcoming meeting.
- Companies must audit existing guarantee deeds and explicitly provide for zero consideration.

# THANK YOU

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