

## HC: Grants relief to Mercedes from higher-compensation-cess interpreting ground clearance in laden-condition pre-amendment

May 06, 2025

Mercedes-Benz India Pvt. Ltd., & Another vs Union of India & Others [TS-338-HC(BOM)-2025-GST]

### Conclusion

Bombay HC grants relief to Mercedes-Benz India Pvt. Ltd (Assessee) setting aside the differential demand of 2% towards compensation cess (CC) payable by the Assessee under GST (Compensation to States), Act, 2017; Revenue issued SCN proposing to recover CC under Cess Notification at 22% payable based on ground clearances of cars to be measured in unladen condition as opposed to claim made by the Assessee attracting CC at 20% under Cess Notification interpreting ground clearances for the period between September 2017 to July 2022 to be in laden condition (fully loaded); Enumerating different conditions that attracts CC, finds the dispute pertaining to condition (d) that deals with ground clearance of 170mm and above; Refers to the recommendations of the [50th GST Council meeting](#) subsequent to which entry 52B of the Cess Notification was amended through Notification No.3/2023-CC (Rate) dated 26th July, 2023 that defined "Ground Clearance" in entry 52B to mean Ground Clearance in an un-laden (unloaded) condition; However, interprets the Notification to be prospective in nature thereby granting relief to the Assessee in respect of clearances made prior to the cut-off date of July 26, 2023, which is the date on which the notification came into force; Accepting the contentions of the Assessee that, the CC payable prior to the said date should be interpreted with respect to ground clearances made in laden condition, observes that, "...disputed period in the present case is from September 2017 to July 2022. Hence, for the aforesaid period, the ground clearance of motor vehicles for the purpose of determining applicable Cess rate under the Cess Notification had to be considered in a laden condition, as was being done by the Petitioner":HC BOM

### Decision Summary

The judgment was delivered by Justice B.P. Colabawalla and Justice Firdosh P. Pooniwalla.

Advocates Prasad Paranjape, Kumar Harshvardhan and Dhruvi Shah (from Lumiere Law Partner) appeared for the Assessee whereas Advocates Jitendra Mishra, Mamta Omle and Rupesh Dubey appeared for the Revenue.

### Case Law Information

#### Appellant/Applicant/Complainant Name

- Mercedes-Benz India Pvt. Ltd., & Another

#### Respondent Name

- Union of India & Ors

#### Counsel of Appellant/Applicant/Petitioner

- Prasad Paranjape
- Kumar Harshvardhan
- Dhruvi Shah

#### Respondent Counsel

- Jitendra Mishra
- Mamta Omle

- Rupesh Dubey

**Authority Level & Location**

- High Court Bombay

**Appeal Number**

- WRIT PETITION NO.5208 OF 2025

**Date of Pronouncement**

- 2025-04-29

**Ruling in favour of**

- Petitioner

**Judges**

- Justice B. P. Colabawalla
- Justice Firdosh P. Pooniwalla