
 सत्यमेव जयते	केंद्रीयकर आयुक्त (अपील) O/O THE COMMISSIONER (APPEALS), CENTRAL TAX, वस्तु एवं सेवा कर भवन मातंगी मंजिल पॉलिटेक्निक के पास आम्बावाडी, अहमदाबाद-380015 079-26305065	 GST Building, 7 th Floor, Near Polytechnic, Ambavadi, Ahmedabad- 380015 टेलीफैक्स : 079-26305136
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क फाइल संख्या : File No : V2(BSS)75/STC-III/2016-17 / ~~6072~~ 6067 to 6071

ख अपील आदेश संख्या : Order-In-Appeal No.: **AHM-EXCUS-003-APP-096-17-18**

दिनांक Date : **30.08.2017** जारी करने की तारीख Date of Issue: 16-11-17

श्री उमाशंकर आयुक्त (अपील) द्वारा पारित

Passed by Shri Uma Shanker Commissioner (Appeals) Ahmedabad

ग अपर आयुक्त, केन्द्रीय उत्पाद शुल्क, अहमदाबाद-III आयुक्तालय द्वारा जारी मूल आदेश :
AHM-STX-003-ADC-AJS-056-16-17 दिनांक : 30.01.2017 से सृजित

Arising out of Order-in-Original: **AHM-STX-003-ADC-AJS-056-16-17**, Date: 30.01.2017
 Issued by: Additional Commissioner, Central Excise, Div: Gandhinagar,
 Ahmedabad-III.

घ अपीलकर्ता एवं प्रतिवादी का नाम एवं पता

Name & Address of the **Appellant** & Respondent

M/s. Industrial Extension Bureau

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :

Revision application to Government of India :

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अंतर्गत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अवर सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

9/c

- (ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।
- (c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

ध अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35- णबी/35-इ के अंतर्गत:-

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलों के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में ओ-20, न्यू मैटल हास्पिटल कम्पाउण्ड, मेघानी नगर, अहमदाबाद-380016.

To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Metal Hospital Compound, Meghani Nagar, Ahmedabad : 380 016. in case of appeals other than as mentioned in para-2(i) (a) above.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इ.ए-3 में निर्धारित किए अनुसार अपीलीय न्यायाधिकरणों की गई अपील के विरुद्ध अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूप 5 लाख या उससे कम है वहाँ रूप 1000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूप 5 लाख या 50 लाख तक हो तो रूप 5000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूप 50 लाख या उससे ज्यादा है वहाँ रूप 10000/- फीस भेजनी होगी। की फीस सहायक रजिस्टार के नाम से रेखांकित बैंक ड्राफ्ट के रूप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सार्वजनिक क्षेत्र के बैंक की शाखा का हो

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any

nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूचि-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall bear a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय प्राधिकरण (सीस्तेत) के प्रति अपीलों के मामलों में केन्द्रीय उत्पाद शुल्क अधिनियम, 1988 की धारा 34फ के अंतर्गत वित्तीय(संख्या-2) अधिनियम 2014(2014 की संख्या 24) दिनांक: 06.08.2014 जो की वित्तीय अधिनियम, 1994 की धारा 43 के अंतर्गत सेवाकर को भी लागू की गई है, द्वारा निश्चित की गई पूर्व-राशि जमा करना अनिवार्य है, बशर्ते कि इस धारा के अंतर्गत जमा की जाने वाली अपेक्षित देय राशि दस करोड़ रूपए से अधिक न हो

केन्द्रीय उत्पाद शुल्क एवं सेवाकर के अंतर्गत "माँग किए गए शुल्क" में निम्न शामिल है

- (i) धारा 11 डी के अंतर्गत निर्धारित रकम
- (ii) सेनवैट जमा की ली गई गलत राशि
- (iii) सेनवैट जमा नियमावली के नियम 6 के अंतर्गत देय रकम

→ आगे बशर्ते यह कि इस धारा के प्रावधान वित्तीय (सं. 2) अधिनियम, 2014 के आरम्भ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विचाराधीन स्थगन अर्जी एवं अपील को लागू नहीं होंगे।

For an appeal to be filed before the CESTAT, it is mandatory to pre-deposit an amount specified under the Finance (No. 2) Act, 2014 (No. 25 of 2014) dated 06.08.2014, under section 35F of the Central Excise Act, 1944 which is also made applicable to Service Tax under section 83 of the Finance Act, 1994 provided the amount of pre-deposit payable would be subject to ceiling of Rs. Ten Crores,
Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

→ Provided further that the provisions of this Section shall not apply to the stay application and appeals pending before any appellate authority prior to the commencement of the Finance (No.2) Act, 2014.

(6)(i) इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

(6)(i) In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."

ORDER-IN-APPEAL

M/s Industrial Extension Bureau, Block No.18/2, Udyog Bhavan, Sector-11, Gandhinagar (henceforth, "*appellant*") has filed the present appeal against the Order-in-Original No.AHM-STAX-003-ADC-AJS-056-16-17 dated 30.1.2017 (henceforth, "*impugned order*") passed by the Additional Commissioner, Central Excise & Service Tax, Ahmedabad-III (henceforth, "*adjudicating authority*").

2. Briefly stated, the facts of the case are that the appellant, an organization of the Government of Gujarat registered under the Societies Registration Act, 1860 as a charitable trust, was having service tax registration for providing renting of immovable property service, business support service and information technology service. The appellant organized the Vibrant Gujarat Summit (VGS) of 2011 and took Cenvat credit of service tax paid on various services received and required for preparatory events organized in connection with VGS. It appeared that since renting of stalls in the VGS exhibition was the only output taxable service provided by the appellant during VGS, the services used for preparatory events were not relatable to the renting of stalls and therefore not entitled for Cenvat credit as input services. A show cause notice F.No.V.ST/15-85/OFF/OA/2013 dated 12.4.2016 was therefore issued for denial of Cenvat credit of Rs.83,29,995/- taken during Oct 2010 to Mar 2011.

2.1 The matter was decided in the impugned order and demand of Rs.83,29,995/-, alongwith interest, was confirmed and equal penalty was imposed under section 78 of the Finance Act, 1994 read with rule 15(3) of the Cenvat Credit Rules, 2004. Aggrieved with this order, the appellant is in appeal before me.

3. The appellant has taken the following grounds of appeal, in brief-

3.1 The activity carried out is classifiable under the category of 'business exhibition service' and not 'renting of immovable property service'.

3.2 Credit of Rs.45,87,413/- was inadvertently utilized towards clearance of inputs and capital goods as such. In fact, there was no such clearance, therefore utilization was wrong and the same is available for payment of service tax.

3.3 The appellant is eligible for a credit of Rs.1,14,62,727/- over and above the credit in the ST-3 returns.

3.4 The appellant has already debited the Cenvat credit of Rs.83,29,995/-, hence there is no liability of interest.

3.5 Extended period of limitation is not applicable.

3.6 Penalty is not imposable under section 78.

A handwritten signature is written over a circular official stamp. The stamp contains text that is mostly illegible due to the signature and fading, but it appears to be an official seal or stamp of the authority.

4. A personal hearing was held on 17.8.2017, wherein Shri Bishan R Shah, Chartered Accountant represented the appellant and reiterated the grounds of appeal. He pleaded limitation because appellant was audited earlier. On merits also, he submitted that credit was allowable as all the services pertained to Vibrant Gujarat only.

5. I have carefully gone through the facts of the case and grounds of appeal. The impugned order disallows the Cenvat credit of Rs.83,29,995 on the ground that services for which credit has been taken have not been used for provision of output service namely 'renting of immovable property service' and therefore, cannot be treated as 'input services' in terms of rule 2(l) of the Cenvat Credit Rules, 2004 (henceforth, "*Cenvat Rules*").

6. As per rule 2(l) of the Cenvat Rules, 'input service' means any service used by a provider of taxable services for providing an output service. Thus, any service to qualify as an input service, it should find its use in providing an output service. Vibrant Gujarat Summit (VGS) is a biennial investors' summit held by the Government of Gujarat. The event is aimed at bringing together business leaders, investors, corporations, thought leaders, policy and opinion makers; the summit is advertised as a platform to understand and explore business opportunities in the State of Gujarat. The appellant acts as a nodal agency for the Government of Gujarat and, *inter-alia*, provides a platform to the trade and industry to showcase their products and services.


6.1 I find from the show cause notice that VGS has been considered as an activity held through a period of two years at various places in the country and exhibition has been considered as another activity for the industries to promote their products through stalls taken on rent from the appellant. The exhibition of products and services is an integral and inseparable part of the VGS. I find that exhibitions & seminars which take place at the VGS are not a standalone event that can be separated from the VGS. If there is no VGS, there is no exhibition and various other events and activities. The exhibition is part and parcel of the VGS and exhibitors of products and services are the prospective investors for the state of Gujarat. Thus, the purpose of exhibition gets merged into the purpose of VGS, i.e., bringing new investment in the state of Gujarat. In such a situation, preparatory activities or events for organizing VGS are also the preparatory activities or events for the exhibition and both are inseparable. The preparatory activities for VGS also help prepare for the exhibition since both are integrally connected, and therefore, services utilized in organizing the VGS have a relationship with exhibition part of the VGS, and for that matter any other part of the

VGS. Therefore, advertising services, courier services, conferences, travels, etc. which are connected to VGS are also connected with every part of the VGS including exhibition part. I am therefore of the opinion that the services such as advertising services, courier services, travel related services, etc. used in organizing of the VGS can be said to be used for providing the output taxable service involving exhibition, i.e., renting of immovable property service. The argument that preparatory services cannot be considered as input services as there is no co-relation between the exhibition and these preparatory services is not convincing as that would be like separating a particular event in VGS and then establishing one to one co-relation between the preparatory services and that particular event. As the preparatory services lead to VGS, they also lead to exhibition. It is very important to note that the duration of exhibition is same as that of VGS. Since our department also takes part in the exhibition and various dignitaries who come to participate in the events of the summit also come and visit the departmental exhibition pandal, I am in a better position to appreciate the facts and events. The preparatory services, therefore, deserve to be treated as input services for providing output service relating to exhibition namely renting of immovable property service. The Cenvat credit is accordingly admissible and since nothing is wrong with availment of Cenvat credit, the question of charging interest or imposition of penalty does not arise.

7. In view of above, the impugned order is set aside and the appeal is allowed.

8. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।


The appeal filed by the appellant stands disposed of in above terms.


(उमा शंकर)

केन्द्रीय कर आयुक्त (अपील्स)

Date: .8.2017

Attested


(Sanwamal Hudda)
Superintendent
Central Tax (Appeals)
Ahmedabad

By R.P.A.D.

To,
M/s Industrial Extension Bureau
Block No.18/2, Udyog Bhavan,
Sector-11, Gandhinagar

Copy to:

1. The Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner of Central Tax, Gandhinagar.
3. The Additional Commissioner, Central Tax (System), Ahmedabad South.
- ✓ 4. The Asstt./Deputy Commissioner, Central Tax, Division-Gandhinagar, Gandhinagar Commissionerate.
5. Guard File.
6. P.A.

