
 सत्यमेव जयते	केंद्रीयकर आयुक्त (अपील) O/O THE COMMISSIONER (APPEALS), CENTRAL TAX, वस्तु एवं सेवा कर भवन सतवीं मजिल पोलिटिकनिक के पास आम्बावाडी अहमदाबाद-380015	 GST Building, 7 th Floor, Near Polytechnic, Ambavadi, Ahmedabad- 380015
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क फाइल संख्या : File No : **V2/129/GNR/2018-19**

ख अपील आदेश संख्या : Order-In-Appeal No.: **AHM-EXCUS-003-APP-134-18-19**

दिनांक Date : **15-01-2019** जारी करने की तारीख Date of Issue:

24/1/2019

श्री उमाशंकर आयुक्त (अपील) द्वारा पारित

File

Passed by **Shri Uma Shanker** Commissioner (Appeals) Ahmedabad

ग अपर आयुक्त, केन्द्रीय उत्पाद शुल्क, अहमदाबाद-III आयुक्तालय द्वारा जारी मूल आदेश : **AHM-CEX-003-ADC-AJS-004-18-19** दिनांक : **03-08-2018** से सृजित

Arising out of Order-in-Original: **AHM-CEX-003-ADC-AJS-004-18-19**, Date: **03-08-2018**
 Issued by: Additional Commissioner, CGST, Div:RRA, HQ, Gandhinagar
 Commissionerate, Ahmedabad.

घ अपीलकर्ता एवं प्रतिवादी का नाम एवं पता

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

M/s. Tanu Motors Pvt Ltd

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।

I. Any person aggrieved by this Order-In-Appeal issued under the Central Excise Act 1944, 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.

- (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, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेंट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में दूसरा मंजिल, बहूमाली भवन, असारवा, अहमदाबाद, गुजरात 380016

To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd floor, Bahumali Bhavan, Asarwa, Ahmedabad-380016 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 रूपर 5 लाख या उससे कम है वहां रूपर 1000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपर 5 लाख या 50 लाख तक हो तो रूपर 5000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपर 50 लाख या उससे ज्यादा है वहां रूपर 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 पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता हैं।

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 अनुसूची-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, 1998 की धारा 13 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 हैं

- (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 अर्ज़ी एवं अपील को लागू नहीं होगा।

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."

II. Any person aggrieved by an Order-in-Appeal issued under the Central Goods and Services Tax Act, 2017/Integrated Goods and Services Tax Act, 2017/Goods and Services Tax (Compensation to States) Act, 2017, may file an appeal before the appropriate authority.

ORDER-IN-APPEAL

M/s. Tanu Motors Private Limited, Opposite Dharti Resort, Abu highway, Palanpur, Dist. Banaskantha, Gujarat [for short - 'appellant'] has filed this appeal against OIO No. AHM-CEX-003-ADC-AJS-004-18-19 dated 03.08.2018, passed by the Additional Commissioner, CGST & Central Excise, Gandhinagar Commissionerate [for short - 'adjudicating authority'].

2. Briefly stated, a show cause notice dated 24.10.2014, was issued to the appellant, *inter alia*, alleging that they had not discharged the service tax under Business Auxiliary Service [BAS] in respect of services rendered to various clients during the financial years 2009-10, 2012-13 and 2013-14 and further that they had in the FY 2010-11, wrongly availed CENVAT credit on purchase of vehicles. The notice therefore, proposed [a] classification of the service rendered by the appellant under BAS; [b] recovery of service tax along with interest on the services rendered under BAS; [c] proposed penalty under sections 77 and 78 of the Finance Act, 1994; and [d] proposed recovery of CENVAT credit, wrongly availed, along with interest. This notice, was adjudicated vide the impugned OIO dated 25.02.2016, wherein the adjudicating authority, classified the services rendered by the appellant to their various client as BAS; confirmed the service tax along with interest; denied the CENVAT credit wrongly availed and ordered recovery of interest; imposed penalty under sections 77 and 78 of the Finance Act, 1994. The appellant feeling aggrieved, filed an appeal before me, which was decided vide my OIA dated 28.2.2017, wherein it was held as follows:

9.1 This view was also upheld by the Principal Bench of the Tribunal in the case of My Car Pvt. Ltd. [2015(40)STR 1018]. In view of the foregoing, the activity of purchase and sale of pre-owned car does not fall within the purview of Business Auxiliary Service and hence the demand in this regard is not sustainable and the appellant is not liable for service tax under BAS in respect of this activity.

*10. As far as the second question is concerned, as to whether the appellant has wrongly availed the CENVAT credit, the facts are that the appellant has availed and utilized the credit in respect of purchase of 25 trailers. As far as availment of CENVAT credit in respect of capital goods are concerned in respect of motor vehicles, the definition as was in vogue during the year 2010-2011, stated that motor vehicles registered in the name of provider of output service for providing taxable service as specified in sub-clauses (f), (n), (o), (r), (zrp), (zrt) and (zrw) of clause 105 of section 65 of the Finance Act, 1994, was eligible for CENVAT credit. However, I find that the Director of the appellant has in his statement dated 22.10.2014, stated that the vehicles purchased by them on which CENVAT credit was taken were never used for providing the services of repair, maintenance and servicing of vehicles which is the only output service provided by the appellant; that these vehicles have been given on rent/freight to their sister concern M/s. Shree Transport, a GTA service provider. The appellant however, in the grounds of appeal, claims that they were registered with the department for providing GTA service; that since they had provided services covered under sub clause [zrp] of clause (105) of Section 65 of the Finance Act, 1994, they were eligible for CENVAT credit. However, I find that the adjudicating authority has confirmed the demand on the grounds that the appellant has wrongly availed the CENVAT credit on such goods which are neither capital good nor inputs. The original order is silent on the contentions raised by the appellant, as mentioned *supra*. It is therefore felt that this portion of availment of CENVAT credit, needs to be remanded back to the adjudicating authority with a direction to carry out a verification on the claim made by the appellant of having provided services covered under sub clause [zrp] of clause (105) of Section 65 of the Finance Act, 1994, by going through his returns filed with the department and thereafter pass a suitable order by adhering to the principles of natural justice.*

3. The issue regarding availment of CENVAT credit was decided by the adjudicating authority [in terms of the aforementioned OIA] vide the impugned OIO dated 3.8.2018, wherein he disallowed the CENVAT credit availed on capital goods, ordered recovery of interest and further imposed penalty of equivalent amount of the CENVAT credit disallowed under section 78 of the Finance Act, 1994, by holding that:

- though the appellant is registered as a GTA it is not known from the ST -3 returns whether the registration is as a service provider or as a recipient; that they had not declared any amount of service provided and have not paid service tax as provider of service nor they have declared any amount of service as recipient of service and paid service tax;
- that the Director of the appellant had stated that the vehicles/trailers were given on rent to their sister concern and not used in or in relation to providing of GTA services;
- that the appellant had shown trailer rent income for the year 2010-11 under other income and there is no income or mention of income with respect to transportation of goods;
- that if at all these 25 trailers were used to provide GTA service than they should have produced the consignment notes issued in this regard for providing GTA service to substantiate their claim but the appellant failed to do so;
- that transportation charges bill and debit note bill are for the period 2014-15 and 2015-16 while the CENVAT credit was availed in the FY 2010-11 and 2011-12; that during this period the said trailers were given on rent and not used for providing GTA services;
- that extended period is rightly invoked.

4. Feeling aggrieved, the appellant has filed this appeal against the impugned OIO, wherein he has raised the following averment:

- (a) that the impugned OIO is perverse and biased;
- (b) that the appellant had adduced sufficient and cogent evidence in the form of P&L, which shows income from logistics transportation and transportation charges bills which clearly shows that the appellant had provided transportation service;
- (c) that while conceding that the appellant had provided bill for the period 2014-15, the adjudicating authority had denied that they had provided transportation service;
- (d) that the appellant have shown income from goods transportation in the P&L account copies of which are with the department and which is also enclosed in the appeal papers as Exhibit G;
- (e) that the liability to pay service tax on GTA service is on the recipient of service, appellant were not required to pay service tax and hence it was not reflected in the ST-3 returns.

5. Personal hearing in respect of this appeal was held on 25.10.2018 wherein Shri M.H.Raval, Consultant, appeared on behalf of the appellant and reiterated the submissions advanced in the grounds of appeal. He stated that the remand directions were not followed and further submitted additional submissions, reiterating the grounds already raised in the appeal.

6. I have gone through the facts of the case, the appellant's grounds of appeal, additional submissions dated 25.10.2018 and the oral submissions made during the course of personal hearing. The question to be decided in the present appeal is whether the appellant has wrongly availed the CENVAT credit or otherwise.

7. Vide my OIA dated 28.02.2017, while remanding this point to the adjudicating authority, I had directed that the claim of the appellant of having provided services covered under sub clause [zzp] of clause (105) of Section 65 of the Finance Act, 1994, be examined by going through his returns filed with the department. The adjudicating authority in para 10.5 states that though the appellant is registered as a GTA it is not known from the ST -3 returns whether the registration is as a service provider or as a recipient; that they had not declared any amount of service provided and paid service tax as provider of service nor they have declared any amount of service as recipient of service and paid service tax. The appellant on the other hand contends that since the liability to pay service tax on GTA is on the recipient of the service, the appellant was not required to pay service tax and hence it was not reflected in their ST-3 returns. The appellant has however not given any satisfactory response to the observation of the adjudicating authority to substantiate his claim, the appellant, I find, should have produced consignment notes.

8. After having said so, I find that the adjudicating authority has further held that the appellant had submitted two transportation charges bill for the FY 2014-15 and two debit notes for the FY 2015-16; that the CENVAT credit was availed in 2010-11 and 2011-12 on trailers while the bills are for the years 2014-15 and 2015-16. Since it was not clear as to what is meant by a transportation charges bill, the appellant was asked to produce the said two transportation charges bill and debit notes. The appellant on 1.1.2019, has provided a photocopy of a certificate dated 24.12.2018 issued by M/s. M.S.Khatri & Associates, Chartered Accountant dated 24.12.2018 certifying that the appellant had availed the CENVAT credit in the month of September 2010 and had shown it in the ST-3 returns; that the said trailers have been used for transportation of goods and the credit availed has been used for payment of GTA service. The appellant, has further produced copies of bill nos, 201314001 dtd 30.4.2013, 201314002 dtd 31.5.2013, 201314003 dtd 30.6.2013, 201314004 dtd 31.7.2013 & 201314005 dtd 31.8.2013. Since these were not the bills that were produced before the adjudicating authority, the appellant was once again asked to produce the same bills/debit notes produced before the adjudicating authority. The appellant vide his email on 10.1.2019, submitted the copies of TMPL-20142015010 dtd 31.1.2015, TMPL20142015011 dtd 28.2.2015, TMPL-1 dtd 31.5.2015 and TMPL-2 dtd 1.9.2015.

8.1 Before giving any finding, I would like to reproduce the relevant text of page 7 and page 8 of the show cause notice dated 24.10.2014, which states as follows:

"....., he stated that the vehicles were never used for providing output services; that on being further asked regarding the purpose and use of vehicles, he stated that these vehicles have been given on rent/freight to Shree Transport which is their sister concern and engaged in providing Transport of goods by road services. Shree Transport is a Good Transport Agency issuing Lorry Receipt in their names for transporting the goods to their clients. The main goods transported by the trailers are Steel and Zinc of M/s. Essar Steels and M/s. Hindustan Zin. The full control and possession on the trailers remain with their Company and they are receiving rent/freight for providing trailers to M/s. Shree Transport;"

9

Now I will reproduce the scanned copy of the bill no. TMPL-20142015011 dtd 28.2.2015 and TMPL-2 dtd 1.9.2015, below:

Subject to Palanpur Jurisdiction

TANU MOTORS PVT. LTD.

Head Office - Opp. Dharti Resort, Palanpur - 385 001 (B.K. - Gujarat)
Tel - +91 2742 254999

To,
Shree Transport
Opp. S.B.I.,
Palanpur - 385 001
Dist. - B.K. (Gujarat)

PAN No :- AACCT6023B
Service Tax :- AACCT6023BST001
Bill No. TMPL-20142015011
Date 28-02-2015

Transportation Charges			
No.	Description	Weight (MT)	Amount (Rs.)
1	Transportation of Essar	664.31	1927064.55
2	Transportation of HZL	1349.59	3308525.70
3	Transportation of KEPL	293.38	901967.50
Service Tax to be Paid by Consignee or Consignor			
Total		2307.28	6137557.75

For Tanu Motors Pvt. Ltd.
Auth. Signatory

Subject to Palanpur Jurisdiction

SHREE TRANSPORT

H.O. - 60, Old Market Yard, Opp. S.B.I., Palanpur - 385 001 (B.K. - Gujarat)
Tel - +91 2742 252955

To,
Tanu Motors Pvt. Ltd.
Opp. Dharti Resort,
Palanpur - 385 001
Dist. - B.K. (Gujarat)

PAN No :- ABGFS3378C
Service Tax :- ABGFS3378CST002
Bill No. TMPL-2
Date 01-09-2015

Debit Note

Vehicle No	Trip	Diesel	Driver Salary	Maintenance + Tyre	Total
Transportation of GJ08W0338	181500.00	291087.85	48000.00	190000.00	710587.85
Transportation of GJ08W0339	198917.00	352894.60	48000.00	190000.00	789811.60
Transportation of GJ08W0341	3000.00	0.00	0.00	0.00	3000.00
Transportation of GJ08W0343	212960.00	317020.60	48000.00	190000.00	767980.60
Transportation of GJ08W0344	84350.00	193830.00	48000.00	190000.00	516180.00
Transportation of GJ08W0383	134700.00	238472.55	48000.00	190000.00	611172.55
Transportation of GJ08W0384	133050.00	248460.15	48000.00	190000.00	619510.15
Transportation of GJ08W0386	154150.00	239156.15	48000.00	190000.00	631306.15
Transportation of GJ08W0388	68450.00	175998.60	48000.00	190000.00	482448.60
Transportation of GJ08W0389	129030.00	260075.55	48000.00	190000.00	627105.55
Transportation of GJ08W0394	166480.00	302240.30	48000.00	190000.00	706720.30
Transportation of GJ08W0396	124150.00	181198.85	48000.00	190000.00	543348.85
Transportation of GJ08W0491	214150.00	199979.80	48000.00	190000.00	652129.80
Transportation of GJ08W0492	225380.00	284092.60	48000.00	190000.00	747472.60
Transportation of GJ08W0493	173350.00	285761.05	48000.00	190000.00	697111.05
Transportation of GJ08W0494	175650.00	325716.55	48000.00	190000.00	739366.55
Transportation of GJ08W0495	189880.00	222220.05	48000.00	190000.00	650100.05
Transportation of GJ08W0498	166300.00	257524.80	48000.00	190000.00	661824.80
Transportation of GJ08W0502	183850.00	240471.50	48000.00	190000.00	662321.50
Transportation of GJ08W0503	257300.00	280322.25	48000.00	190000.00	775622.25
Transportation of GJ08W0505	147400.00	278692.35	48000.00	190000.00	664092.35
Transportation of GJ08W0518	216350.00	303980.10	48000.00	190000.00	758330.10
Transportation of GJ08W0521	187150.00	267861.85	48000.00	190000.00	693011.85
Transportation of GJ08W0523	172900.00	291091.30	48000.00	190000.00	701991.30
Transportation of GJ08W0524	168050.00	257819.80	48000.00	190000.00	663869.80
Transportation of GJ08W0526	70400.00	69439.75	48000.00	190000.00	377839.75
Transportation of GJ08W0528	182230.00	277689.30	48000.00	190000.00	697919.30
Transportation of GJ08W0529	158580.00	292975.25	48000.00	190000.00	689555.25
Transportation of GJ08W0534	202400.00	251534.80	48000.00	190000.00	691934.80
Transportation of GJ08W0535	151200.00	259127.10	48000.00	190000.00	648327.10
Transportation of GJ08W0536	164350.00	284159.95	48000.00	190000.00	686509.95
Transportation of GJ08W0537	230000.00	312614.10	48000.00	190000.00	780614.10
Transportation of GJ08W0543	163487.00	186576.15	48000.00	190000.00	588063.15
Transportation of GJ08W0544	158550.00	257560.30	48000.00	190000.00	654110.30
Transportation of GJ08W0545	175600.00	313303.55	48000.00	190000.00	726903.55
Transportation of GJ08W0546	214810.00	333409.90	48000.00	190000.00	786219.90
Transportation of GJ08W0547	151200.00	258903.50	48000.00	190000.00	648103.50
Grand Total	6091254.00	9393262.85	1728000.00	6840000.00	24052516.85

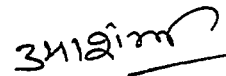
For, Shree Transport
Auth. Sign. Partner

A combined reading of the bills/debit notes produced and the extract of the statement of the appellant the relevant extracts of which has been reproduced *supra*, by no stretch of imagination leads anyone to conclude that these bills/debit notes, were raised for providing GTA service. My findings are supported by the fact that the bills/debit notes are raised by/on Shree Transport, which as per the statement, was the firm, who had taken the trailers on rent.

9. The appellant, has further claimed that they had enclosed P&L account [Exhibit G of the appeal papers], which shows that they had provided service of transportation of goods by road. However, on going through the Exhibit G, I find that the appellant has enclosed their P&L account for 31.3.2011, which depicts an Income of Rs 4.25 crores. However on going through *Schedule N* it is observed that the Income contains two sub headings [a] Interest Income and [b] Other income. Now, it is not understood as to how the appellant arrived at a conclusion that their P&L account substantiates that they had provided the service of transportation of goods by road.

10. In view of the foregoing, it is evident that the facts belie the claim of the appellant and hence, I do not wish to interfere with the findings of the adjudicating authority. The appeal, is therefore, rejected. The impugned OIO dated 3.8.2018, is upheld.

11. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
11. The appeal filed by the appellant stands disposed of in above terms.

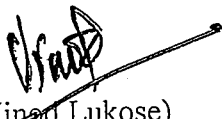


(उमा शंकर)

प्रधान आयुक्त (अपील्स)

Date : 15.1.2019

Attested


(Vinod Lukose)
Superintendent (Appeal),
Central Tax,
Ahmedabad.

By RPAD.

To,

M/s. Tanu Motors Private Limited,
Opposite Dharti Resort,
Abu highway, Palanpur,
Gujarat.

Copy to:-

- 1.The Chief Commissioner, Central Tax, Ahmedabad Zone .
- 2.The Commissioner, Central Tax, Gandhinagar Commissionerate.
- 3.The Deputy Commissioner, Central Tax, Palanpur Division, Gandhinagar Commissionerate.
- 4.The Assistant Commissioner, System, Central Tax, Gandhinagar Commissionerate.
- 5.Guard File.
- 6.P.A.

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