आयुक्त (अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

. ☎ 07926305065- टेलेफैक्स07926305136

DIN :20210164SW000000EF52

स्पीड पोस्ट

क फाइल संख्या : File No : V2(ST)13/GNR/2020-21

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-003-APP-048/20-21**
दिनाँक Date : **28-12-2020** जारी करने की तारीख Date of Issue 11.01.2021

आयुक्त (अपील) द्वारा पारित
Passed by **Shri Akhilesh Kumar**, Commissioner (Appeals)

ग Arising out of Order-in-Original No. **AHM-CEX-003-ADC-MSW-003-20-21** दिनाँक: **30.04.2020,** issued by Additional Commissioner, CGST and Central Excise, Gandhinagar

ध अपीलकर्ता का नाम एवं पता Name & Address of the **Appellant** / ~~Respondent~~

M/s Gayatri Engineers
7, Pushpratna Shoping Center,
Nr. State Highway, Kalol
Taluka-Kalol, District-Gandhinagar.

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 अतत नीचे बताए गए मामलों के बारे में पूवोक्त धारा को उप–धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन 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 प्रकिया 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.

(क) 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 मामलें में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(A) 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.

(ख) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(B) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो डयूटी केडिट 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।

(c) 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 दिनाँक 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 रूपये या उससे कम हो तो रूपये 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 अपीलः–
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35–बी/35–इ के अंतर्गतः–

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

(क) 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 (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में 2nd माला, बहुमाली भवन ,असरवा ,गिरधरनागर,अहमदाबाद –380004

(a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd floor,Bahumali Bhawan,Asarwa,Girdhar Nagar, Ahmedabad : 380004. in case of appeals other than as mentioned in para-2(i) (a) above.

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. Registar 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 ओदश 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 not withstanding 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 रू.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 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 in 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 उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपीलो के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है ।(Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

(i) *(Section)* खंड 11D के तहत निर्धारित राशि;
(ii) लिया गलत सेनवैट क्रेडिट की राशि;
(iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇨ **यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील' दाखिल करने के लिए पूर्व शर्त बना दिया गया है .**

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

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.

इस 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।

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. Gayatri Engineers, 7, Pushpratna Shopping Centre, Near State Highway Kalol, Taluka-Kalol, District-Gandhinagar (hereinafter referred to as the "*appellant*") has filed the present appeal against the Order-in-Original No. AHM-CEX-003-ADC-MSW-003-20-21 dated 30.04.2020 (hereinafter referred to as the "*impugned order*") passed by the Additional Commissioner, CGST& Central Excise, Gandhinagar Commissionerate (hereinafter referred to as the "*adjudicating authority*").

2. The facts of the case, in brief, are that the appellant was holding Service Tax Registration No. ABIPP8105GST001 for providing services under the category '*Erection, Commissioning and Installation Service*'. During the course of audit of financial records of the appellant, it was noticed while reconciling receipt of income as reflected in the Balance Sheet that they had not paid service tax amounting to Rs.8,73,343/- (including cess) on receipt of pipeline work income as well as labour income amounting to Rs.73,08,262/- for the period from 2005-06 to 2008-09. It was argued by them that they had done the work on behalf of various service providers who were doing work for M/s. ONGC and due service tax amount had been discharged by the respective service provider. It was also found that the appellant had availed the benefit of abetment of 67% on the gross receipts as provided under Notification No.19/2003-ST dated 21.08.2003 read with Notification No.1/2006-ST dated 01.03.2006. Thereby, the service tax was paid on the value equivalent to 33% of the gross amount charged from the customer. It was noticed that as per the work contract, the pipes were supplied by M/s. ONGC (Service Recipient) and the value of pipe were not included in the gross amount charged. As such, the appellant was not entitled for the benefit of abatement of 67% available under the said Notification. The short payment of service tax was ascertained at Rs.5,41,151/- (including cess) for the period 16.06.2005 to 30.09.2006. A Final Audit Report comprising such irregularity was issued in this respect. Statement of Shri Sunil Bhailalbhai Patel, Proprietor of the appellant firm, was recorded on 01.10.2010 under which it was admitted by him that the pipes are being supplied by M/s. ONGC free of cost as such they are not including the cost of pipes while calculating the service tax liability; that regarding the short payment of Rs.8,73,343/- (including cess), they had done this work as a sub-contractor on behalf of various principal contractors and presumed that since the principal contractors had paid the service tax, they are not liable for the

payment of service tax on the amount received from their principal contractor; that they did not have any proof regarding payment of service tax by their principal contractor in this respect; that as per Section 65(25b) of the Finance Act, 1994, as amended, '*Commercial or Industrial Construction Service*' includes construction of pipeline or conduit and the work of laying of pipeline falls under the said category; that they have also amended their service tax registration on 19.08.2010 for this category of service.

3(i). Thereafter, a Show Cause Notice F. No. V.ST/15-125/Off/OA/10 dated 19.10.2010 (hereinafter referred to as "*SCN*") was issued to the appellant proposing (i) demand of service tax amounting to Rs.14,14,494/- (Rs.8,73,343 + Rs.5,41,151) under Section 73(1) of the Finance Act, 1994 by invoking extended period; (ii) charging interest at the prescribed rate on such demand under Section 75 of the Finance Act, 1994; (iii) imposition of penalty under Section 76 read with Section 68 of the Act and Rule 6 of the Service Tax Rules, 1994 for failure to pay service tax within prescribed time limit; and (iv) imposition of penalty under Section 78 of the Act for suppression and non-disclosure of correct taxable value of the service provided by the appellant with an intent to evade payment of service tax.

3(ii) The said SCN was adjudicated vide Order-in-Original No.5/ADC(SC)/2011 dated 13.01.2011 by the Addl. Commissioner of Central Excise, Ahmedabad-III who dropped the proceedings on the ground of limitation.

3(iii) The Department preferred appeal against the said Order-in-Original before the Commissioner (Appeals), Central Excise, Ahmedabad who vide Order-in-Appeal No.92/2011(Ahd-III)/D.Singh/Commr(A)/Ahd dated 23.06.2011 set aside the said Order-in-Original and confirmed the amounts proposed under SCN.

3(iv) Being aggrieved with the said Order-in-Appeal, the appellant preferred appeal before the Hon'ble CESTAT, Ahmedabad, who vide order dated 14.05.2019 remanded the matter back to the adjudicating authority for deciding the entire matter afresh.

3(v) Under the remand proceedings, the adjudicating authority vide the impugned order dropped the demand of Rs.5,41,151/- by relying upon the decision of the Hon'ble Apex Court in the case of M/s. Bhayana Builders and

confirmed the demand of Rs.8,73,343/- under Section 73; charged interest under Section 75 on the said demand; imposed penalty under Section 76 and 78 of the Finance Act, 1994.

4. Being aggrieved with confirmation of demand in the impugned order, the appellant has filed the present appeal on the grounds that:

(i) the demand is not sustainable on ground of limitation;

(ii) the difference in amount between the books and returns can be the starting point of inquiry and cannot be, by itself, the allegation for liability of tax. The difference can be the basis of suspicion, however, there is no authority of law to consider the difference to be the value of taxable service;

(iii) no burden casted upon them to prove the negative;

(iv) when the Department proposes to demand service tax, then the onus to prove that the receipt is a taxable receipt is on the Department;

(v) unless and until there are evidence to show that the receipt are taxable, service tax cannot be charged on such receipt;

(vi) the details were taken from books of accounts which also shows the party from whom the receipts are received and nature of receipt. Thus, the Department had the mean & ways and necessary records to reasonably ascertain the nature of receipt and the parties from whom the receipt were received;

(vii) the demand is made on the basis of estimation, presumption and hence not sustainable;

(viii) there is no power to make best judgement assessment under Section 73;

(ix) in the worksheet, there are invoices which include sale of goods as well as service bills. Thus, in respect of transactions of sale, there cannot be any service tax;

(x) before 16.06.2005, the definition of Construction Service specifically excluded long distance pipelines, thus, the demand prior to 16.06.2005 cannot be made;

(xi) they were working as sub-contractor for the main contractor who has undertaken ONGC work and therefore as a sub-contractor they were not liable to tax;

(xii) at the relevant time the return did not require them to furnish details of other transactions which were not taxable. Therefore there is no obligation on their part to make disclosures. Moreover, they were under bonafide belief that the amount was not taxable, thus, there is no suppression or concealment leading to invocation of extended period;

(xiii) simultaneous penalties under Section 76 and 78 cannot be imposed as decided by Hon'ble Gujarat High Court in case of M/s. Raval Trading Co.

5. Personal Hearing in the case was held on 27.10.2020. Shri S.J.Vyas, Advocate, attended the hearing on behalf of the appellant. He reiterated the submissions made in appeal memorandum.

6. I have carefully gone through the facts of the case, grounds of appeal in the Appeal Memorandum and the records/documents available in the matter. It is

observed that the issue to be decided in the present appeal is whether the appellant is liable to pay the service tax on the differential amount of income i.e. those reflected in their books of account vis-à-vis those reflected in their returns. Further, whether penalty can be imposed on the appellant under Section 76 and 78 of the Finance Act, 1994 simultaneously. The demand pertains to the period Financial Year 2005-06 to Financial Year 2008-09.

7. It is observed from the case records that the appellant, as a sub-contractor, had provided services to M/s ONGC for laying of pipelines, both above ground as well as underground, and received considerations. During the course of audit, the officers observed that there was a differential income amounting to Rs. 73,08,262/- during the period 2005-06 to 2008-09, when the income reflected in Balance Sheet was compared with the income reflected in the ST-3 returns. As per the appellant, this difference was on account of their above said activity and as they were sub-contractors, they were under bonafide presumption that such income was not liable to service tax for the reason that the liability was on the principal contractors who must have paid the tax. They have relied upon the case law of Urvi Construction Vs. Commissioner reported at 2010 (17) STR 302 (Tribunal) in support of their contentions. It has also been contended that the services provided by them were under Works Contract and hence were not leviable to service tax during the relevant period. The SCN as well as the impugned order has proposed to tax it under the service category of Commercial and Industrial Construction contained under erstwhile Section 65 (25b) of the Finance Act, 1994.

7.1. It is observed that the adjudicating authority has discussed the taxability of service in Para 26, 27, 28, 29 and 30 of the impugned order and come to a conclusion that the same are classifiable as "Commercial or Industrial Construction Service" as defined under Section 65 (25b) of the Finance Act, 1994. I find that by the Finance Act, 2005, the clause "construction of pipeline or conduit" has been inserted in the Commercial or Industrial Construction Service w.e.f. 16.06.2005. Hence, the activities carried out by the appellant i.e. laying of pipeline for M/s ONGC, though as a sub-contractor, is appropriately classifiable under the said service category. Hence, the classification arrived by the adjudicating authority is proper and there is no merits in the contention of the appellant.

7.2. As regards the contention of the appellant for classification under Works Contract Service, I find that the activities undertaken by the appellant has been specifically made taxable w.e.f. 16.06.2005 by making insertion in the Commercial or Industrial Construction Service. The appellant has neither declared their activity to the department nor mentioned in ST-3 returns. Works Contract Service has been brought to service tax net from 1.6.2007. Prior to that period, the activity of the appellant was already covered under the specific category of Commercial or Industrial Construction Service. No document has been provided by the appellant so as to warrant classification under Works Contract and hence their contentions are devoid of material facts and is rejected.

7.3. As regards the liability of the appellant as sub-contractor for payment of service tax, I find that the adjudicating authority has relied on Board's Circular No. 96/7/2007 – ST dated 23.08.2007 and the judgement of Principal Bench Tribunal in the case of Melange Developers Private Limited 2019-TIOL-1684-CESTAT-DEL-LB to hold that the appellant were liable to pay service tax even in case the service tax was paid by the principal contractor. I find that the ruling of the Hon'ble Tribunal, Ahmedabad in the Urvi Construction Case, relied upon by the appellant, has been overruled by the Larger Bench of Principal Bench of the CETAT, New Delhi in Commissioner of Service Tax, New Delhi Versus Melange Developers Private Limited 2020 (33) GSTL 116 (Tri. – LB). The ruling of the Hon'ble Tribunal, Principal Bench, New Delhi is reproduced below:

> *"30. Thus, for all the reasons stated above, it is not possible to accept the contention of the Learned Counsel for the Respondent that a sub-contractor is not required to discharge service tax liability if the main contractor has discharged liability on the work assigned to the sub-contractor. All decisions, including those referred to in this order, taking a contrary view stand overruled."*

In view of the above judicial pronouncement, the contention of the appellant that as a sub-contractor they were not liable for payment of service tax is liable for rejection.

7.4. In view of the discussion above, I hold that the activities undertaken by the appellant were appropriately classifiable under the service category of Commercial or Industrial Construction Service defined under erstwhile Section 65

(25b) of the Finance Act, 1994 during the relevant period. Further, they, as sub-contractor, were also liable for payment of service tax on the consideration received for the aforesaid activities undertaken by them for M/s ONGC. I also find that liability of interest under Section 75 of the Finance Act, 1994 arises automatically with confirmation of demand and hence the appellant is also liable to pay interest on the amount of service tax short paid by him.

8. As regards the quantification of demand, I find that the activities undertaken by the appellant were brought under service tax net by the Finance Act, 2005 by insertion of the clause "construction of pipeline or conduit" in the Commercial or Industrial Construction Service w.e.f. 16.06.2005 and therefore, the said activity was not taxable for the period prior to 16.06.2005. It is observed that the demand pertains to the period 2005-06 to 2008-09. Hence, the matter needs to be remanded to the adjudicating authority for limited purpose of quantification of service liability based on the legal changes brought by way of the Finance Act, 2005 discussed above.

9. As regards the contention of the appellant regarding invocation of extended period, I find that the Commissioner (Appeals) had in his Order-in-Appeal No.92/2011(Ahd-III)/D.Singh/Commr (A)/Ahd dated 23.06.2011 dealt the issue in detail and had come to conclusion that the extended period of limitation for confirmation of demand is invokable in this case. I find no reason to differ with the conclusion arrived by the Commissioner (Appeals) in earlier round of litigation.

10. As regards imposition of penalty, it is observed that the quantum of penalty imposable would depend on the quantification of demand to be carried out. However, I find merit in the contention of the appellant that penalty cannot be imposed simultaneously under Section 76 and 78 of the Finance Act, 1994. The ruling of the Hon'ble High Court of Gujarat in the case of Raval Trading Company Vs. Commissioner [2016 (42) S.T.R. 210 (Guj.)] in this regard is squarely applicable in the case. The said decision of the Hon'ble High Court is followed in the recent judgement of the Hon'ble Tribunal, Ahmedabad in the case of Pearl Travel Vs. Commissioner of C.Ex. & ST, Daman [2020 (37) G.S.T.L. 242 (Tri. - Ahmd.). Therefore, following the above judicial rulings, the penalty imposed under Section 76 is set aside.

11. In view of the discussions held above, the matter is remanded back to the adjudicating authority for the limited purpose of quantification of demand as discussed in para 8 above and revision of penalty accordingly. Accordingly, the impugned order is set aside to extent it related to imposition of penalty under Section 76 of the Finance Act, 1994 and is upheld for the remaining part except for the re-quantification of demand ordered hereinabove.

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

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

28th December, 2020.

(Akhilesh Kumar)
Commissioner (Appeals)
Date: 28.12.2020

Attested

(Anilkumar P.)
Superintendent (Appeal)
CGST, Ahmedabad.

BY R.P.A.D. / SPEED-POST TO :

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2. The Commissioner, CGST & Central Excise, Gandhinagar Comm'rate.
3. The Addl. Commissioner, CGST & Cen.Excise, Gandhinagar Comm'rate.
4. The Assistant Commissioner, HQ (System), CGST & Central Excise, Gandhinagar Comm'rate.
5. The Assistant Commissioner, CGST & Central Excise, Kalol Divn, Gandhinagar Comm'rate.
6. Guard File.
7. P.A. File.