



**आयुक्त(अपील )का कार्यालय,**  
**Office of the Commissioner (Appeal),**  
**केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद**  
**Central GST, Appeal Commissionerate, Ahmedabad**  
**जीएसटी भवन, राजस्वमार्ग, अम्बावाडी अहमदाबाद 380015.**  
**CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015**  
**☎ 07926305065- टेलीफैक्स 07926305136**



**DIN : 20211164SW000000FCFB**

**स्पीड पोस्ट**

- क फाइल संख्या : File No : GAPPL/COM/STP/1212/2020 /11685 No 11689
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-003-APP-58/2021-22**  
दिनांक Date : **17-11-2021** जारी करने की तारीख Date of Issue 30.11.2021  
आयुक्त (अपील) द्वारा पारित  
Passed by **Shri Akhilesh Kumar**, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **24/D/GNR/KP/2020-21** दिनांक: **21.09.2020** issued by Assistant Commissioner, CGST& Central Excise, Division Gandhinagar, Gandhinagar Commissionerate
- ध अपीलकर्ता का नाम एवं पता Name & Address of the **Appellant / Respondent**  
M/s Oil and Natural Gas Corporation Ltd.  
ONGC, Avani Bhavan, Chandkheda,  
Ahmedabad

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 :**

- (i) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त 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, 4<sup>th</sup> 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 हानिकार खाने 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 मामलों 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 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।

(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 दिनोंक से तीन मास के भीतरमूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ.का मुख्य शीर्ष 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 होतो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्नरकम 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.

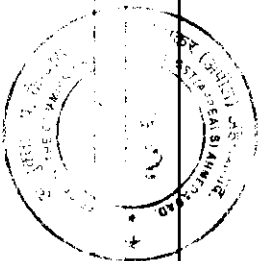
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-  
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

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

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 2<sup>nd</sup>माला, बहुमाली भवन ,असरवा ,गिरधरनागर,अहमदाबाद-380004

(a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2<sup>nd</sup> 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. 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 शुल्कअधिनियम 1970 यथासंशोधित की अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूलआदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रतिपर 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 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.

- (36) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण(सिस्टेट),के प्रतिअपीलो के मामले में कर्तव्यमांग(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 सेवाकर 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.

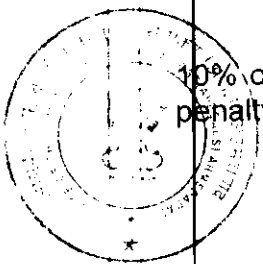
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (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:

- (xci) amount determined under Section 11 D;
- (xcii) amount of erroneous Cenvat Credit taken;
- (xciii) amount payable under Rule 6 of the Cenvat Credit Rules.

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."

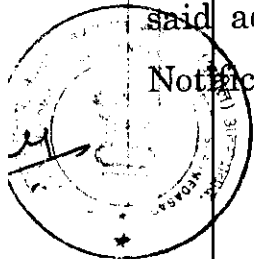


ORDER-IN-APPEAL

The present appeal has been filed by M/s. Oil and Natural Gas Corporation Ltd, Avani Bhavan, Chandkheda, Ahmedabad (hereinafter referred to as the appellant) against Order in Original No. 24/D/GNR/KP/2020-21 dated 21-09-2020 [hereinafter referred to as "*impugned order*"] passed by the Assistant Commissioner, CGST, Division- Gandhinagar, Commissionerate: Gandhinagar [hereinafter referred to as "*adjudicating authority*"].

2. Briefly stated, the facts of the case is that the appellant are holding Service Tax Registration No. AAACO1598AST034. Verification of the records of M/s.Prize Petroleum Company Limited, New Delhi (hereinafter referred to as PPCL) was conducted by Audit-II Commissionerate, Delhi for the period from F.Y. 2013-14 to F.Y. 2017-18. During the course of the audit, it was noticed that PPCL was providing service of exploration and mining activity. They had entered into a Service Contract No. MR/WOB/MM/IND/SC/RES/14/2003/EY-146 dated 28.04.2004 with the appellant. As per Article 13 of the said contract, the appellant would provide some services to PPCL like processing and transportation and will recover such amount from PPCL. The appellant had also charged for some services like Handling and Processing charges, cost of effluent and disposal, charges for laboratory evaluation of crude oil samples, charges for transportation of crude oil and steaming charges from PPCL and recovered an amount of Rs.78,94,776/- by deducting from the invoices issued by PPCL. Therefore, it appeared that the appellant had provided BAS, Technical Testing and Transportation of goods through pipeline services and invoice for the same should have been raised by the appellant.

2.1 It appeared that the activity undertaken by the appellant was a service as defined under Section 65B (44) of the Finance Act, 1994 and the said activity neither falls under the negative list nor under exemption Notification No. 25/2012-ST dated 20.6.2012. Thus, the said activity



appeared to be liable for payment of Service Tax under Section 65B (44) of the Finance Act, 1994 read with Section 67 of the Finance Act, 1994. The conditions required for the activity to be service are present as there was a service provider – the appellant, and a service recipient – PPCL and the activity was under taken for a consideration. However, the said activity of the appellant was not reflected in the ST-3 returns nor was any service tax paid by them. From the details submitted by the appellant, on the request of the department, it appeared that they had earned an income of Rs.78,94,776/- which appeared to be taxable and the service tax amounting to Rs.10,98,625/- was required to be recovered from them along with interest.

2.2 Therefore, the appellant was issued a SCN bearing No. V/04-29/ONGC/O&A/19-20 dated 10.10.2019 wherein it was proposed to :

- Demand and recover Service Tax amounting to Rs.10,98,625/- by invoking the extended period of limitation under Section 73 (1) of the Finance Act, 1994;
- Demand and recover interest under Section 75 of the Finance Act, 1994;
- Impose penalty under Section 77 of the Finance Act, 1994;
- Impose Penalty under Section 78 of the Finance Act, 1994; and
- Impose Penalty under Section 76 of the Finance Act, 1994.

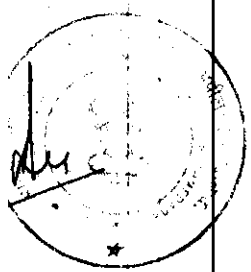
2.3 The SCN was adjudicated vide the impugned order wherein :

- Service Tax amounting to Rs.10,98,625/- was ordered to be recovered under Section 73 (1) of the Finance Act, 1994;
- Interest was ordered to be recovered under Section 75 of the Finance Act, 1994;
- Penalty of Rs.10,98,625/- was imposed under Section 78 of the Finance Act, 1994.

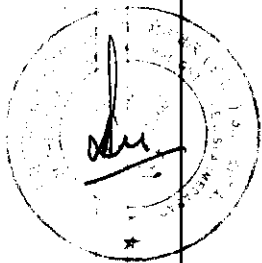
3. Aggrieved with the impugned order, the appellant firm has filed the instant appeal on the following grounds:



- i) They have executed a service contract with PPCL for production of oil from their own oil fields and ownership of the oil so produced remains with them only. PPCL is just outsourced with the task of production of oil and supplying it at the delivery point.
- ii) From a conjoint reading of the service contract it is very clear that they are the sole owner of the property and the oil so produced and whatever process they do is on their own goods only. Therefore, specification of charges for the specified processing undertaken by them is only a method for arriving at the consideration for the production service provided by PPCL.
- iii) The impugned order being vague and cryptic is liable to be set aside on this ground only. They rely upon the decision in the case of Cyril Lasrado Vs. Julaiana Maria Lasradi, 2004 7 SCC 431 wherein it was held that recording of reason is one of the fundamental of good administration and failure to give reason amounts to denial of justice.
- iv) In terms of Section 66B and 65B (44) for charging service tax there should be a service and it should be carried out by a person for another person. In the present case they are the sole owner of the contract area, existing, acquired land assets, equipment, pipeline in contract area and petroleum underlying the contract area and remain sole owner of the petroleum produced pursuant to the service contract with PPCL.
- v) As per Article 8.6 of the contract, specification of the crude to be produced and delivered by PPCL to them is stated and it is also stated that the appellants will charge a fixed percentage of crude price for testing and processing and transportation after custody transfer point.
- vi) As per the terms of the contract they have used their own facility for processing and handling of crude oil at the delivery point for processing of the oil to remove additional effluent water content. Accordingly, they have used their own facilities for treatment of their own oil.



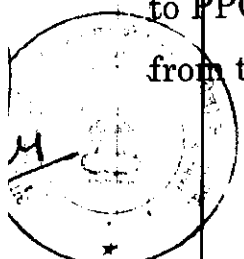
- vii) They rely upon the decision in the case of State of Andhra Pradesh Vs. Rashtriya Ispat Nigam Limited reported at 2013 (031) STR 0513 (SC).
- viii) PPCL is not using their facilities for processing or treatment of oil produced at any other marginal field and intended to be sold to any other person. Had it been the case, it would have been a fit case of service provided by them to PPCL and liable to service tax.
- ix) The price for facilities defined under the service contract is just to derive the actual price payable to PPCL for services provided by them and not otherwise.
- x) Looking in to the service contract as a whole and based on the facts provided to them, it can be said that the service contract provides for price for services as a percentage of oil price. It has also been agreed upon between them and PPCL that the crude oil received by them would be subjected to specific process for reducing the BS & W and salinity to limit of the quality norms specified in the service contract and the expenses incurred by them will be deducted from the invoice raised by PPCL.
- xi) The charges specified for the processing by them is only for arriving at the price for crude delivery by PPCL at a desired quality. They have not received any consideration from PPCL for facilities being extended for processing their own oil.
- xii) In the absence of any consideration flowing from PPCL to them for the processing activities carried out by them on their own product it is hypothetical to conclude that the amount being deducted by them from the invoices of PPCL is consideration for service provided to PPCL.
- xiii) The issue is revenue neutral. If they had paid service tax on the amount deducted from PPCL, the same would be eligible to PPCL as ITC and PPCL would have discharged their service tax liability after availing the ITC of the amount paid by them. Accordingly, at the end there is no loss of revenue to the exchequer. Therefore, question of imposition of interest and penalty does not arise.



- xiv) There is no suppression of facts by them as prescribed under Section 73 (1) of the Finance Act, 1994. The department was well aware that they had entered into a service contract with numerous companies for all its verticals located across India. Hence, allegation of suppression of facts is baseless and not sustainable. They had also disclosed all facts to the service tax authority in their returns. They rely upon the various decisions of different appellate authorities in this regard.
- xv) As they are not liable to pay service tax they cannot be subjected to penalty under Section 76, 77 or and 78 of the Finance Act, 1994. Similarly, no interest under Section 75 can be demanded from them.
- xvi) In any case the matter involves interpretation of the statutory provisions. It is well settled that in a case involving interpretation of law, no penalty can be imposed. They rely upon the decisions of the Hon'ble Tribunal in this regard.
- xvii) They were under a bona fide belief that they are not liable to pay service tax for the reasons stated hereinabove. There is a reasonable cause for non payment of service tax. Therefore, no penalty can be imposed under Section 80 of the Finance Act, 1994.

4. Personal Hearing in the case was held on 28.10.2021 through virtual mode. Ms. Dipa Mulchandani, CA, appeared on behalf of the appellant for the hearing. She reiterated the submissions made in appeal memorandum and stated that she would submit a compilation of the case laws as part of submissions during hearing.

5. I have gone through the facts of the case, submissions made in the Appeal Memorandum, and submissions made at the time of personal hearing and material available on records. The issue before me for decision is whether the appellant have provided services under category of BAS, Technical Testing and Transportation of goods through pipe line services to PPCL and whether the amount recovered by them by way of deductions from the invoices of PPCL is a consideration for provision of such services.

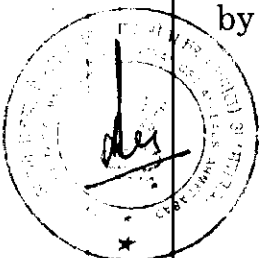




5.1 It is observed from the case records that the appellant had entered into a Service Contract No. MR/WOB/MM/IND/SC/RES/14/2003/EY-146 dated 28.04.2004 with PPCL. From the said contract, I find that the appellant had contracted PPCL for production of oil from oilfields of the appellant and supply the same to the appellant at a designated place. I find that this is a contract wherein the appellant is the service recipient and PPCL is the service provider. For the service so rendered, the payment to PPCL is defined in Article 15.10 of the said Service Contract dated 28.04.2004 as per which PPCL will be paid by the appellant a percentage of the price of oil for the services rendered by it for delivery of net oil to the appellant as per Article 13. It further stipulates that the oil price will be considered between the window of US\$ 18/bbl - US\$ 26/bbl, with 18 and 26 US\$/bbl as floor and ceiling prices.

5.2 I find that Article 13 of the said service contract specifies the charges for various activities like Handling and Processing, supply of Mobile Steam Unit and Steam, Effluent treatment and disposal, Laboratory evaluation of crude oil samples, transportation of crude oil. These are the activities which the department has alleged are services provided by the appellant to PPCL and that the charges in respect of these activities recovered by the appellant by way of deduction from the invoice of PPCL is consideration.

5.3 I find that the activities like processing of crude oil, effluent treatment are being carried out by the appellant on the crude owned by them using their own facilities. It is also not a matter of dispute that the appellant is the owner of the crude oil produced in the fields owned by the appellant. Accordingly, when some activities are carried out by the appellant on goods owned by them it cannot be said that they are providing service to another person. The question which, therefore, arises is why the appellant is deducting certain charges from the invoices issued by PPCL.



5.4 The appellant have submitted copies of the invoices issued by PPCL during the period from April, 2014 to June, 2017. One such invoice bearing No. 2014-15/Hirapur/ABD-02 dated 31.05.2014 is as under :

Prize Petroleum Company Limited  
(A Wholly Owned Subsidiary Company of Hindustan Petroleum Corporation Ltd.)  
Registered Office: Jyoti Bhawan Bldg., 1st Floor, Tower 1, 12A Connaught Place, New Delhi - 110001  
Local Bank Building, 3rd Floor, Park Road, New Delhi - 110001  
Tel No. 011-25312996 Fax: 011-25312994

**INVOICE**

Customer: M. (ST) ONGC Ltd.  
Invoice No: 2014-15/Hirapur/ABD-02  
Date: 31 May 2014  
Month: May 14

Avanti Bhawan ONGC, Sahamati  
Mandla Road, Pincode: 550 001  
Gujarat

Description	Barrels	Rate/Rbs	Amount (Rs.)
Service Contract No. NP/WD/AM/MS/CR/02/14/001/RY/145			
Dry Crude handed over at delivery point	3,305.863		
Less: as Per Table 4 of the Contract			
Oil lost during processing	0.50%	16.529	
Oil lost in Effluent Water	0.001%	0.033	
Net Processed Crude		3,289.301	
Transportation loss	0.22%	23.683	
Processed Crude Oil		3,265.618	
Exchange Rate: 1 USD = Rs. 59.34 (Refer Annexure 'A')		26.00	
Less: Processing & Transportation Charges as Per Article 13 of the Service Contract (Refer Annexure 'B')			
Net Crude Oil			
Contractor's Receivable as per Article 15.10		32.50%	
Total Billable Amount			
TOTAL			14,33,492

Amount in Words: Fourteen Lakhs Thirty Three Thousand Four Hundred Ninety Two Only

For Prize Petroleum Company Limited  
Santprabha Pandey  
Installation Manager

(Payments to be made in favour of Prize Petroleum Company Ltd. A/c no. 014101601000573 Corporation Bank Ltd)

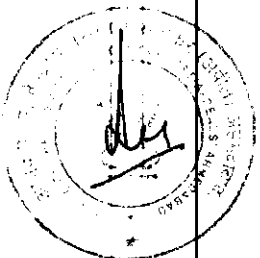
26/08/2014

5.5 On close examination the above Invoice No. 2014-15/Hirapur/ABD-02 dated 31.05.2014, I find that PPCL had handed over, at delivery point, 3,305.863 barrels of dry crude. The net processed crude oil, after processing loss, loss in effluent water and transportation loss, is 3265.618 barrels. This crude oil is priced at US\$ 26 per barrel and the total value in

INR is Rs.50,38,326/- (US\$ 1 = Rs.59.34). From this value, the processing and transportation charges of Rs.2,04,054/- is deducted and the net crude oil value is Rs.48,34,301/- of which the share of PPCL is 32.5%. The details of the processing and transportation charges is given in Annexure B to the invoice as per which the charges are in respect of Handling, Processing, Cost Effluent, Charges for lab and transportation charges.

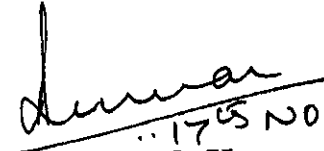
5.6 From the particulars mentioned in the above said invoice and its Annexure, I find that what is delivered by PPCL to the appellant is Dry Crude which is then subjected to testing, processing, effluent treatment by the appellant to derive Processed Crude which is then priced in terms of Article 15.10 of the service contract. However, what was delivered by PPCL to the appellant was Dry Crude and, therefore, their share as payment for the services rendered by them can only be on the value of dry crude i.e. the product delivered by them in terms of the contract with the appellant. Since the payment to PPCL is on the basis of the rate of processed crude less the charges to be deducted as per Article 13 of the service contract, the costs incurred by the appellant for processing and transportation is deducted from the value of the processed crude to arrive at the value of the Dry Crude.

5.7 Considering the above facts, I am in agreement with the contention of the appellant that specification of charges for the specified processing undertaken by them is only a method for arriving at the consideration for the production service provided by PPCL. Accordingly, I am of the view that the deductions in the invoices issued by PPCL to the appellant is not a consideration from PPCL to the appellant. I am also of the view that by carrying activities like testing, processing, effluent treatment on the crude delivered by PPCL, the appellant is not rendering any service either to PPCL or any other person. Therefore, the appellant is not liable to payment of service tax in respect of these activities and consequently, the demand is not legally sustainable.




6. Accordingly, the impugned order is set aside and the appeal of the appellant is allowed.

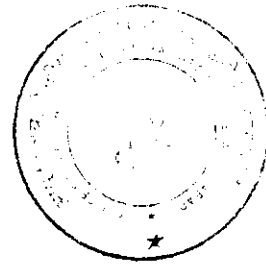
7. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।  
The appeal filed by the appellant stands disposed off in above terms.

  
( Akhilesh Kumar )  
Commissioner (Appeals)

Date: .11.2021.

Attested:

  
(N.Suryanarayanan. Iyer)  
Superintendent(Appeals),  
CGST, Ahmedabad.



**BY RPAD / SPEED POST**

To

M/s. Oil and Natural Gas Corporation Limited, Appellant  
Avani Bhavan, Chandkheda  
Ahmedabad

The Assistant Commissioner,  
CGST & Central Excise,  
Division- Gandhinagar  
Commissionerate : Gandhinagar

Respondent

Copy to:

1. The Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Gandhinagar.
3. The Assistant Commissioner (HQ System), CGST, Gandhinagar.  
(for uploading the OIA)
4. Guard File.
5. P.A. File.