



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- टेलिफैक्स 07926305136



DIN : 20211264SW0000333D5C

स्पीड पोस्ट

क फाइल संख्या : File No : GAPPL/COM/STP/1436/2021 **15.12.21**

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-003-APP-78/2021-22**
दिनांक Date : **17-12-2021** जारी करने की तारीख Date of Issue **21.12.2021**

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

ग Arising out of Order-in-Original No. **35/D/GNR/KP/2020-21** दिनांक: **09.02.2021** issued by
Assistant Commissioner, CGST& Central Excise, Division Gandhinagar, Gandhinagar
Commissionerate

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

M/s Creative Infocity Limited
Infocity Complex, Near Indroda Circle,
Gandhinagar-382007

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 :

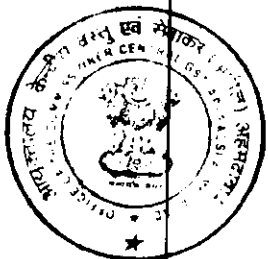
Revision application to Government of India:

(i) केंद्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अंतर्गत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा के 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 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 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.



(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 हैं।

(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 ईए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक 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 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.

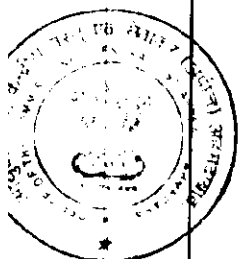
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 2ndमाला, 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. 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.

- (55) 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.

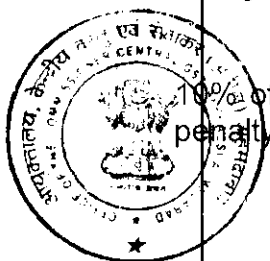
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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

- (cxlviii) amount determined under Section 11 D;
- (cxlix) amount of erroneous Cenvat Credit taken;
- (ci) 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."



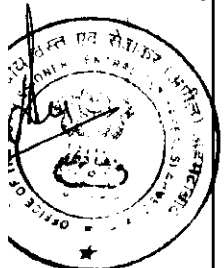
ORDER-IN-APPEAL

The present appeal has been filed by M/s. Creative Infocity Limited, Infocity Complex, Near Indroda Circle, Gandhinagar – 382 007 (hereinafter referred to as the appellant) against Order in Original No. 35/D/GNR/KP/2020-21 dated 09-02-2021 [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 was holding Service Tax Registration No. AABCC5034ST001 and engaged in providing the services under category of Works Contract Service, Business Auxiliary Service, Manpower Recruitment Service, Renting of Immovable Property service etc. During the course of audit of the records of the appellant conducted by the departmental officers for the period from April, 2016 to June, 2017, the observations detailed in subsequent paras were raised in FAR No. 1761/2019-20 (ST) dated 17.07.2020.

2.1 It was observed that the appellant was engaged in providing taxable as well as exempted services. Renting of Immovable property is a taxable service but when used for residential dwelling, the same is covered by the negative list of services as per Section 66D (m) of the Finance Act, 1994. It was observed that the appellant had availed cenvat credit in respect of input service which were commonly used for the taxable as well as exempted services. It appeared that the appellant had failed to reverse the cenvat credit amounting to Rs. 4,89,509/- on common inputs.

2.2 It was also noticed during the audit that the appellant had not paid service tax on the sitting fees paid to their Director for the F.Y. 2016-17. The appellant were liable to pay the service tax under reverse charge in terms of Notification No. 45/2012 dated 07.08.2012. The appellant being a body corporate, were liable to pay the service tax amounting to Rs.46,200/-



in terms of Section 68(2) of the Finance Act, 1994 read with Rule 2(1) (d) of the Service Tax Rules, 1994.

2.3 It was further observed on verification of the expense ledgers in the course of the audit that the appellant had received works contract service and short paid the service tax amounting to Rs.76,320/-.

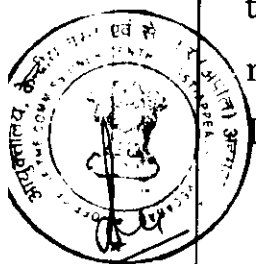
2.4 Further, the appellant had availed Legal services during the F.Y. 2016-17. Comparison of the value of taxable services as per their ST-3 returns with the expenses shown in the books of the appellant indicated that they had short paid service tax amounting to Rs. 2,35,340/-.

2.5 Further, during reconciliation of the service tax payments on the expensed made against Manpower Recruitment services as shown in the books of accounts of the appellant for the period from April, 2016 to June, 2017, it was also observed that there was a short payment of service tax as there was a difference in the taxable value shown in their ST-3 returns and the expenses shown in their books of accounts. It appeared that the appellant had short paid service tax amounting to Rs.87,842/-.

2.6 It was also observed in the course of the audit that the appellant had filed their ST-3 returns for April, 2016 to September, 2016 and April, 2017 to June, 2017. However, it appeared that the appellant had not paid the late fee amounting to Rs.11,900/-.

2.7 On reconciliation of the records in the course of the audit, it was observed that the appellant had short paid service tax amounting to Rs.2,98,054 on taxable income namely, Licence Fee and short paid service tax amounting to Rs.4,94,081/- in Maintenance and Repair Service.

2.8 Scrutiny of the documents, in the course of the audit indicated that the appellant had availed cenvat credit of service tax on input services namely Group Insurance Policy and Rent-a-Cab services. The Group Insurance Policy was for the employees and Rent-a-Cab services were used



to pick up and drop their employees. It appeared that these services were used for personal use or consumption of the employees and, therefore, was inadmissible as cenvat credit. The appellant, it appeared had wrongly taken cenvat credit amount of Rs.38,728/- on Group Insurance Policy and Rs.43,023/- on Rent-a-Cab services which was inadmissible.

2.9 It was also observed in the course of the audit that the appellant had opening balance of credit, as on 01.04.2016, of Education Cess and Secondary & Higher Education Cess, totally amounting to Rs.24,190/-. The appellant had utilized the cenvat credit lying in balance before 01.06.2015 towards payment of Service Tax during the period from April, 2016 to September, 2016, which appeared to be not allowed in terms of the 1st and 2nd proviso to Rule 3 (7) of the Cenvat Credit Rules, 2004.

3. The appellant were, therefore, issued a SCN No. 15/2020-21 dated 24.08.2020 from F.No. VI/1(b)-414/1A/C-VIII/Ap-52/18-19 wherein it was proposed to :

- (i) Demand and recover service tax totally amounting to Rs.12,37,837/- (Rs.46,200/- + Rs.76,320/- + Rs.2,35,340/- + Rs.87,842/- + Rs.7,92,135/-) under the proviso to Section 73 (1) of the Finance Act, 1994 along with interest under Section 75 of the Finance Act, 1994.
- (ii) Impose penalty under Section 78 (1) of the Finance Act, 1994.
- (iii) Demand and recover the late fee amounting to Rs.11,900/- under Section 70 of the Finance Act, 1994 read with Rule 7C of the Service Tax Rules, 1994.
- (iv) Disallow and recover the wrongly availed cenvat credit totally amounting to Rs.5,95,450/- (Rs.4,89,509/- + Rs.81,751/- + Rs.24,190/-) under the proviso to Section 73 (1) of the Finance Act, 1994 read with Rule 14 (1) (ii) of the Cenvat Credit Rules, 2004 along with interest under Section 75 of the Finance Act, 1994 read with Rule 14 (1) (ii) of the Cenvat Credit Rules, 2004.

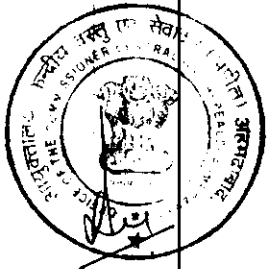


- (v) Impose penalty under Section 78 (1) of the Finance Act, 1994 read with Rule 15 (3) of the Cenvat Credit Rules, 2004.

4. The SCN was adjudicated by the impugned order wherein the demands were confirmed along with interest and penalties, as proposed, were also imposed.

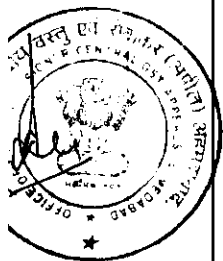
5. Being aggrieved with the impugned order, the appellant has filed the instant appeal on the following grounds:

- i) They had availed common input services which is required to be reversed. While calculating the reversal as per Rule 6 (3A) the department has considered the whole amount of cenvat credit instead of common credit. They have calculated the amount to be reversed, in terms of Rule 6 (3) (ii) of the Cenvat Credit Rules, 2004, which amounts to Rs.52,704/-. They are ready and agree to pay this amount. The amount of Rs.4,89,509/- calculated by the department is not justifiable.
- ii) Regarding short payment of service tax on Works Contract, Legal Consultancy Service (RCM) , Manpower Recruitment (RCM), Director sitting Fees (RCM), Renting of Immovable Property and Maintenance and Repair service they submit the actual reconciliation as per which they have deposited excess service tax amounting to Rs.3,46,787/- during F.Y. 2016-17 and Rs.1,49,361/- during F.Y. 2017-18 (upto June, 2017) which is required to be refunded.
- iii) They rely upon the decision in the case of Tobacco Board Vs. Commissioner of C.Ex. – 2013 (31) STR 673 (Tri.-Bang); Anvil Capital Management (P) Ltd Vs. Commissioner of S.T, Mumbai – 2010 (20) STR 789 (Tri.-Mumbai); Commissioner of S.T., Ahmedabad vs. Purni Ads. Pvt Ltd – 2010 (19) STR 242 (Tri.-Ahmd); Sify Technologies Ltd Vs. Commissioner of S.T., Chennai – 2009 (16) STR 63 (Tri.- Chennai); Bhogilal Chhagulal & Sons



Vs. Commissioner of S.T, Ahmedabad – 2013 (30) STR 62 (Tri.-Ahmd).

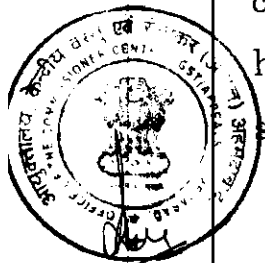
- iv) Regarding cenvat credit on Group Insurance policy and Rent-a-Cab service, they submit that they are providing various services and while providing such service they had availed various cenvat credit. Rent-a-Cab service has been availed for providing output service with which it has a direct nexus. Without going to the object and usage of the service, the denial of cenvat credit was not sustainable. The Group Insurance policy service has been availed during office hours for carrying out job of service. They rely on Circular No. 943/4/2011-CX dated 29.04.2011 issued by CBIC.
- v) They rely upon the decision in the case of : Hindustan Coco Cola Beverages Pvt Ltd Vs. Commissioner of C.Ex., Nashik – 2015 (38) STR 129 (Tri.-Mumbai); Commissioner of C.Ex., Bangalore-III Vs. Stanzen Toyotetsu India (P) Ltd – 2011 (23) STR 444 (Kar.); Commissioner of C.Ex, Bangalore-I Vs. Bell Ceramics Ltd – 2012 (25) STR 428 (Kar.).
- vi) They had availed cenvat credit of health insurance of employees which had been taken to cover future risk of employee during working hours. They refer to Rule 2 (1) of the Cenvat Credit Rules, 2004 in their support.
- vii) They also rely upon the decision in the case of Biesse Manufacturing Co Ltd. Vs. Commissioner of C.Ex, Bangalore – 2012 (26) STR 546 (Tri.-Bang); CCE & C, Aurangabad Vs. Endurance Systems India Pvt Ltd – 2010 (20) STR 267 (Tri.-Mumbai); Commissioner of C.Ex., Raipur Vs Topworth Steels Pvt Ltd – 2012 (26) STR 420 (Tri.- Del.).
- viii) Regarding recovery of cenvat credit of education cess and secondary and higher education cess utilized against service tax liability, they draw attention towards the fact that the Cenvat Credit Rules, 2004 was amended vide Notification No. 22/2015-CE (NT) dated 29.10.2015 to allow use of cenvat credit of cess for payment of service tax on or after 01.06.2015.



- ix) The late filing of ST-3 returns was due to procedural lapse, which can be allowable. The ST-3 returns were filed belatedly before issuance of notice by the department. Therefore, there would be no question of penalty under Section 70 of the Finance Act, 1994.
- x) The SCN covers the period from 01.04.2016 to 30.06.2017 and was issued on 24.08.2020 by invoking the extended period of limitation. The extended period cannot be invoked as there was no suppression, willful mis-statement on their part.
- xi) The SCN has not given any reason whatsoever for imposing penalty under Section 78 of the Act. No evidence has been brought out to show that they had suppressed anything from the department. They rely on the decision in the case of Steel Case Ltd – 2011 (21) STR 500 (Guj.)
- xii) The issue involved is of interpretation of statutory provision and therefore, penalty cannot be imposed. They rely upon the decision in the case of :- Bharat Wagon & Engg. Co Ltd. Vs. Commissioner of C.Ex., Patna – (146) ELT 118 (Tri.-Kolkata); Goenka Woolen Mills Ltd Vs. Commissioner of C.Ex., Shillong – 2001 (135) ELT 873 (Tri.-Kolkata); Bhilwara Spinners Ltd Vs. Commissioner of C.Ex, Jaipur – 2001 (129) ELT 458 (Tri._Del).

6. Personal Hearing in the case was held on 17.11.2021 through virtual mode. Shri Vipul Khandhar, CA, appeared on behalf of the appellant for the hearing. He stated that due to pandemic situation, they could not file defence reply and could not attend hearing. He requested to remand the case for adjudication.

7. 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. I find that there are eight different issues involved in the present appeal and the appellant have contested the issues on merit. However, during the course of the personal hearing the appellant have stated that they could not file their written submission before the adjudicating authority and also not attend the



personal hearing on account of the pandemic situation. The appellant have, therefore, requested that the case be remanded back for adjudication.

7.1 I find that in the impugned order, it has been recorded at para 15 that the appellant did not file any defence reply in the matter. The virtual personal hearing was fixed on 30.12.2020, which was adjourned to 11.01.2021 on the request of the appellant's Chartered Accountant. Since they did not appear, another date for personal hearing was fixed on 18.01.2021, which was also not attended by the appellant. Thereafter, the case was adjudicated ex-parte.

7.2 I find that three adjournments as contemplated in Section 33A of the Central Excise Act, 1944 have also not been granted to the appellant. Considering the prevailing pandemic situation, the adjudicating authority ought to have adopted a more liberal approach in granting opportunity of personal hearing. I also find it relevant to refer to the judgment of the Hon'ble High Court of Gujarat in the case of Regent Overseas Pvt Ltd. Vs. UOI – 2017 (6) GSTL 15 (Guj) wherein it was held that :

“12. Another aspect of the matter is that by the notice for personal hearing three dates have been fixed and absence of the petitioners on those three dates appears to have been considered as grant of three adjournments as contemplated under the proviso to sub-section (2) of Section 33A of the Act. In this regard it may be noted that sub-section (2) of Section 33A of the Act provides for grant of not more than three adjournments, which would envisage four dates of personal hearing and not three dates, as mentioned in the notice for personal hearing. Therefore, even if by virtue of the dates stated in the notice for personal hearing it were assumed that adjournments were granted, it would amount to grant of two adjournments and not three adjournments, as grant of three adjournments would mean, in all four dates of personal hearing.”

7.3 In view of the above, I am of the considered view that in the interest of the principles of natural justice, the matter is required to be remanded back for denovo adjudication after affording the appellant the opportunity of filing their defence reply and after granting them the opportunity of personal hearing.



8. In view of the above, the impugned order is set aside and the matter remanded back to the adjudicating authority for adjudication afresh. The appellant is directed to submit their written submission to the adjudicating authority within 15 days of the receipt of this order. The appellant should also attend the personal hearing as and when fixed by the adjudicating authority. Accordingly, the impugned order is set aside and the appeal of the appellant is allowed by way of remand.

9. 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.

(Signature)
(Akhilesh Kumar)
Commissioner (Appeals)

Attested:

Date: .12.2021.

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



BY RPAD / SPEED POST

To

M/s. Creative Infocity Limited,
Infocity Complex,
Near Indroda Circle,
Gandhinagar – 382 007

Appellant

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.