



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
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आज़ादी का
अमृत महोत्सव

By SPEED POST

DIN:- 20230464SW0000888F09

(क)	फ़ाइल संख्या / File No.	GAPPL/COM/STP/1438/2022-APPEAL / 29M-298
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-153/2022-23 and 29.03.2023
(ग)	पारित किया गया / Passed By	श्री अखिलेश कुमार, आयुक्त (अपील) Shri Akhilesh Kumar, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	05.04.2023
(ङ)	Arising out of Order-In-Original No. PLN-AC-STX-46/2021-22 dated 24.03.2022 passed by the Assistant Commissioner, CGST, Division-Palanpur, Gandhinagar Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Vishwakarma Motor Garage (Prop. Dhaneshkumar Ramlal Parmar), Near Bhatiyani Mata Mandir Rinjment, Deesa, Gujarat-385535

कोई व्यक्ति इस अपील-आदेश से असंतोश अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील अथवा पुनरीक्षण आवेदन प्रस्तुत कर सकता है, जैसा कि ऐसे आदेश के विरुद्ध हो 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:-

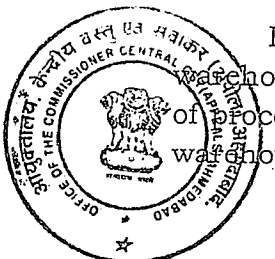
Revision application to Government of India:

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में 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 :-

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 :-

(क) 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।

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।

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।

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

(घ) 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।

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.

(2) 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 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.

(3) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रूपये या उससे कम होतो रूपये 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.

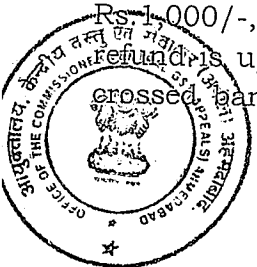
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 :-

(2) उक्तलिखित परिच्छेद 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।

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 above para.

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 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 है।

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

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची -1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूलआदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रतिपर 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 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 उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) एके प्रति अपील 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)।

- (1) खंड (Section) 11D के तहत निर्धारित राशि;
- (2) लिया गलत सेनवैट क्रेडिट की राशि;
- (3) 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।

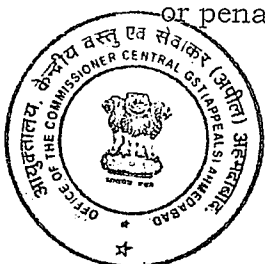
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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

(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।

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."



अपीलिय आदेश / ORDER-IN-APPEAL

The present appeal has been filed by M/s. Vishwakarma Motor Garage [Proprietor : Dhanesh Kumar Ramlal Parmar], Near Bhatiyani Mata Mandir, Rinjment, Deesa-385535 (hereinafter referred to as "the appellant") against the Order-In-Original No. PLN-AC-STX-46/2021-22; dated 24.03.2022 (hereinafter referred as 'impugned order'), passed by the Assistant Commissioner, CGST & C.Ex., Division-Palanpur, Commissionerate-Gandhinagar [hereinafter referred to as "the adjudicating authority"].

2. Briefly stated, the facts of the case are that the appellant were holding Service Tax Registration No. AVJPP0202FSD001 for providing taxable services as contractors [others]. As per the information received from the Income Tax department, discrepancies were observed in the total income declared in Income Tax Returns/26AS, when compared with Service Tax Returns of the appellant for the period F.Y. 2015-16. In order to verify the said discrepancies as well as to ascertain the fact whether the appellant had discharged their Service Tax liabilities during the period F.Y. 2015-16, letters / e-mails dated 14.05.2019, 13.12.2019 and 10.01.2020 were issued to them by the department. The appellant failed to file any reply to the query. It was also observed by the Service Tax authorities that the appellant had not filed Service Tax Returns for the relevant period. It was also observed that the nature of services provided by the appellant were covered under the definition of 'Service' as per Section 65B(44) of the Finance Act, 1994, and their services were not covered under the 'Negative List' as per Section 66D of the Finance Act, 1994. Further, their services were not exempted vide the Mega Exemption Notification No. 25/2012-S.T., dated 20.06.2012 (as amended). Hence, the services provided by the appellant during the relevant period were considered taxable.

3. In the absence of any other available data for cross-verification, the Service Tax liability of the appellant for the F.Y. 2015-16 was determined on the basis of value of 'Sales of Services under Sales/Gross Receipts from Services (Value from ITR)' as provided by the Income Tax department for the relevant period as per details below:

TABLE

(Amount in Rs.)

F.Y.	Total Income as per ITR-5	Income on which Service Tax paid	Difference of value	Service Tax Rate [including EC, SHEC]	Amount of Service Tax not paid / short paid.
	(1)	(2)	(1) - (2) = (3)	(4)	(5)
2015-16	66,24,388	00	66,24,388	14.5 %	9,60,536



4. Accordingly, a Show Cause Notice was issued to the appellant vide F.No. IV/16-01/PLN/Prev/TP/SCN/2020-21, dated 11.06.2020, wherein it was proposed to demand and recover:

- (i) Service Tax amount of Rs. 9,60,536/- under proviso to Section 73(1) of the Finance Act, 1994 readwith Section 68 of the Finance Act, 1994.
- (ii) Interest under Section 75 of the Finance Act, 1994 on the above amount of Service Tax.
- (iii) Penalty under Section 77C, 77(2) and 78 of the Finance Act, 1994.

5. The said Show Cause Notice was adjudicated vide *the impugned order* wherein *the adjudicating authority* has:

- (i) Confirmed the demand of Service Tax amount of Rs. 9,60,536/- under proviso to Section 73(1) of the Finance Act, 1994 readwith Section 68 of the Finance Act, 1994;
- (ii) Ordered to pay interest under Section 75 of the Finance Act, 1994 on the above demand of Service Tax.
- (iii) Imposed Penalty amounting to Rs. 9,60,536/- under Section 78 of the Finance Act, 1994 ;
- (iv) Imposed Penalty of Rs.10,000/- under Section 77(2) of the Finance Act, 1994;
- (v) Imposed penalty of Rs.10,000/- under Section 77(3)(C) of the Finance Act, 1994.

6. Being aggrieved with the impugned order, the appellant have filed the present appeal on the following grounds:-

- They have provided services of Ambulance to various Government authorities, which are District Health Office, Block Health Office-Deesa, Block Health Office-Banaskantha, Block Health Office-Dhanera, Taluka Health Office-Dantiwada, Taluka Health Office-Lakhani. As per agreement with the said parties, vehicles are given on rent for the purpose of transportation of patients.
- Adjudicating authority has contended that they will not fall under any exemption entry as listed under Mega Exemption Notification No. 25/2012-ST. However, as per Entry No. 25 of Exemption Notification No. 25/2012-ST, they are exempted and no service tax is payable as ambulance services are in relation to public health which is provided to Government Authorities. They mentioned the said entry as under :-

"25. Services provided to Government, a local authority or a governmental authority by way of -



(a) water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation ;”

They further contended that another relevant entry of Notification No.25/2012 is as under:-

“2. (i) _____;

(ii) Service provided by way of transportation of patient in an ambulance, other than those specified in (i) above;”

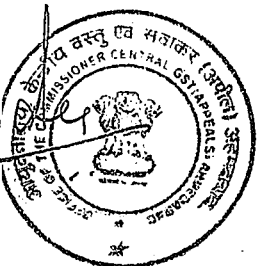
- They provided transportation of patient service in ambulance to health division and the said work also falls under exemption entry. They have provided contract copied to the adjudicating authority. The appellant has relied upon various case laws in support of their claim.
- The letters dated 14.05.2019; 13.12.2019 and 10.01.2020 were not received by them.
- They also claimed for cum duty benefit as per Section 67(2) of the Finance Act, 1994 as the amount received by them was inclusive of taxes.
- The appellant has relied upon various case laws in support of their claim for imposition of penalty under Section 77 and 78, levy of interest under Section 75 etc.

7. Personal hearing in the matter was held on 13.03.2023. Shri Rashmin Vaja and Ms. Bhagyashree Dave, Chartered Accountants, appeared as authorized representatives of the appellant. They re-iterated the submissions made in the appeal memorandum. They stated that they would submit relevant documents in support of contention as additional written submission.

8. The appellant have, in the additional submission dated 20.03.2023, further contended that they have provided services of Ambulance to various Government authorities which falls under Mega Exemption Notification No. 25/2012-ST.

They have also submitted following documents in support of their claim:-

- i) Form 26AS for F.Y. 2015-16 ,
- ii). Income Tax Return for F.Y. 2015-16,
- iii) Work orders.
- iv) Certificate dated 25.05.2022 issued by Distt. RCH Officer, Palanpur.



Reconciliation of Income is submitted by the appellant as under:-

Section	Nature of Income	Amount Paid [in Rs.]	TDS [in Rs.]
194C	Ambulance Contract Income	66,24,388	22,257
194A	Interest Income	21,284	2,129
	TOTAL	66,45,672	72,016

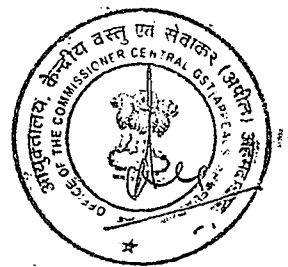
The appellant contended that the whole income amounting to Rs. 66,24,388/- consists of income received from Ambulance services provided and such services are covered under Entry No. 2(ii) of Mega Exemption Notification No. 25/2012-ST.

9. I have carefully gone through the facts of the case, submissions made in the Appeal Memorandum as well as submissions made at the time of personal hearing and the materials available on the record. The issue before me for decision is as to whether the impugned order confirming the demand of Service Tax amounting to Rs. 9,60,536/- along with interest and penalty, in the facts and circumstances of the case, is legal and proper or otherwise. The demand pertains to the period to F.Y. 2015-16.

10. It is observed that the appellant were registered with the department for providing services as contractor. They were issued SCN on the basis of the data received from the Income Tax Department and the appellant were called upon to submit documents/required details in respect of the difference found in their income reported in the ST-3 returns as compared to the Income Tax Returns. However, the appellant failed to submit the required details. Therefore, the appellant were issued SCN demanding Service Tax on the differential income by considering the same as income earned from providing taxable services. The adjudicating authority had confirmed the demand of Service Tax along with interest and penalty vide the impugned order.

11. I find it pertinent to refer to Instruction dated 26.10.2021 issued by the CBIC, wherein it was directed that:

"2. In this regard, the undersigned is directed to inform that CBIC vide instructions dated 1-4-2021 and 23-4-2021 issued vide F.No. 137/472020-ST, has directed the field formations that while analysing ITR-TDS data received from Income Tax, a reconciliation statement has to be sought from the taxpayer for the difference and whether the service income earned by them for the corresponding period is attributable to any of the negative list services specified in Section 66D of the Finance Act, 1994 or exempt from payment of



Service Tax, due to any reason. It was further reiterated that demand notices may not be issued indiscriminately based on the difference between the ITR-TDS taxable value and the taxable value in Service Tax Returns.

3. *It is once again reiterated that instructions of the Board to issue show cause notices based on the difference in ITR-TDS data and service tax returns only after proper verification of facts may be followed diligently. Pr. Chief Commissioner/Chief Commissioner(s) may devise a suitable mechanism to monitor and prevent issue of indiscriminate show cause notices. Needless to mention that in all such cases where the notices have already been issued, adjudicating authorities are expected to pass a judicious order after proper appreciation of facts and submission of the noticee."*

11.1 However, in the instant case, I find that no such exercise, as instructed by the Board has been undertaken by the adjudicating authority, and the impugned order has been issued only on the basis of the data received from the Income Tax department. The appellant have contended that they fall within the ambit of Entry No. 25 of Exemption Notification No. 25/2012-ST and no service tax is payable as they have provided ambulance services in relation to public health, which were provided to the Government Authorities. I find that the claim of the appellant was required to be examined in proper perspective which was not done. Therefore, I find that the impugned order has been passed without following the directions issued by the CIBC. Further, the impugned order is a non-speaking order, hence, is not legally sustainable and is liable to be set aside on this ground.

12. It is observed that the appellant have contended that they have provided services of Ambulance to various Government authorities, which are District Health Office, Block Health Office-Deesa, Block Health Office-Banaskantha, Block Health Office-Dhanera, Taluka Health Office-Dantiwada, Taluka Health Office-Lakhani. As per agreement/ contract with the said health authorities, vehicles were given on rent for the purpose of transportation of patients and working as ambulance and hence they would fall under Entry No. 2(ii) as well as Entry No. 25 of Exemption Notification No. 25/2012-ST and they are not liable to pay service tax on the services provided by them during the impugned period.

13. I find it pertinent to refer to the Circular No. 210/2/2018-S.T., dated 30-5-2018 issued by the CBIC, which is re-produced hereunder :-



*"Circular No. 210/2/2018-S.T., dated 30-5-2018
F. No. 137/51/2016-Service Tax
Government of India
Ministry of Finance (Department of Revenue)
Central Board of Indirect Taxes & Customs, New Delhi*

Subject: Applicability of service tax on ambulance services provided to government by private service providers under the National Health Mission (NHM).

I am directed to draw your attention to a reference of the Ministry of Health & Family Welfare, Government of India on the above subject and analyse the manner in which the taxability has to be determined in such cases.

2. It has been stated that under the National Health Mission (NHM), a flagship programme of the Government of India, the Central Government provides technical and financial support to States to strengthen healthcare systems including for free ambulance services (Dial 102/108 services). Dial 108 is the emergency response system primarily designed to attend to patients of critical care, trauma and accident victims etc., while Dial 102 services essentially are for basic patient transport aimed to cater the needs of pregnant women and children, though other categories are also taking benefit and are not excluded. Many States are operating the ambulance service on an outsourced model and these services are funded under the NHM and provided free of cost to all patients. In this connection the Ministry of Health & Family Welfare, has requested for a clarification whether the private service provider (PSP) is liable for payment of service tax.

3.1 The matter has been examined. It is observed that this entire project involves three legs of activities, one by the Government for the public, second by the PSP for the public and third, by the PSP for the Government. In respect of the first and the second legs of activity i.e. the ambulance services being provided by the Government and PSP to the patients, neither the State government nor the PSP charges any fee from the patients who avail of these ambulance services. The PSP however charges a fee from the State government for carrying out the third activity.

3.2 Any activity carried out by one person for another without any consideration will not be covered by the definition of 'service' in section 65(44)B of the Finance Act, 1994. Even if a consideration was charged, by virtue of entry 2(ii) of notification no. 25/2012-Service Tax, dated 20th June, 2012, services provided by way of transportation of a patient in an ambulance, other than health care services by a clinical establishment, an authorized medical practitioner or paramedics, are exempted from the whole of the service tax leviable thereon. Thus the activities



provided by the State government and the PSP to patients are not leviable to service tax.

3.3 As regards the activity undertaken by the PSP for the State government for which consideration is charged, attention is invited to sl. no. 25(a) of the notification no. 25/2012-Service Tax, dated 20th June, 2012. The scope of the relevant exemption, in different time periods, was as follows :-

In the period from 1-7-2012 to 10-7-2014

"Services provided to Government, a local authority or a governmental authority by way of (a) carrying out any activity in relation to any, function ordinarily entrusted to a municipality in relation to water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or"

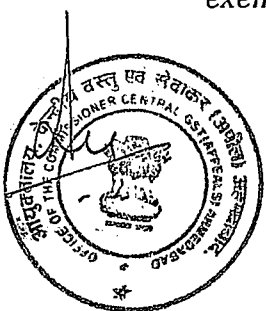
In the period from 11-7-2014 to 30-6-2017

"Services provided to Government, a local authority or a governmental authority by way of (a) water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation... .."

3.4 Thus it follows that, exemption is available, inter alia, to services provided to Government, a local authority or a governmental authority, by way of public health.

3.5 The phrase "public health" is a general term and will cover a number of activities which ensure the health of the public. In the Ministry of Health & Family Welfare's reference, it has been stated that this activity of providing free ambulance services by the states is funded under the National Health Mission (NHM). One of the core values of the NHM enlisted by the Framework for implementation of National Health Mission (2012-2017) is to strengthen public health systems as a basis for universal access and social protection against the rising costs of health care. As a part of its goals, outcomes and strategies the framework has categorically stated that NHM will essentially focus on strengthening primary health care across the country. The Framework further states that assured free transport in the form of Emergency Response System (ERS) and Patient Transport Systems (PTS) is an essential requirement of the public hospital and one which would reduce the cost barriers to institutional care.

3.6 Thus the provision of ambulance services to State governments under the NHM is a service provided to government by way of public health and hence exempted under notification no. 25/2012-Service Tax, dated 20-6-2012."



13.1 I find that the appellant have provided vehicle on contract to various Government authorities, which are District Health Offices / Block Health Offices of Banaskantha Distrcit, which have been utilized as Ambulance vehicles under National Health Mission. The appellant have also submitted documents in support of their case viz. Contract dated 06.09.2016 with the Chief Distt. Health Officer, Jila Panchayat Banaskantha Distt., Palanpur, ITR and Form 26 AS for F.Y. 2015-16, Certificate issued by the District RCH officer, D.P.B.K., Palanpur, etc.

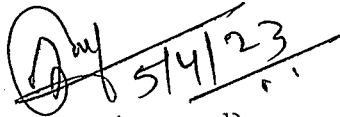
13.2 On going through the documents submitted by the appellant, it is established that the appellant have provided Ambulance services under National Health Mission, which are squarely covered under Sr. No. 2(ii) of the Mega Exemption Notification No. 25/2012-ST, dated 20.06.2012. Hence, the appellant are not liable to pay the service tax during F.Y. 2015-16.

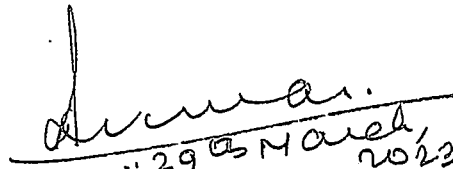
14. Therefore, I hold that the impugned order demanding service tax on "Ambulance service" has suffered from legal infirmity and accordingly, I set aside the impugned order. Since the demand of service tax fails to sustain, the question of interest and penalty does not arise. Hence, the same are also set aside.

15. Accordingly, the impugned order is set aside and the appeal filed by the appellant is allowed with consequential relief, if any.

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

Attested


(Ajay Kumar Agarwal)
Assistant Commissioner [In-situ] (Appeals)
Central Tax, Ahmedabad.


.. 29th March, 2023
(Akhilesh Kumar)
Commissioner (Appeals)

Date: 29.03.2023



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Copy to: -

1. The Principal Chief Commissioner, CGST & C.Ex., Ahmedabad Zone.
2. The Principal Commissioner, CGST & C.Ex., Commissionerate: Gandhinagar.
3. The Assistant Commissioner, CGST & C.Ex., Division-Palanpur, Commissionerate: Gandhinagar.
4. The Superintendent (System), CGST, Appeals, Ahmedabad. (for uploading the OIA).
5. Guard File.
6. P.A. File.

