सत्यमेव जयते

आयुक्त(अपील)का कार्यालय,
Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय,अहमदाबाद
Central GST, Appeal Commissionerate, Ahmedabad
जीएसटी भवन, राजस्वमार्ग, अम्बावाड़ीअहमदाबाद३८००१५.
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
☎ 07926305065 - टेलेफैक्स07926305136

DIN : **20220664SW000000AAE6**

स्पीड पोस्ट

क फाइल संख्या : File No : GAPPL/COM/STP/1684 & 1686/2021 /1947-1951

ख अपील आदेश संख्या Order-In-Appeal Nos.**AHM-EXCUS-003-APP-27 to 28/2022-23**
दिनाँक Date : **17-06-2022** जारी करने की तारीख Date of Issue 21.06.2022

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

ग Arising out of Order-in-Original No. **21/D/GNR/KP/2020-21** दिनाँक: **07.09.2020** & OIO No. **33/D/GNR/KP/2020-21** dt. **31.12.2020** passed by Assistant Commissioner, CGST& Central Excise, Division Gandhinagar, Gandhinagar Commissionerate

ध अपीलकर्ता का नाम एवं पता Name & Address

Appellant

1. **M/s Gayatri Food**
   Annex G/F-01/A, 01/B, Infocity Super Mall,
   Infocity, S.G. Highway, Gandhinagar - 382009

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 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 मे 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 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 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 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,BahumaliBhawan,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 होत`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 शुल्कअधिनियम 1970 यथासंशोधित की अनुसूचि–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 कान्यायालय 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.

(51) 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:

(cxxxvi) amount determined under Section 11 D;
(cxxxvii) amount of erroneous Cenvat Credit taken;
(cxxxviii) 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

Two appeals have been filed by M/s. Gayatri Foods, Annex G/F-01/A, 01/B, Infocity Super Mall, Infocity, S.G.Highway, Gandhinagar [hereinafter referred to as the appellant] against OIO No.21/D/GNR/KP/2020-21 dated 07.09.2020 and OIO No. 33/D/GNR/KP/2020-21 dated 31.12.2020 [hereinafter referred to as the impugned orders] passed by Assistant Commissioner, Central GST, Division : Gandhinagar, Commissionerate : Gandhinagar [hereinafter referred to as the adjudicating authority]. Since the issue involved is same in both the appeals viz. GAPPL/COM/STP/1684/2021 and GAPPL/COM/STP/1686/2021, they are being decided together vide this OIA.

2. Briefly stated, the facts of the case is that the appellant were holding Service Tax Registration No. AAKFG8675MSD001 and are engaged in providing Restaurant Services. During the course of Audit of the records of the appellant by the Officers of CGST Audit Commissionerate, Ahmedabad. it was observed that the appellant had not paid service tax on the take away parcel service as well as home delivery of food parcels claiming it to be exempted service. The appellant was issued a Query Memo dated 14.07.2017 wherein it was informed that the exemption sought by them was not correct and they were liable to pay service tax. The appellant vide letter dated 30.08.2017 informed that they did not agree with the observations of the Audit by relying upon the provisions of Section 66E(i) of the Finance Act, 1994 and CBIC Circular No. 334/3/2011-TRU dated 28.02.2011, 173/8/2013-ST dated 07.10.2013 as well as Para 8.4.3 of the Education Guide issued by the CBIC. The reply of the appellant was not accepted by the Audit and the appellant was issued Show Cause Notice from F.No. VI/1(b)/10/SCN/C-VIII/17-18 dated 23.07.2018 wherein it was proposed to recover service tax amounting to Rs.16,52,057/-, for the period F.Y.2013-14 to F.Y.2016-17, under the proviso to Section 73 (1) of the Finance Act, 1994 along with interest under Section 75 of the Finance Act, 1994. Imposition of penalty under Section 76 and 78 of the Finance Act, 1994 was also proposed.

2.1 Subsequently, the appellant was issued another Show Cause Notice from F.No. V/04-45/O&A/Gayatri/2019-20 dated 28.01.2020, under Section 73 (1A) of the Finance Act, 1994, wherein it was proposed to demand and recover service tax amounting to Rs.2,87,668/- under Section 73 (1) of the Finance Act, 1994 along with interest under Section 75 of the Finance Act, 1994. Imposition of penalty under Section 76 and 78 of the Finance Act, 1994 was also proposed. Late Fee amounting to Rs.20,000/- was also proposed to be recovered in terms of Rule 7 of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994.

2.2 Both the SCNs were adjudicated vide the impugned orders and the demands for service tax were confirmed along with interest. Penalties equivalent to the service tax confirmed were also imposed under Section 78 of the Finance Act, 1994, however, no penalty was imposed under Section 76 of the Finance Act, 1994. The Late Fee amounting to Rs.20,000/- was also ordered to be recovered.

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

i. During the course of adjudication, they had submitted a copy of letter F.No. ST-20/STD/Misc./Sevottam/62/12/4693 dated 13.08.2015 of Chandigarh Service Tax Department wherein it was stated that food which was delivered at home as free delivery without any emoluments would not be covered under the definition of Service, hence, no service tax liability would arise. The service provided by them has a dominant nature of sale and not of service and hence, no service tax liability arises.

ii. They rely upon the judgment of the Hon'ble Madras High Court in W.P No.13469 of 2020 and other Writ Petitions. It was held in the said judgment that take away or parcel service of food does not attract service tax liability. Hence, they should be made free from service tax liability, interest and penalty as well as late fees.

iii. Sale of parceled food constitutes pure trading activity and there is no component of service involved therein.

iv. They rely on the definition of service under Section 65B (44), which excludes the transfer of title in goods by way of sale. In light of this exclusion, parcel sales or take away food would stand outside the ambit of service tax.

v. Restaurant service by definition means that all attributes of a restaurant such as organized seating, air-conditioning, service at the table, live music and enhanced hospitality are included. The attributes are absent in a transaction of take away. In fact, service tax on restaurant service has itself been restricted only to service in air-conditioned restaurants.

vi. In most restaurants, there is a separate counter for collection of the take away food parcels. Orders are received either over telephone, by e-mail, online booking or through a food delivery service such as Swiggy or Zomato. Once processed and readied for delivery, the parcels are brought to a separate counter and are picked up either by the customer or delivery service. More often than not, the take away counters are positioned away from the main dining area, that may or may not be air-conditioned. In any event, the consumption of the food and drink is not in the premises of the restaurant. In the aforesaid circumstances, the provision of food and drink to be taken away in parcels by the restaurant tantamounts to sale of food and drink and does not attract service tax.

vii. As per Para 28 of the Judgment of the Hon'ble High Court of Madras, the petitioners had brought to notice several orders of the Appellate Commissioners of Chennai and other parts of the State wherein the view taken was that take away services would not attract service tax liability. It is also mentioned that appeals were not filed by the department and thus, the prevailing view within the department is that there would be no service tax liability on take away food.

4. The appellant were granted opportunity for personal hearing on 19.04.2022. However, the appellant vide letter dated 19/04/2022 sought

adjournment on the ground of social commitment and renovation work at office. The appellant was granted opportunity for personal hearing on 05.05.2022, which was not attended by them. The appellant were again granted personal hearing on 24.05.2022 and 15.06.2022 but the same was not attended by the appellant.

5. As per Section 85 (5) of the Finance Act, 1994, the provisions of the Central Excise Act, 1944 are made applicable to the appeals under Section 85 of the Finance Act, 1994. In terms of the provisions of Section 35(1A) of the Central Excise Act, 1994, hearing of the appeal can be adjourned on sufficient cause being shown. However, as per the proviso to the said Section 35 (1A), no adjournment shall be granted more than three times to a party during hearing of the appeal. In the present appeals, the appellant were called for a personal hearing on four different dates, however, they did not attend on any of the dates and sought adjournment in respect of the hearing granted on 19.04.2022, while no communication was received in respect of the personal hearing granted on 05.05.2022, 24.05.2022 and 15.06.2022. I am, therefore, satisfied that the appellant have been granted ample opportunities to be heard, which they have not availed. I, therefore, proceed to decide the case, ex-parte, on the basis of the material available on record.

6. I have gone through the facts of the case, submissions made in the Appeal Memorandum, and materials available on records. The issue before me for decision is whether service tax is leviable and payable in respect of take away parcel of food and home delivery of food by a restaurant. The demand pertains to the period F.Y. 2013-14 to F.Y. 2017-18 (upto June, 2017).

7. I find that the department has demanded service tax in respect of the take away food parcel and home delivery of food primarily on the basis of Section 66E (i) of the Finance Act, 1994, which is reproduced as below :

> "service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity".

7.1 A plain reading of the above provision of law indicates that what is taxable in an activity involving supply of food or drinks is only the service portion. I further find that the adjudicating authority has observed in the impugned order that there are no specific provisions in Notification No. 24/2012-ST dated 06.06.2012 which grants exemption to Parcel Service. I find that by the said notification, the Service Tax (Determination of Value) Second Amendment Rules, 2012 was amended. By the said notification, Rule 2C was inserted in the said Rules and the same provided for "*Determination of value of service portion involved in supply of food or any other article of human consumption or any drink in a restaurant or as outdoor catering*". The said rule prescribed the percentage of value of the services provided by a restaurant or an outdoor catering service on which service tax would be levied. The provisions of Rule 2C of the said Rules are for prescribing the service portion referred to in Section 66E (i) of the Finance Act, 1994.

7.2 It is observed that the adjudicating authority has considering the above provisions, concluded at Para 28 of the impugned order dated 31.12.2020 that "*in a normal case, the restaurant charges customers for such takeaways parcels and home delivery. Therefore, there is a service element involved in the activity undertaken by the restaurant irrespective of the fact that whether the food was consumed within the restaurant or supplied as takeaways parcels or home delivery*". The adjudicating authority has further held that in such cases the cost of food and services are intrinsic to the cost. The costing of such parcel services has a composite value of food and services, which shows the essential ingredient of service. Further, in the impugned order dated 07.09.2020, it has been held by the adjudicating authority at Para 26 that "*I find that liability toward service tax would not be applicable on delivered or take away food, if the services are rendered free of cost. This would be on the presumption that no separate consideration for such services is being charged by the service tax assessee from the customers. If, there is a delivery charge, then service tax liability extends to the extent of the delivery charge. Under the normal business parlance, the parcel service includes the service element as well as its cost*".

7.3 I find that the findings of the adjudicating authority are entirely based on presumptions and assumptions and not supported by any evidence. Further, even in the SCNs issued to the appellant, there is no allegation that the appellant is collecting service charge as part of the cost of the takeaway food parcel or home delivery of food. In the absence of any allegation in the SCNs and also considering the fact that there is no evidence in the findings of the adjudicating authority that the cost of takeaway parcels and home delivery includes service charge, the said observation is erroneous and, hence, not sustainable.

7.4 The appellant had in their submissions before the adjudicating authority relied upon CBIC Circular No. 334/3/2011-TRU dated 28.02.2011. However, the same was rejected by the adjudicating authority on the ground that the same is no more in vogue, as the Negative List of Services regime was effective from 01.07.2012. The relevant part of the said Circular dated 28.02.2011 is reproduced as below :

> "The levy is intended to be confined to the value of services contained in the composite contract **and shall not cover either the meal portion in the composite contract or mere sale of food by way of pick-up or home delivery**, as also goods sold at MRP. Finance Minister has announced in his budget speech 70% abatement on this service, which is, *inter-alia,* meant to separate such portion of the bill as relates to the deemed sale of meals and beverages. The relevant notification will be issued when the levy is operationalized after the enactment of the Finance Bill." [Emphasis supplied]

7.5 While it is a fact that the said circular was issued before the introduction of the Negative List of Services regime, the rationale behind the said clarification continues to apply even post 01.07.2012. The content of the said Circular does not leave any room for any ambiguity inasmuch as it has been very clear terms stated that the levy of service tax is confined to the value of services in the composite contract and for that very reason the sale of food by way of pick-up or home delivery has been specifically excluded as no service was involved in the same. Therefore, even in the Negative List of Services regime, the fundamental fact that no service is involved in takeaway of home delivery of food does not change. Consequently, in terms

of the said Circular, service tax is not leviable on takeaway or home delivery of food provided by the appellant as no service is involved in the same.

8. The appellant have in their support relied upon the decision of the Hon'ble Madras High Court in the case of Anjappar Chettinad A/C Restaurant Vs. Joint Commissioner, GST & Central Excise, Chennai South – 2021 (51) GSTL 125 (Mad.). I find that in the said case, the Hon'ble High Court, had at Para 27 of their judgment, held that :

> **"27.** In the case of take-away or food parcels, the aforesaid attributes are conspicuous by their absence. In most restaurants, there is a separate counter for collection of the take-away food parcels. Orders are received either over telephone, by e-mail, online booking or through a food delivery service such as swiggy or zomato. Once processed and readied for delivery, the parcels are brought to a separate counter and are picked up either by the customer or a delivery service. More often than not, the take-away counters are positioned away from the main dining area that may or may not be air-conditioned. In any event, the consumption of the food and drink is not in the premises of the restaurant. In the aforesaid circumstances, **I am of the categoric view that the provision of food and drink to be taken-away in parcels by restaurants tantamount to the sale of food and drink and does not attract service tax under the Act**." [Emphasis supplied]

8.1 In view of the above judgment of the Hon'ble High Court of Madras, provision of food as takeaway amounts to sale of food and consequently, service tax is not leviable. Applying the ratio of the above judgment to the facts of the present appeals, I am of the considered view that the supply of food as takeaway parcels or by home delivery by the appellant is a sale of food and no service is involved in the same. Therefore, service tax is not leviable on the same. In view thereof, the demands confirmed vide the impugned orders are not legally sustainable. Consequently, the question of interest or penalty does not arise.

9. I find that vide the impugned order dated 07.09.2020 late fee of Rs.20,000/- has been ordered to be recovered from the appellant in terms of Rule 7 of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994. I find that it has been alleged in the impugned SCN dated 28.01.2020 that the appellant did not file their ST-3 returns for the period 01.04.2017 to 30.06.2017. The appellant have not made any submission regarding non filing of ST-3 returns. Accordingly, the appellant are liable to

pay the Late Fees as ordered in the impugned order dated. 07.09.2020. I uphold the impugned order to this extent.

10. In view of the above facts, the demand for service tax, confirmed vide the impugned, orders along with interest and penalty are set aside and both the appeals are allowed to this extent. The Late Fee amount of Rs.20,000/- ordered to be recovered vide the impugned order dated 07.09.2020 is upheld.

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

The appeals filed by the appellant stands disposed of in above terms.

17 June, 2022

(**Akhilesh Kumar**)
Commissioner (Appeals)

Attested:

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

Date: .06.2022.

BY RPAD / SPEED POST

To

M/s. Gayatri Foods,
Annex G/F-01/A, 01/B,
Infocity Super Mall,
Infocity, S.G.Highway,
Gandhinagar

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.