



सत्यमेव जयते

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

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद  
Central GST, Appeal Commissionerate, Ahmedabad  
जीएसटी भवन, राजस्वमार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.  
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015  
07926305065 - टेलिफैक्स 07926305136



DIN : 20220964SW0000888B79

**स्पीड पोस्ट**

- क फाइल संख्या : File No : GAPPL/COM/STP/401/2022 /3560-64
- ख अपील आदेश संख्या Order-In-Appeal Nos: AHM-EXCUS-003-APP-48/2022-23  
दिनांक Date : 31-08-2022 जारी करने की तारीख Date of Issue 06.09.2022  
आयुक्त (अपील) द्वारा पारित  
Passed by **Shri Akhilesh Kumar**, Commissioner (Appeals)
- ग Arising out of OIO No. AHM-CEX-003-ADC-PBM-001-21-22 दिनांक: 29.10.2021 passed by  
Additional Commissioner, CGST & Central Excise, Gandhinagar Commissionerate
- घ अपीलकर्ता का नाम एवं पता Name & Address

**Appellant**

1. M/s Gujarat Environment Management Institute (GEMI)  
Office of the Director,  
Block No. 13, Third Floor, Dr. Jivraj Mehta Bhavan (Old Sachivalaya),  
Sector-10B, Gandhinagar - 382010

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 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 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 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 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 Appellate 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 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 is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

- (70) 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.

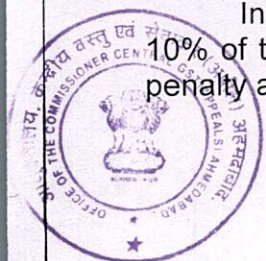
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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

- (cxciii) amount determined under Section 11 D;
- (cxciv) amount of erroneous Cenvat Credit taken;
- (cxcv) 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. Gujarat Environment Management Institute, Office of the Director, 3<sup>rd</sup> Floor, Block No.13, Dr.Jivraj Mehta Bhavan, Old Sachivalaya, Sector-10, Gandhinagar – 382 010 (hereinafter referred to as the appellant) against Order in Original No. AHM-CEX-003-ADC-PBM-001-21-22 dated 29.10.2021 [hereinafter referred to as “*impugned order*”] passed by the Additional Commissioner, CGST Commissionerate : Gandhinagar [hereinafter referred to as “*adjudicating authority*”].

2. Briefly stated, the facts of the case is that the appellant are engaged in providing services related to Laboratory Testing & Analysis of Water, Air, Soil etc., Environment Impact Assessment, Social Impact Assessment, Environmental Monitoring and Audit Service etc. However, they were not registered with the Service Tax department. The appellant was asked vide letter dated 13.08.2019 to submit details and documents related to Environmental Audit conducted by them since F.Y. 2015-16 to F.Y.2019-20. The appellant vide letters dated 19.08.2019 and 23.08.2019 stated that they were registered under Section 12AA of the Income Tax Act, 1961 and, therefore, they were exempted from payment of service tax. However, it appeared that all the services provided by the appellant were not for charitable purpose. The appellant was, therefore, asked vide letters dated 06.09.2019 and 11.10.2019 to submit further details and documents. The appellant submitted copies of some invoices issued by them for providing various services. It appeared, on verification of the invoices, that the appellant had provided various services to their customers for consideration of money. Therefore, the services provided by them appeared to be liable for payment of service tax.

2.1 Summons proceedings was initiated against the appellant and various documents and details were called for and obtained. Statement of Authorized Person of the appellant was also recorded in the course of which he admitted that they were under the wrong belief that the services provided by them were exempted from payment of service tax in terms of Notification No.25/2012-ST dated 20.06.2012. He submitted that they have not provided any service free



of charge or as charitable activities and that they have received payments for the services provided by them. Based on the documents submitted by the appellant, it appeared that the appellant had not paid service tax amounting to Rs.72,29,098/- for the period from F.Y. 2014-15 (2<sup>nd</sup> Half) to F.Y.2017-18 (upto June, 2017).

3. Subsequently, the appellant was issued a SCN vide F.No. IV/16-41/PI/Enviro/2019-20/Gr.III dated 22.06.2020 wherein it was proposed to :

- Demand and recover service tax amounting to Rs.72,29,098/- under the proviso to 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 and 78 of the Finance Act, 1994;

4. The said SCN was adjudicated vide the impugned order wherein the demand for service tax was confirmed along with interest. Penalty of Rs.72,29,098/-, equivalent to the service tax confirmed, was imposed under Section 78 of the Finance Act, 1994. Penalty of Rs.20,000/- was also imposed under Section 77 of the Finance Act, 1994.

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

- i) The adjudicating authority failed to appreciate the fact that services rendered by them clearly falls under the definition of charitable activities and, therefore, the activities carried out by them are exempt vide Sr.No.4 of Notification No.25/2012-ST dated 20.06.2012.
- ii) The activities carried out by them clearly fall under Sr. No. (iv) of clause (k) of Para 2 of Notification No.25/2012-ST dated 20.06.2012 i.e. preservation of environment including watershed, forests and wildlife.
- iii) The adjudicating authority has misclassified their activities under Sr. No. (v) of clause (k) which was omitted by Notification No.3/2013-ST dated 01.03.2013 w.e.f 01.04.2013.
- iv) They are registered under Section 12AA of the Income Tax Act, 1961 and carrying out charitable activities being preservation of



- environment and correctly claimed exemption under the said Notification.
- v) The activities relating to Preservation of Environment (including watersheds, forest and wildlife) were inserted in the definition of 'charitable purpose' in Section 2 (15) of the Income Tax Act, 1962 by Finance (No.2) Act, 2009 with retrospective effect from 01.04.2008 whereas the advancement of any other object of general public utility were there since 1961.
  - vi) The Revenue has wrongly classified their activities as advancement of any other object of general public utility and considered the same not to be charitable purpose as it involves carrying on any activity in the nature of trade, commerce or business, or an activity rendering any services in relation to trade, commerce or business for a cess, or fee or other consideration.
  - vii) The statements of their Authorised Person were given without knowledge and understanding of Service Tax laws. Statements under the CGST Act, 2017 read with the Finance Act, 1994 can be taken for stating fact and not for interpretation of provisions of law. Therefore, the statement of the Authorized Person has no evidentiary value.
  - viii) The activities carried out by them have been accepted a charitable activities by the Income Tax department which is one arm of the Ministry of Finance. It is not permissible for another arm of the said Ministry not to recognize the said activities as charitable activities when the definition under both the laws are same.
  - ix) The adjudicating authority has failed to appreciate the exemption given to services by a governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution under Sr.No.39 of Notification No.25/2012-ST dated 20.06.2012.
  - x) They are a governmental authority, as defined in Para 2 (s) of Notification No.25/2012-ST dated 20.06.2012, fully controlled by Government of Gujarat and engaged in protection of the environment as mentioned in clause (h) of Article 243W of the Constitution. Therefore, all the activities carried out by them are exempt in terms of Sr.No.39 of the said Notification.



- xi) The adjudicating authority has wrongly interpreted exemption entry under Sr. No. 39 of the said Notification and found that they are not providing services to municipality or services rendered free of cost as done by municipality for public or public interest. It is not required that the services are to be given to municipality or services are to be rendered free of cost as done by municipality for public or public interest.
- xii) The services rendered by them falls under clause (a) of Section 66D of the Finance Act, 1994.
- xiii) The services rendered by them are covered under reverse charge as per Sr.No.6 of Notification No.30/2012-ST dated 20.06.2012 and therefore, no tax can be demanded from them.
- xiv) Tax should be demanded on cum-tax basis i.e. consideration received by them should be considered inclusive of tax.
- xv) Extended period of limitation cannot be invoked as they are a government entity controlled by the Government of Gujarat and not an individual. It cannot be imagined that the government itself is involved in suppression of facts with intent to evade service tax. Since there is no fraud, collusion, wilful mis-statement, suppression of facts or contravention of the provisions of law with intent to evade payment of service tax, extended period cannot be invoked.
- xvi) They rely upon the judgment in the case of Municipal Corporation, Rajahmundry Vs. C.S.T & C.Ex., Visakhapatnam – 2017 (5) GSTL 78 (Tri.- Hyd); Brihanmumbai Municipal Corporation Vs. Commissioner – 2017-TIOL-1846-CESTAT-MUM; Karad Nagar Parishad V. Commissioner of C.Ex. & S.T, Kolhapur – 2019 (20) GSTL 288 (Tri.-Mumbai) and Ahmedabad Municipal Corporation Vs. Commissioner (Appeal) of Central Tax. (OIA No. AHM-EXCUS-002-APP-95-19-20 dated 04.11.2019).
- xvii) Penalty under Section 78 should not be levied as there is no fraud or collusion or wilful mis-statement, suppression of facts or contravention of the provisions of law with intent to evade payment of service tax. They rely on the judgment in the case of Karad Nagar Parishad supra. They also rely upon the judgment in the case of Uniworth Textiles Ltd. Vs. CCE, Raipur – 2013(288) ELT 161 (SC).



xviii) Regarding penalty under Section 77 (2) it is submitted that they are a Government entity and there cannot be any intention to contravene any provisions of the law for which no penalty is separately provided. Therefore, penalty should not be imposed.

xix) Without prejudice to the above grounds, the cenvat credit available to them should be deducted from the tax demanded.

6. Personal Hearing in the case was held on 02.08.2022 through virtual mode. Shri Tushar Shah, Chartered Accountant, appeared on behalf of the appellant for the hearing. He reiterated the submissions made in appeal memorandum. He further relied upon the judgment of Hon'ble Tribunal, Delhi in the case of Bharat Swabhiman (Nyas) Vs. Commissioner of Cus., C.Ex. & S.T, Dehradun – 2022 (62) GTL 470 (Tri.-Del) during the hearing.

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. The issue before me for decision is whether the services provided by the appellant, who are registered under Section 12AA of the Income Tax Act, 1961, are chargeable to service tax or whether the same is exempted by virtue of Sr.No. 4 of Notification No. 25/2012-ST dated 20.06.2012. The demand pertains to the period F.Y.2014-15 (2<sup>nd</sup> Half) to F.Y. 2017-18 (upto June, 2017).

8. Since the dispute relates to admissibility or otherwise of exemption in terms of Sr.No. 4 of Notification No. 25/2012-ST dated 20.06.2012, it would be pertinent to refer to the same, which is reproduced below :

“4. Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.”

The definition of the term ‘charitable activities’ is as per clause 2 (k) of the said Notification and the same is reproduced below :

“charitable activities” means activities relating to-

- (i) public health by way of-
  - (a) care or counselling of (i) terminally ill persons or persons with severe physical or mental disability, (ii) person afflicted with HIV or AIDS, or (iii) persons addicted to a dependence-forming substance such as narcotic drugs or alcohol; or
  - (b) public awareness of preventive health, family planning or preventing of HIV infections;
- (ii) advancement of religion, spirituality or yoga;-





- (iii) advancement of educational programmes or skill development relating to,-
  - (a) abandoned, orphaned or homeless children;
  - (b) physically or mentally abused or traumatized persons;
  - (c) prisoners; or
  - (d) persons over the age of 65 years residing in a rural area;
- (iv) preservation of environment including watershed, forests and wildlife;"

8.1 I find that it is not disputed by the department that the appellant are registered under Section 12AA of the Income Tax Act, 1961. The appellant, are, therefore, covered by Sr.No. 4 of Notification No. 25/2012-ST dated 20.06.2012. However, to be eligible for exemption in terms of the said Notification, it is required to be examined whether the activities undertaken by the appellant are 'charitable activities' as defined under the said Notification. The appellant have contended that they are engaged in charitable activities i.e. 'preservation of environment' and are covered by clause 2 (k) (iv) of the said Notification. The adjudicating authority has, at Para 26 of the impugned order, recorded his finding that "*GEMI is engaged in providing of services related to Laboratory Testing & Analysis of Water, Air, Soil etc., Environment Impact Assessment Service, Social Impact Assessment Service, Environmental Monitoring and Audit Service, Environment Management System Design, Consultancy Service, Inventorization of different types of Waste Service, Waste Exchange Centre Service, and Environmental Training and Awareness Service to various service recipients*".

8.2 It is observed that the appellant have except for claiming that they are engaged in activities relating to preservation of environment, not submitted any documentary evidence detailing the exact and actual nature of the activities undertaken by them on the basis of which it can be determined whether they are covered by the ambit of clause 2 (k) (iv) of the said Notification i.e. preservation of environment. It is also observed that the adjudicating authority has not given any finding on the issue of whether the activities undertaken by the appellant fall within the scope of 'preservation of environment'.

8.3 The exemption provided by Sr.No.4 of Notification No. 25/2012-ST dated 20.06.2012 is subject to fulfilment of two conditions viz. 1) The entity claiming exemption has to be registered under Section 12AA of the Income Tax Act, 1961 and 2) The entity should be engaged in charitable activities specified in clause



2 (k) of the said Notification. In the present appeal, I find that the appellant have satisfied the first condition inasmuch as they are registered under Section 12AA of the Income Tax Act, 1961. However, the appellant have not demonstrated with evidences that the activities undertaken by them are covered by 'preservation of environment'. It is a settled legal position that the onus is on the person claiming exemption to establish his eligibility to the exemption. From the facts on record, it is not possible to conclude whether the activities undertaken by the appellant fall within the ambit of 'preservation of environment'. Neither has the adjudicating authority given any finding in this regard. Therefore, I am of the view that this issue is required to be examined and decided before arriving at any conclusion as to the eligibility of the appellant to the benefit of exemption under the said Notification. However, as stated hereinabove, no documents or details have been provided by the appellant in this regard. Therefore, I am of the considered view that the matter is required to be remanded back to the adjudicating authority for decision afresh.

9. It is further observed that as an alternate plea, the appellant have also claimed that they are a governmental authority as defined in Para 2 (s) of Notification No.25/2012-ST dated 20.06.2012 and engaged in protection of environment as mentioned at clause (h) of Article 243W of the Constitution. Therefore, they are eligible for exemption in terms of Serial No.39 of Notification No.25/2012-ST dated 20.06.2012. However, I find that the adjudicating authority has rejected the plea by holding, at Para 34 of the impugned order, that "*they are not providing services to municipality or services rendered free of cost as done by municipality for Public or public interest like cleaning of road, free medical facility etc.*". No finding has been given by the adjudicating authority as regards the claim of the appellant that they are providing the services listed in clause (h) of Article 243W of the Constitution of India i.e. 'protection of environment and promotion of ecological aspects'.

10. It is further observed that the appellant have in the appeal memorandum claimed cum-tax benefit and also benefit of cenvat credit. However, these issues were not raised by the appellant before the adjudicating authority. Since the matter is required to be remanded back to the adjudicating



authority for decision afresh, these issues may also be considered in the remand proceedings.

11. In view of the facts stated hereinabove, I set aside the impugned order and remand the matter back to the adjudicating authority to decide the matter afresh in light of the observations contained at Para 8.3, 9 and 10 above. The appellant are directed to submit before the adjudicating authority the required documents and evidences in support of their contention that the activities undertaken by them are covered by the ambit of 'preservation of environment'. The adjudicating authority shall after considering the submissions of the appellant and by following the principles of natural justice pass a decision afresh.

12. 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.

*Akhilish Kumar*  
( Akhilish Kumar )  
Commissioner (Appeals)

Date: .08.2022.



Attested:

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

**BY RPAD / SPEED POST**

To

M/s. Gujarat Environment Management Institute, Appellant  
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Dr.Jivraj Mehta Bhavan,  
Old Sachivalaya, Sector-10,  
Gandhinagar – 382 010

The Additional Commissioner, Respondent  
CGST & Central Excise,  
Commissionerate : Gandhinagar.

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.

