



आयुक्त का कार्यालय  
Office of the Commissioner  
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय  
Central GST, Appeals Ahmedabad Commissionerate  
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**By SPEED POST**

DIN:- 20231264SW00007277CF

(क)	फाइल संख्या / File No.	GAPPL/COM/STP/2318/2023-APPEAL / 9053 - S 7
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-127/2023-24 and 22.11.2023
(ग)	पासित किया गया / Passed By	श्री ज्ञानचंद जैन, आयुक्त (अपील्स) Shri Gyan Chand Jain, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	05.12.2023
(ङ)	Arising out of Order-In-Original No. AHM-CEX-003-JC-SP-012-22-23 dated 02.02.2023 passed by the Joint Commissioner, CGST & Central Excise, Gandhinagar Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Sureshbhai Laxmanbhai Chaudhary, Opp. Dudhsagar Dairy, Highway, Mehsana, Gujarat-384002

कोई व्यक्ति इस अपील-आदेश से असंतोष 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:-

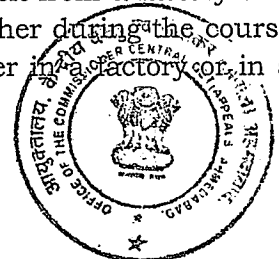
**Revision application to Government of India:**

(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, 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 :-

(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 प्रक्रिया 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 मामले 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 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 :-

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

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 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 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 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 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.

(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।

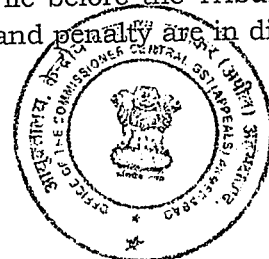
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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



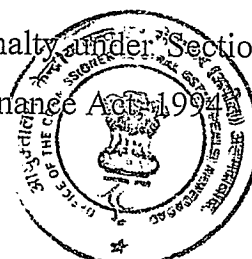
**अपीलिय आदेश/ ORDER-IN-APPEAL**

The present appeal has been filed by M/s Sureshbhai Laxmanbhai Chaudhary, Opp. Dudhsagar Dairy, Highway, Mehsana, Gujarat-384002 [hereinafter referred to as "the appellant"] against Order in Original No. AHM-CEX-003-JC-SP-012-22-23 dated 02.02.2023 [hereinafter referred to as "the impugned order"] passed by the Joint Commissioner, CGST & Central Excise, Gandhinagar Commissionerate [hereinafter referred to as "the adjudicating authority"].

2. Briefly stated, the facts of the case are that the appellant were holding PAN No. ACUPC7803K and were not registered under Service Tax. As per information in respect of unregistered taxpayers received through preventive section, it was observed that during the period F.Y. 2016-17, the appellant had earned substantial service income but had neither obtained service tax registration nor paid service tax thereon. Accordingly, in order to verify the said discrepancy, the jurisdictional Office issued letter dated 17.09.2021 and email dated 25.08.2021, 17.09.2021 & 02.10.2021 to the appellant calling for the details of services provided during the period F.Y. 2016-17. However no reply was submitted. Personal Hearing for Pre-SCN Consultation was fixed on 21.10.2021 but they did not appear. However, they had submitted that they were carrying out the transportation milk, which is an exempted service. The jurisdictional officers considering the services provided by the appellant during the relevant period as taxable under Section 65 B (44) of the Finance Act, 1994 determined the Service Tax liability for the F.Y. 2016-17 on the basis of value of 'Sales of Services' under Sales/Gross Receipts from Services (Value from ITR) and Form 26AS as details below :

Sr. No.	Period (F.Y.)	Differential Taxable Value as per Income Tax Data (in Rs.)	Rate of Service Tax incl. Cess	Service Tax payable but not paid (in Rs.)
1.	2016-17	3,63,88,070/-	15%	54,58,211/-

3. The appellant was issued Show Cause Notice No. GEXCOM/ADJN/ST/ADC/1380/2021-ADJN dated 22.10.2021 (in short SCN) proposing to demand and recover Service Tax amounting to Rs. 54,58,211/- under proviso to Section 73 (1) of Finance Act, 1994 along with interest under Section 75 of the Act. The SCN also proposed imposition of penalty under Sections 77(1)(a), Section 77(1)(c), Section 77(2) and Section 78 of the Finance Act, 1994.

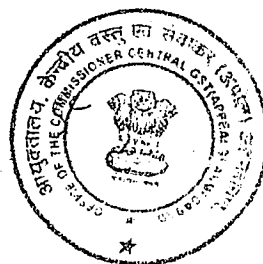


4. The said SCN was adjudicated vide the impugned order wherein :

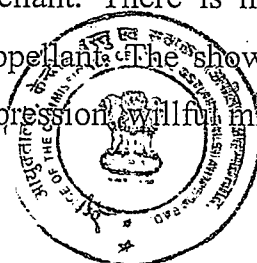
- Service Tax demand of Rs. 54,58,211/- was confirmed under Section 73(1) of the Finance Act, 1994 alongwith interest under Section 75 of the Finance Act, 1994.
- Penalty of Rs.10,000/- was imposed under Section 77(1)(a) of the Finance Act, 1994.
- Penalty of Rs.10,000/- was imposed under Section 77 (1) (c) of the Finance Act, 1994.
- Penalty of Rs.10,000/- was imposed under Section 77(2) of the Finance Act, 1994.
- Penalty of Rs. 54,58,211/- was imposed under Section 78 (1) of the Finance Act,1994 with option for reduced penalty in terms of clause (ii).

5. Aggrieved by the impugned order, the appellant has preferred this appeal on following grounds:

- The appellant was providing transportation services in the name of M/s. Astha Excel Services as a transporter of milk by road. Being transporter, the appellant was liable for service tax as under:
  - Goods transport freight for single consignee up to Rs.750 and for single vehicle up to Rs.1500 is exempt.
  - Goods transport Agency has been defined as “any person who provides service in relation to transport of goods by road and issues consignment note by whatever name called.”
  - Service tax has to be paid only on 25% of the gross amount paid to the Goods Transport Agency. For gross amount, octroi is not taken in account.
  - The tax is payable on reverse charge basis by consignor or consignee who ever pays the freight, if the consignor or the consignee is factory, registered society, co-operative society, registered dealer, body corporate, partnership firm, LLP and association of persons.
  - If the goods transport agency has charged service tax then no service tax is payable by consignor or consignee.



- They contended that the transporter was liable for service tax @25% on the value of service provided and also the value on which the service recipient had not paid service tax under RCM provision.
- They further submitted that Serial No 21 of the Notification No 25/2012 dated 20.06.2012 provides for an exemption for services provided by Goods Transport Agency, by way of transport of goods carriage. The department has not taken into factual details that the appellant was providing exempt service as per serial no. 21(d) of Notification No.25/2012-ST dated 20.06.2012 and raised the demand which is not justifiable at all.
- They relied on the following judgements of Hon'ble Tribunals:
- 2013 (31) S.T.R. 673 (Tri. - Bang.) IN THE CESTAT, SOUTH ZONAL BENCH, BANGALORE S/Shri M.V. Ravindran, Member (J) and P. Karthikeyan, Member (T) REGIONAL MANAGER, TOBACCO BOARD Versus COMMR. OF C. EX., MYSORE
  - 2010 (20) S.T.R. 789 (Tri. - Mumbai) IN THE CESTAT, WEST ZONAL BENCH, MUMBAI Shri Ashok Jindal, Member (J) ANVIL CAPITAL MANAGEMENT (P) LTD. Versus COMMR. OF S.T., MUMBAI
  - 2010 (19) S.T.R. 242 (Tri. - Ahmd.) IN THE CESTAT, WEST ZONAL BENCH, AHMEDABAD [COURT NO. II] Shri Ashok Jindal, Member (J) COMMISSIONER O SERVICE TAX, AHMEDABAD Versus PURNI ADS. PVT. LTD.
  - 2009 (16) S.T.R. 63 (Tri. - Chennai) IN THE CESTAT, SOUTH ZONAL BENCH, CHENNAI Ms. Jyoti Balasundaram, Vice-President and Shri P. Karthikeyan, Member (T) SIFY TECHNOLOGIES LTD. Versus COMMISSIONER OF SERVICE TAX, CHENNAI
  - 2013 (30) S.T.R. 62 (Tri. - Ahmd.) IN THE CESTAT, WEST ZONAL BENCH, AHMEDABAD [COURT NO. II] Shri B.S.V. Murthy, Member (T) BHOGILAL CHHAGULAL & SONS Versus COMMISSIONER OF S.T., AHMEDABAD
- The show cause notice covers the period of 01.04.2016 to 31.03.2017. The show cause notice has been issued on 22.10.2021. Thus, the show cause notice has invoked the extended period of limitation. The extended period of limitation cannot be invoked in the present case since there is no suppression, willful misstatement on the part of the appellant. There is no question of suppression or willful misstatement by the appellant. The show cause notice has entirely failed to make out any case of suppression or willful misstatement on



the part of the appellant. The show cause notice is liable to be dropped on this ground also.

- The Show Cause Notice has not given any reason whatsoever for imposing the penalty under Section 78 of the Act. The show cause notice merely alleging badly that there is suppression on the part of the Appellant. The present show cause notice has not brought any evidence/ fact which can establish that the appellant has suppressed anything from the department. Hence no case has been made out on the ground of suppression of facts or willful misstatement of facts with the intention to evade the payment of service tax. Hence, the present case is not the case of fraud, suppression, willful misstatement of facts, etc. Hence, penalty under section 78 of the Act cannot be imposed. The show cause notice is liable to be dropped on this ground also. Further, the Appellant is entitled to entertain the belief that their activities were not taxable. That cannot be treated as suppression from the department. The Appellant rely on Hon'ble Gujarat High Court decision in case of Steel Cast Ltd. 2011 (21) STR 500 (Guj).
- Penalty under Section 77 is not imposable since there is no short payment of service tax. As per the merits of the case, the Appellant is not liable for payment of Service tax. They rely on the various judgements of Hon'ble Courts and Tribunal.

6. Personal Hearing in the case was held on 18.08.2023. Shri Vipul Khandhar, Chartered Accountant, appeared for personal hearing on behalf of the appellant. He reiterated the submissions made in the appeal memorandum and in the additional submissions which were handed over at the time of personal hearing. He also submitted that the services provided by the appellant are in relation to transportation of Milk which is exempt under Sr. No. 20(I) of the Mega Exemption Notification 25/2012-ST. However, the adjudicating authority has passed the impugned order merely on the basis of income tax data without any verification. He requested to set aside the impugned order or to remand the matter back to the adjudicating authority.

6.1 On account of change in appellate authority personal hearing was again scheduled on 13.10.2023. Shri Vipul Khandhar, Chartered Accountant, appeared for personal hearing on behalf of the appellant. He reiterated the contents of the written submission and requested to allow their appeal.

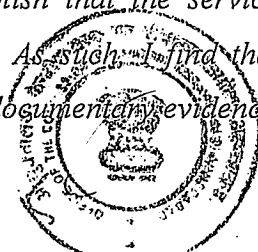


7. I have carefully gone through the facts of the case available on record, grounds of appeal in the appeal memorandum, oral submissions made during personal hearing, additional written submissions, the impugned order passed by the adjudicating authority and other case records. The issue before me for decision in the present appeal is whether the demand of service tax amounting to Rs. 54,58,211/- confirmed under proviso to Section 73 (1) of Finance Act, 1994 alongwith interest, and penalties vide the impugned order passed by the adjudicating authority in the facts and circumstances of the case is legal and proper or otherwise. The demand pertains to the period F.Y. 2016-17.

8. From the submissions made by the appellant it is observed that the appellant is a Proprietorship firm engaged in providing services by way of "Transportation of Goods i.e. Milk" to various dairy farms during the period F.Y. 2016-17. They have claimed that their services of Milk Transportation amounting to Rs. 3,63,88,070/- stands exempted from Service Tax in terms of Sr. No. 21 (d) of Notification No.25/2012-ST dated 20.06.2012.

9. On going through the impugned order, I find that the adjudicating authority has recorded at Para-27 of the impugned order that :

*"27. I find that the noticee has not provided any bills, consignment notes, payment receipts, agreements and contracts. The Income Tax Return submitted by the noticee does not indicate that the noticee is having any specific income pertaining to transportation and just indicates that it is a gross contract income. The Balance Sheet & Profit & Loss Account of the noticee for 2016-17, also suggest that the income is "Gross Contract Income". The noticee themselves proclaiming that they are engaged in transportation of milk, in itself is not enough to justify the exemption claimed by them. The noticee should have provided the entire set of bills/invoices, tenders, agreements, contracts, ledgers, consignment notes and all other documentary evidence pertaining to the services provided by them to justify their claim. As such, I find that the noticee has not submitted the entire details of service recipients, Contracts, Agreements, Bills/Invoices, Consignment Notes, Lorry Receipts, Payment Receipts, Ledgers etc. to establish that the service tax liability pertains to transportation of Milk. .... As such, I find that the noticee has not been able to justify with conclusive documentary evidence that*





*the gross transport income indicated by them in their Income Tax return for 2016-17, is eligible for exemption under SI. No. 21 of the Notification No. 25/2012-Service Tax dated 20.06.2012."*

9.1 Further, the adjudicating authority has referred to Sr. No. 2 of Notification No. 30/2012-ST dated 20.06.2012 wherein it prescribes the service tax is to be paid in percentage by whom in certain services and recorded at Para 28 of the impugned order that :

*"28. .... it is amply clear that when taxable service provided by a goods transport agency in respect of transportation of goods by road, entities falling under above categories are liable to pay service tax under reverse charge mechanism. However, the services provided to individuals, GTA etc. by the GTA are not covered by this Notification. The said noticee has not submitted the entire details of service recipients.....the number of vehicles owned by them, the number of vehicles rented by them, the number of vehicles given on rent by them, etc. For example, in Form 26AS (F.Y. 2016-17) of the noticee submitted by them, TDS deduction by M/s. Gokul Agri International Ltd. is visible, but the noticee has not submitted any supportive documents like Contract, Invoices, Consignment Notes, Payment Receipts, Ledger Account of M/s. Gokul Agri International Ltd. etc. The noticee should have provided the documents and data to justify that they are not liable to Service tax on the Transportation services, if any, provided by them. Further, in absence of any data, consignment notes, LRs or any specific clarification, no exemption from Service tax can be accorded to them for other recipients. Hence, the noticee is liable to pay service tax on the income earned by them for providing transport services."*

10. The appellant have strongly contended that during the period F.Y. 2016-17 they have provided services related to 'Transportation of Milk by Road' which merits exemption from Service Tax in terms of Notification No. 25/2012-ST dated 20.06.2012. In the P&L A/c, they have shown income of Rs. 1,74,451/- under commission income and Rs. 3,63,88,070/- under Gross Contract Income. They claim that their services of Milk Transportation amounting to Rs. 3,63,88,070/- stands exempted from Service Tax. However, they could not produced relevant documents evidencing that the amount of Rs.3,63,88,070/- pertains to income received from 'GTA Services' rendered for transportation of Milk. As per Form-26 AS they have also provided services to M/s. Gokul Agri International Ltd and it appears that the service rendered was not in respect of transportation of milk as no evidence was



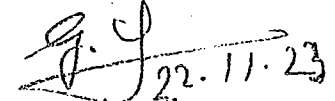
produced to this effect. Further, they also failed to submit a reconciliation statement for the F.Y. 2016-17, showing the bifurcation of exempted income as claimed under said notification; commission income and GTA service income rendered where the 25% liability under RCM lies on them. In absence of any documentary evidence like consignment notes, contracts regarding 'GTA Service' the claim of the appellant does not merit acceptance.

11. Accordingly, I find that the matter needs detailed examination to verify the eligibility of exemption claimed by the appellant. Hence, I am of the considered view that in the interest of justice, the matter needs to be remanded back to the adjudicating authority for detailed verification of documents.

12. I, therefore, set aside the impugned order and remand the matter back to the adjudicating authority for de-novo adjudication. The adjudicating authority should consider the facts of the case and the submissions of the appellant and issue a reasoned speaking order after following the principles of natural justice.

13. अपील कर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

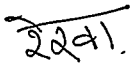
The appeal filed by the appellant stands disposed of in above terms.

  
ज्ञानचंद जैन

आयुक्त (अपील्स)

Dated: 22<sup>nd</sup> November, 2023

सत्यापित/Attested :



रेखा नायर

अधीक्षक (अपील्स)

सी जी एस टी, अहमदाबाद



**By REGD/SPEED POST A/D**

To,  
M/s Sureshbhai Laxmanbhai Chaudhary,  
Opp. Dudhsagar Dairy,  
Highway, Mehsana, Gujarat-384002

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1. The Principal Chief Commissioner, CGST and Central Excise, Ahmedabad.
2. The Commissioner, CGST and Central Excise, Gandhinagar
3. The Joint Commissioner, CGST & CEX, Gandhinagar Commissionerate.
4. The Superintendent (Systems), CGST, Appeals, Ahmedabad, for publication of OIA on website.
- ~~5.~~ Guard file.
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