



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:- 20231264SW000022102A

(क)	फ़ाइल संख्या / File No.	GAPPL/COM/STP/3017/2023-APPEAL / 9113-12
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-153/2023-24 and 06.12.2023
(ग)	पारित किया गया / Passed By	श्री ज्ञानचंद जैन, आयुक्त (अपील्स) Shri Gyan Chand Jain, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	07.12.2023
(ङ)	Arising out of Order-In-Original No. AHM-CEX-003-ADC-RKJ-012-22-23 dated 20.03.2023 passed by the Additional Commissioner, CGST, Gandhinagar Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Vishwa Construction, 6, Narayan Homes, B/h Satyamev Hospital, Chandkheda, Ahmedabad, Gujarat- 382424

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, 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 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 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 हों।

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 भीतर मूल-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 संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

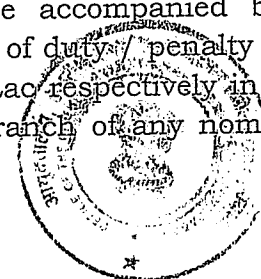
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-
Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(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 crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public



sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

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

(4) न्यायालय 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।

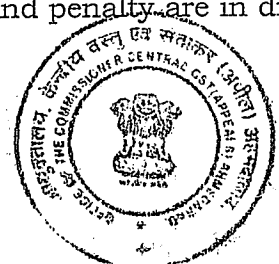
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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



ORDER IN APPEAL

M/s. Vishwa Construction, 6, Narayan Homes, B/h Satyamev Hospital, Chankheda, Ahmedabad, Gujarat-382424 (hereinafter referred to as '*the appellant*') have filed the present appeal against the Order-in-Original No. AHM-CEX-003-ADC-RKJ-012-22-23 dated 20.03.2023 (in short '*impugned order*') passed by the Additional Commissioner, Central GST, Gandhinagar Commissionerate (hereinafter referred to as '*the adjudicating authority*'). The appellant were engaged in providing Works Contract service and were holding Service Tax Registration No. AAMFV1079LSD002.

2. The facts of the case, in brief, are that based on the data received from the Central Board of Direct Taxes (CBDT) for the F.Y. 2015-16 and 2016-17, it was noticed that the appellant had earned substantial income by providing taxable services. However, they did not pay service tax on such income. Letters were, therefore, issued to the appellant to provide the details of the services provided during the F.Y. 2015-16 and F.Y. 2016-17 and explain the reasons for non-payment of tax and provide the certified documentary evidences for the same. The appellant neither provided the documents nor submitted any reply justifying the non-payment of service tax on such receipts. The service tax was therefore calculated on the income reflected under the heads "Sales / Gross Receipts from Services (Value from ITR)" or "Total Amount paid / credited under Section 194C, 194I, 194H, 194J (Value from Form 26AS)" of the Income Tax Act, 1961, on which no tax was paid.

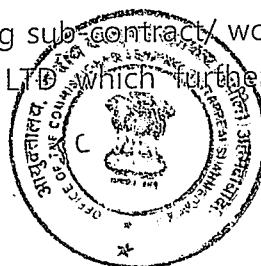
<i>F.Y.</i>	<i>Value from ITR or Value of Form 26AS</i>	<i>Service tax rate</i>	<i>Service Tax Payable</i>
2015-16	6,70,01,398/-	14.5%	97,15,202/-
2016-17	6,51,87,537/-	15%	97,78,130/-
		TOTAL	1,94,93,332/-

2.1 A Show Cause Notices (SCN) bearing No. ADC-PMR-032/21-22 dated 22.04.2021 was issued to the appellant proposing recovery of service tax amount of Rs. 1,94,93,332/- along with interest; under Section 73(1) and Section 75 of the Finance Act, 1994. Imposition of penalties under Section 77(2), section 77(3)(c) and Section 78 of the Finance Act, 1994 were also proposed.

3. The said SCN was adjudicated vide the impugned order wherein the service tax demand of **Rs. 77,97,333/-** was confirmed alongwith interest. Penalty of Rs. 10,000/- under Section 77(2); penalty of Rs. 75,200/- u/s 77(2)(c) and penalty of Rs. 77,97,333/- was also imposed under Section 78 of the Finance Act. Appropriated the Service tax amount of Rs.1,96,230/- already paid by the appellant against the tax liability. However, remaining demand of Rs.1,14,99,769/- was dropped.

4. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal, on the grounds elaborated below:-

- The appellant is Partnership Firm providing sub-contract/ work contract service to M/s. MEGHA ENG & INFRASTRUCTURE LTD which further provides service to



Central and State Government. These services are exempted from Levy of Service Tax under Finance Act 1994.

- The appellant were allotted mainly five difference project from M/s. MEGHA ENG & INFRASTRUCTURE LTD under various work orders for FY 2015-16 and FY 2016- 17.

A) Karannagar Dadhusan Pipeline Project.

B) Sauni Yojana L1P3 canal to canal connecting work

C) Construction of effluent treatment plant for ONGC Mehsana site

D) Storage tanks construction projects at kadi site for ONGC (taxable supply and service tax paid on such services)

E) MS Pipe Pushing work for water transmission at Tanzania Site under contract with India-African government joint venture under export of services.

- From the above mentioned list of service provided, it is clearly mention in copy of work order that service tax is not applicable and exempted from levy of service tax. The services listed at Sr. No (a), (b), (c) are exempted vide notification Mega Notification 25/2012 dated 17th March 2012 as are covered under Clause 12 and 13 of the said notification. Further, as per clause 29 (h) of the aforesaid notification, services of sub-contractor are exempted if the sub-contractor providing services by way of works contract to another contractor providing works contract services are also exempt.
- The above mentioned service is exempt from levy of service tax and we had not collected and paid service tax on aforementioned service other than Construction of Storage Tanks Construction Projects at Kadi for ONGC for which we had paid service tax after applying all the abatement and working which are applicable as per service tax provisions and rules. A Sample Work order copy was asked by department officer and we had submitted. We can also submit all copy of invoice along-with work order copy.
- Construction of Effluent Treatment Plant for ONGC Mehsana Site is not in factory premises the same were mentioned in Original Work Order Copy in ONGC to M/s. MEGHA ENG & INFRASTRUCTURE LTD' is provided and in that copy also it is mentioned that service tax is not applicable. Construction of ETP Plant was further sub-contracted to us and on that basis M/s. MEGHA ENG & INFRASTRUCTURE LTD.
- In case of Karannagar Dadhusan Water Pipeline Project and Sauni Yojana Pack -3 in which Canal to Canal Construction work is covered under Clause 12 of Mega Notification 25/2012 dated 17March 2012.
- All the service related and ancillary to above mentioned work are also exempted to service tax like construction of office room at canal, dam and other irrigation site. The contention of officer is not valid and Service tax is not applicable on all services provided by under these projects are exempted from levy of service tax.
- Storage Tanks Construction Projects at Kadi Site for ONGC is chargeable to service tax we had taken service tax number as we allotted work order copy and for the



said work contract we had paid service tax and return were also filed for such work contract services. The said service is covered under provision of body corporate where 50% service tax was paid by service recipient and 50% by service provider.

- We had filed our service tax return along with our service tax liability on taxable services. We were fulfilling all the requirements of provision of service tax.

5. Personal hearing in the case was held on 28.11.2023. Shri Jayantibhai Koyatiya Partner of the appellant firm appeared and reiterated the submissions made in appeal memorandum. He stated that he will submit additional written submissions by 29.11.2030. In view of above, he requested to set-aside the impugned order.

5.1 The appellant vide letter dated 28.11.2023, filed additional written submission wherein they provided the breakup of the nature of service rendered during the F.Y. 2014-15 and F.Y. 2016-17. They claim that during said period they rendered service valued at Rs. 13,21,88,935/- which are exempted in terms of mega Notification No. 25/2012-ST dated 20.06.2012. Further, they claim that the services of MS Pipe Pushing Work for Water Transmission at Tanzania (Africa) were allotted to M/s. Mega Engineering & Infrastructure Ltd by Govt. of Tanzania which is exempted as it should be treated as export of service for M/s. Mega Engineering & Infrastructure Ltd. They claim that M/s. Mega Engineering & Infrastructure Ltd further allotted the above mentioned work contract to them and the appellant had provided labour on work permit visa to complete the work and payment is received from M/s. Mega Engineering & Infrastructure Ltd. As the above service is export of service for M/s. Mega Engineering & Infrastructure Ltd, the appellant did not charge any service tax from the main contractor. They however admit that they have not satisfied the conditions stipulated in Rule 6A of the Service Tax Rules, 1994, hence, they provided the working of the service tax liability and accept the tax liability of Rs.76,247/- plus interest, which they are ready to pay. Furthermore, they claimed that the Storage Tanks & Construction Projects Ahmedabad Assets of ONGC were allotted to them and on which they have discharged payment of service tax. They also provided the break-up of the Service tax paid and claim to have paid Rs.1,96,230/-.

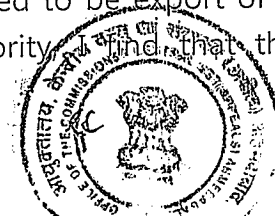
6. I have carefully gone through the facts of the case, grounds of appeal, submissions made in the appeal memorandum, submissions made in the additional submissions and the documents available on record. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority, confirming the service tax demand of **Rs. 77,97,333/-** along with interest and penalty, in the facts and circumstance of the case, is legal and proper or otherwise. The demand pertains to the period F.Y 2015-16 and F.Y. 2016-17.

6.1 It is observed that the adjudicating authority in the impugned order dropped the demand of Rs.1,14,99,769/- and confirmed the tax demand of Rs.77,97,333/-. He recorded following findings:-

- a) Out of total income of Rs.6,70,01,398/- received, the appellant could not produce copies of the work orders in respect of services (valued at Rs.1,43,77,736/-) listed at Table-D of impugned order. Hence, reconciliation of this amount is not done.



- b) The income of Rs.25,87,200/- claimed to be export of service by the appellant was denied on the grounds that the appellant has not received the payment for such services in convertible foreign exchange.
- c) For the income of Rs.4,17,27,831/- received for providing civil work, like construction of storage tank, compound wall and ETP (effluent Treatment Plant) at ONGC, the adjudicating authority observed that the appellant had paid Service Tax of Rs.1,96,230/- on the income of Rs.68,72,294/-. On the remaining income of Rs.3,48,55,537/- the appellant has claimed exemption as per clause 12(A) of the Notification No.25/2112-ST dated 20.06.2012 read with clause 29(h) of the said notification but the adjudicating authority observed that construction of storage tank and compound wall to ONGC is not irrigation work as the storage tanks are used for storage of petroleum products and hence not eligible for exemption. Similarly, he observed that the ONGC being a factory, as per Factories Act, 1948, income received from construction of ETP at ONGC is not eligible for exemption as per clause 13 (d) of the notification.
- d) In respect of the work done at Karannagar Dhadhusa Canal and SAUNI Yojna Pack-3 (Saurashtra Narmada Avtaran Irrigation-SAUNI), the appellant has claimed exemption as per Clause 12(A) of the Notification No. 25/2012-ST dated 20.06.2012 read with clause 29(h) of the said notification. The adjudicating authority however observed that except the contract listed at Sr.No.4 of the Table given in Para-27 of the impugned order, all the contracts were entered after 01.03.2015 hence are not eligible for exemption as the exemption has been restricted to services rendered under a contract which had been entered prior to 01.03.2015 and on which appropriate duty has been paid prior to that date. As regards the contract listed at Sr.No-04 of the table, the adjudicating authority observed that the appellant could not produce copy of main contract entered between M/s. Mega Engg. & Infrastructure Ltd and Governmental Irrigational department, hence it cannot be ascertained that the notice has provided services which is exempted from payment of Service tax.
- e) The adjudicating authority granted 40% abatement on the gross receipts in terms of Rule 2A(ii) (A) of the Service Tax (Determination of Value) Rules, 2006, considering the works contract service as original work. He thereafter arrived at the differential demand of Rs. 77,97,333/-.
7. The appellant in the appeal have contested that the adjudicating authority has not considered the exemption available to them. On the issue discussed at point (a) above, the adjudicating authority held that out of total income of Rs.13,21,88,935/- (Rs.6,70,01,398/- for F.Y. 2015-16 & Rs. 6,51,87,537/- for the F.Y. 2016-17), the appellant could not produce any work orders to prove that the services valued at Rs.1,43,77,736/- (as listed at Table-D of impugned order) are exempted. The appellant however claim that the income of Rs.13,21,88,935/- is exempted except the income of Rs. 70,68,524/- on which they have already discharge the tax liability.
8. On the total income of **Rs.25,87,200/-** claimed to be export of service on which exemption, was denied by the adjudicating authority and that the appellant has



accepted their tax liability. However, they claim that they are eligible for 60% abatement and also the abatement of 50% in terms of Serial No. 9 of the Notification No.30/2012-ST dated 20.06.2012. Accordingly, they claim the tax liability shall come to Rs.76,247/-. However, it is observed that the appellant have not submitted the works contract, to examine whether they are eligible for 60% abatement. I, therefore, find that the adjudicating authority shall re-examine this claim of the appellant and pass a speaking order recording the break-up of the income, abatement and the tax liability considering the nature of service rendered.

9. For the income of Rs. 4,17,27,831/- received for providing civil work, like construction of storage tank, compound wall and ETP (Effluent Treatment Plant) at ONGC, the adjudicating authority observed that the appellant had paid Service Tax of Rs.1,96,230/- on the income of Rs.68,72,294/-. On the remaining income of **Rs.3,48,55,537/-** the appellant has claimed exemption as per clause 12(A) of the Notification No.25/2112-ST dated 20.06.2012 read with clause 29(h) of the said notification. But the adjudicating authority held that construction of storage tank and compound wall to ONGC is not irrigation work as the storage tanks are used for storage of petroleum products and hence not eligible for exemption. Similarly, he held that the ONGC is a factory, as per Factories Act, 1948. Hence, income received from construction of ETP at ONGC is not eligible for exemption as per clause 13 (d) of the notification. The appellant though claim that the services rendered to ONGC were in respect of operation in the oil field including effluent operation which fall under Miners Act 1952 and does not fall under Factory Act, 1948, hence eligible for benefit of exemption. It is observed that the appellant was entrusted the work of Construction of 3-ETPs alongwith laying of associated GRE Pipelines at Mehsana Assets. The appellant also produced a declaration dated 10.09.2012 from Project Engineer, ONGC stating that the said work contract granted to M/s. Mega Engineering & Infrastructures Ltd was carried out in the oil field including effluent operations falls under the Mines Act, 1952 and does not fall under the Factory Act, 1948. As this work was further sub-contracted to the appellant, I find that the above declaration shall apply to appellant's case also hence this aspect needs to be remanded to the adjudicating authority for re-examination.

10. In respect of the work done at Karannagar Dhadhusa Canal and SAUNI Yojna Pack-3 (Saurashtra Narmada Avtaran Irrigation-SAUNI), the adjudicating authority however observed that exemption shall not be admissible for the contracts entered after 01.03.2015 and for the contract listed at Sr.No.4 of the Table given in Para-27 of the impugned order, the appellant could not produce copy of main contract entered between M/s. Mega Engg. & Infrastructure Ltd and Governmental Irrigational department, hence it cannot be ascertained that the notice has provided services which is exempted from payment of Service tax. The appellant in the break-up provided the value of service in respect of above works contract. They claim that they have received income of **Rs.3,42,35,096/-** for work done at Karannagar Dhadhusa Canal and **Rs.5,34,42,579/-** for work done at SAUNI Yojna Pack-3 (Saurashtra Narmada Avtaran Irrigation-SAUNI). However, even in the appellate stage they could not produce work contract wherein the above work was entrusted to them. Hence, I do not find any reasons to interfere in the findings of the adjudicating authority.



11. I therefore find that in the interest of justice it would be proper to remand the case back to the adjudicating authority to decide the matter afresh for examining the nature of service rendered and the abatement, if any, admissible to the appellant in light of my findings at **para- 8 and 9** above. The adjudicating authority shall decide the case afresh on merits and accordingly pass a reasoned order, following the principles of natural justice.

12. In view of above discussion, I set-aside the impugned order and allow the appeal of the appellant by way of remand.

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

(ज्ञानचंद जैन)

आयुक्त (अपील्स)

Date: 06.12.2023

Attested

(रेखा नायर)

अधीक्षक (अपील्स)

केंद्रीय जीटी.एस., अहमदाबाद



By RPAD/SPEED POST

To,

M/s. Vishwa Construction,
6, Narayan Homes,
B/h Satyamev Hospital, Chankheda,
Ahmedabad, Gujarat-382424

- Appellant

The Additional Commissioner
CGST, Gandhinagar

- Respondent

Copy to:

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Gandhinagar.
3. The Assistant Commissioner, CGST, Division-Gandhinagar, Gandhinagar
4. The Assistant Commissioner (System), CGST, Appeal, Ahmedabad.
(For uploading the OIA)
5. Guard File.

