



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:- 20240264SW0000094881

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| (क) | फ़ाइल संख्या / File No.   | GAPPL/COM/STP/3020/2023-APPEAL/१६६२-६६   |
| (ख) | अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date   | AHM-EXCUS-003-APP-198/2023-24 and 28.02.2024   |
| (ग) | पारित किया गया / Passed By  | श्री ज्ञानचंद जैन, आयुक्त (अपील्स)<br>Shri Gyan Chand Jain, Commissioner (Appeals)                 |
| (घ) | जारी करने की दिनांक / Date of issue   | 28.02.2024   |
| (ङ) | Arising out of Order-In-Original No. AC/S.R./70/ST/KADI/2022-23 dated 28.03.2023 passed by the Assistant Commissioner, CGST, Division - Kadi, Gandhinagar Commissionerate |  |
| (च) | अपीलकर्ता का नाम और पता / Name and Address of the Appellant   | M/s Rajeshbhai Parmanandbhai Shukla, 1-2nd Floor, Parmanand Plaza, Thol Road, Kadi, Gujarat-382715 |

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:-

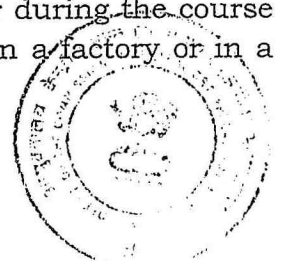
**Revision application to Government of India:**

(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 प्रकिया के दौरान हुई हो।

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.



(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

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

(घ) अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं 2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतरमूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ का मुख्य शीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(3) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख 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.

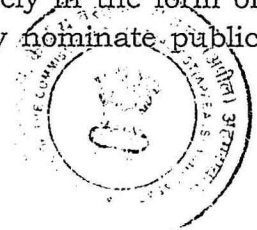
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-  
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 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 शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची -1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूलआदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रतिपर रू 6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन और 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) घंड (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।

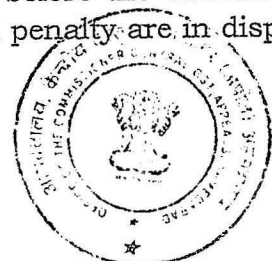
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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

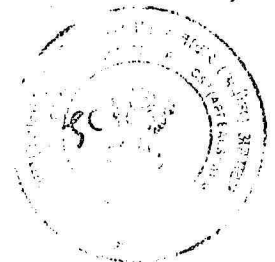
The present appeal has been filed by M/s Rajeshbhai Parmanandbhai Shukla, 1-2nd Floor, Parmanand Plaza, Thol Road, Kadi, Gujarat-382715 [hereinafter referred to as “the appellant”] against Order in Original No. AC/S.R./70/ST/KADI/2022-23 dated 28.03.2023 [hereinafter referred to as “the impugned order”] passed by the Assistant Commissioner, CGST, Division – Kadi, Gandhinagar Commissionerate [hereinafter referred to as “the adjudicating authority”].

2. Briefly stated, the facts of the case are that the appellant were not registered under Service Tax and were holding PAN No. AOSPS6527C. As per information received from the Income Tax Department, it was observed that during the period F.Y. 2016-17, the appellant had earned substantial service income by way of providing taxable services, but had neither obtain Service Tax Registration nor paid Service Tax thereon. Accordingly, in order to seek information, letter dated 01.10.2021 & 14.10.2021 were issued to the appellant calling for the details of services provided during the period F.Y. 2016-17 & F.Y. 2017-18 (upto June-2017). They have submitted vide letter dated 18.10.2021. Further, the jurisdictional officers considering the services provided by the appellant as taxable determined the Service Tax liability for the F.Y. 2016-17 & F.Y. 2017-18 (upto June-2017) on the basis of value of ‘Sales of Services’ under Sales/Gross Receipts from Services (Value from ITR) and Form 26AS for the relevant period.

3. The appellant was issued Show Cause Notice No. GEXCOM/SCN/ST/10115/2021-CGST-DIV-KADI-COMMRTE-GANDHINAGAR dated 21.10.2021 (in short SCN) proposing to demand and recover Service Tax amounting to Rs.5,88,358/- for F.Y. 2016-17 & F.Y. 2017-18 (upto June-2017) 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 Section 70, Section 77 and Section 78 of the Finance Act, 1994.

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

- Service Tax demand of Rs.4,20,610/- was confirmed under Section 73(1) of the Finance Act, 1994 alongwith interest under Section 75 of the Finance Act, 1994.



- Penalty of Rs.4,20,610/- was imposed under Section 78 of the Finance Act,1994 with option for reduced penalty in terms of clause (ii).
- Penalty of Rs.10,000/- was imposed under Section 77 of the Finance Act, 1994.
- Penalty of Rs.20,000/- was imposed under Section 70 of the Finance Act, 1994.

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

- At the outset, they object the impugned Order which imposes Service Tax of Rs.4,20,610/- in its entirety as being fallacious and incorrect and are based entirely on assumptions and presumptions and without appraising the facts and circumstances in the legal perspectives and adjudication being on the grounds which are arbitrary and legally not tenable and which are also contrary to the settled law position by various honorable Courts, honorable Advance Ruling Authority, and Intention of legislature.
- Adjudicating Authority has tried to justify issuance of SCN on the ground of contraventions of provisions of Finance Act, 1994 and Service Tax Rule, 1994 on illusory grounds because your office has no cogent and tenable materials/information to take benefits of extended period of five years to issue SCN. In absence of cogent information, you are raising allegations on assumptions and presumptions which are not tenable under any law.
- SCN is barred by limitation. The said section lays down a time limit of 30 months from the relevant date. The relevant date is separately provided under section 73(6) as the date when the return was due to be filed.
- The Adjudicating Authority has erred in law and on facts in considering services of construction of a single residential unit as taxable and imposing unwarranted and legally untenable service tax on the same.
- The Adjudicating Authority has erred in law and on facts in considering rental income from renting or leasing of residential house as taxable service and imposing unwarranted and legally untenable service tax on the same.

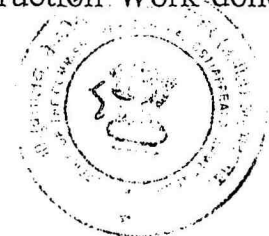


- The Adjudicating Authority has erred in law while denying the threshold basic exemption of Rs. 10 Lakhs in terms of Notification No. 33/2012-ST dated 20.06.2012.
- Therefore, the order of the Adjudicating Authority/proper officer in confirming and imposing tax on the said supply of exempt services is bad in law and untenable at law and contrary to the facts of the case. The Adjudicating Authority has thus erred in confirming and imposing an interest u/s 75 and a penalty u/s 70, 77, and 78 of the Finance Act, 1994.
- The order of the Adjudicating Authority is bad in law, illegal, unjustified and against the principles of natural justice.

6. Personal Hearing in the case was held on 24.01.2024. Shri Piyush Somnath Patel, Chartered Accountant and Shri Rutvik Piyush Patel, Advocate, appeared for personal hearing on behalf of the appellant. They submitted additional written submission and reiterated its content and requested to allow their appeal.

6.1 Subsequently, the appellant submitted additional written submission during the course of hearing, wherein they inter alia submitted the following grounds :

- The appellant is running business of providing services of the Construction of Single Residential House with materials on small scale basis and during the financial year 2016-17 has booked sale of services of construction work to the extent of Rs. 22,98,850 and declared the said income in Income Tax return. Further the appellant has residential house property in residential society jointly owned by appellant and his spouse which are rented/leased for residential purposes and during the financial year 2016-17 has earned rental income of Rs. 11,20,300/- In short your Taxpayer/Appellant is not providing any taxable service which is taxable in his hands.
- Appellant further submitted detailed reply with submissions and objections to the SCN, however they are not considered by AA. Appellant had submitted copies of Invoices for construction work income.
- Appellant has also explained that the construction services is for construction work of single residential unit and it is very revealing from the description in the invoice itself that it is original work and not repairs. Construction Work done



includes work of brick work, masonry plaster work etc and with materials. Ld AA has ignoring the settle law position ignored the explanation of Appellant that the said construction work is not the construction of single residential house. further Ld AA has considered that the services supplied by the Noticee is of composite nature supplied with goods involved therein and for renovation purpose and imposed service tax on 70% of total value of service supplied of Rs. 22,98,850/-. Ld AA has not considered self explanatory description in Invoices submitted that the work is for single residential unit and work is for bricks work, plaster work, plumbing work etc is for construction of self contained room(s) which by nature themselves indicates original work, however, Ld AA without asking for further information/explanation acted casually and informally without applying mind inferred that it is not original work and treated them as repair/renovation work.

- The adjudicating authority has been given the details of rental income earned by letting residential\_house to various tenants during the relevant period for residential use.
- The adjudicating authority has not demanded the information regarding FY 2015-16 and directly on presumption and assumption denied the exemption limit of Rs. 10 Lakhs in terms of Notification No. 33/2012-ST dated 20.06.2012.
- The adjudicating authority has erred in ignoring the express provisions contained in Section 66D Clause (m) which expressly excluded renting of residential dwelling for use as residence from Service Tax Net. we reproduce relevant provisions hereunder:-

SECTION 66D. Negative list of services.— The negative list shall comprise of the following services, namely :—

(a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere— .....

(b) .....

(m) services by way of renting of residential dwelling for use as residence;.....

- They have produced Certificate from Managing Body of Society wherein the impugned immovable property is situated which clearly indicate the house property in this society are strictly used for residence purposes and Municipality Tax Bill and Electricity Bills are also attached which also indicates the property is residential house and is being used for residential purposes.



- The adjudicating authority has erred in law and on facts in considering services of construction of a single residential unit as taxable and imposing unwarranted and legally untenable service tax of Rs. 2,38,715 on the same.
- Appellant craves liberty to reproduce the definition of “ Construction of Complex, Construction of Residential Complex and legal position settled by CESTAT as under:-

*Section 65 (30a) of the Finance Act deals with „construction of complex“ and is defined as follows:-*

*65 (30a) - “construction of complex” means –*

*(a) Construction of a new residential complex or a part thereof;*

*or*

*(b) Completion and finishing services in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services;*

*or*

*(c) Repair, alteration, renovation or restoration of, or similar services in relation to, residential complex;*

*“(91a) “residential complex” means any complex comprising of-*

*(i) a building or buildings, having more than twelve residential units;*

*(ii) a common area; and*

*(iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system, located within a premises and the layout of such premises is approved by an authority under any law for the time being in force, but does not include a complex which is constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.*

*Explanation: For the removal of doubts, it is hereby declared that for the purposes of this clause.-*

*(a) “personal use” includes permitting the complex for use as residence by another person on rent or without consideration;*





(b) "residential unit" means a single house or a single apartment intended for use as a place of residence;"

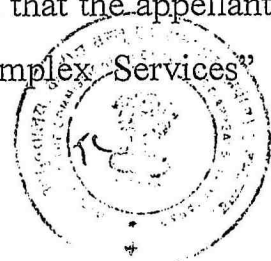
*The definition of a "residential complex" leaves no manner of doubt that it would be a complex comprising of a building or buildings, having more than twelve residential units. In other words a complex may have a building having more than twelve residential units or a complex may have more than one building each having more than twelve residential units. Independent buildings having twelve or less than twelve residential units would not be covered by the definition of "residential complex". In the present case, the appellant had constructed independent buildings having one residential unit only. Thus, even if the appellant had constructed more than 12 independent buildings, the nature of activity would not be "construction of complex" and, therefore, the service tax could be levied.*

➤ The Appellant relies on the following Judgments which has settled law on this issue:-

- M/s.Lakhlan & Qureshi Construction Company vs. Commissioner of Central Excise and Service Tax, Jaipur-15. (Service Tax Appeal No.55701 of 2014 decided on 14 October, 2019);
- PRINCIPAL BENCH of CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL-NEW DELHI in Shri Prakash Wadhvani v. Commissioner, Central Excise, Customs and Service Tax, Bhopal (Service Tax Appeal No.52243 of 2016 [DB])

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, 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.4,20,610/- 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 & F.Y. 2017-18 (upto June-2017).

8. Examining the submissions made by the appellant, I find that the appellant are engaged in the activity of "Construction of Residential Complex Services" and



renting of immovable property service. I would like to discuss the issue service wise one by one.

8.1. On perusing the demand confirmed in respect to construction of Residential Complex Services the appellant contended that the construction service they provide is exempted from service tax payment as per Sr. No. 14(b) of the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012, which exempts service related to construction of single residential units not forming part of residential complex. To prove that the appellant would provide service related to construction of single residential unit, they have furnished sales invoices. However, upon scrutinizing the sales invoices submitted by the appellant to support their claim, it is observed that the residential units were not single residential units but rather part of a residential complex. In addition to that I agree with the finding of the adjudicating authority pertaining to the matter whether the construction work provided qualifies as an original work or as repair/renovation work. Therefore, I find that the exemption provided under Sr. No. 14(b) of Notification No. 25/2012-ST dated June 20, 2012, is not applicable to the appellant concerning to construction services for residential units. However, on perusing the sample sales vouchers on records and perusing the impugned order it was found that the appellant provided works contract services for completion, finishing, repair, alteration, renovation, restoration, or similar services as defined in Section 65(105)(zzzza) of the Finance Act, 1994. I also agree with the findings of impugned order that since the services provided by the appellant included both goods and renovating service, service tax will be applied to 70% of the total value of the service supplied.

8.2 In respect to the demand confirmed for the service of Renting of immovable property provided by the appellant, I have gone through the impugned order and find that appellant claimed exemption from service tax on rental income from an educational institution based on a entry No. 9(b) of the Notification No. 25/2012-ST dated 20.06.2012. However, they overlooked an amendment vide Notification No. 06/2014-ST dated 11.07.2014 which removed exemption from payment of service tax in relation to rent income on immovable property rented out to an educational institution. Thus, their rental income is subject to service tax. Consequently, the demand for service tax confirmed by the adjudicating authority is justified and liable to be upheld.



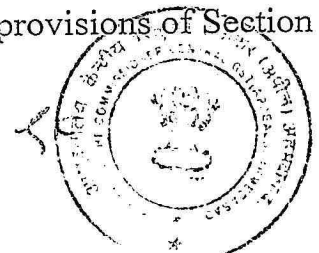
8.3 However, upon examining the ITR & Financial Statements submitted by the appellant, I find that that the appellant's sale of services income is only Rs.5,38,212/- in the F.Y. 2015-16, which remains below the threshold exemption limit as per the Notification No. 33/2012-ST dated 20.06.2012. Hence, I find that the appellant is eligible for benefit of threshold exemption in F.Y. 2016-17. Accordingly, the details are furnished in table as below:

| Sr. No.   | Description  | Amount (in Rs.)   |                          |
|-----------|--|-------------------|--------------------------|
|           |  | 2016-17           | 2017-18 (Upto June-2017) |
| A.1.      | Income from Construction of Residential Complex service centre   | 22,98,850/-       | 0/-                      |
| A.2.      | Taxable Value after abatement on Income from Construction of Residential Complex service in terms of Rule 2A of Service Tax Determination of value Rules, 2006 (A.1 @ 70%) | 16,09,195/-       | 0/-                      |
| A.3.      | Availment of benefit of threshold exemption by virtue of Notification No. 33/2012-ST dated 20.06.2012  | 10,00,000/-       | 0/-                      |
| A.4.      | Net Taxable Income from Construction of residential services (A.2 – A.3)   | 6,09,195/-        | 0/-                      |
| A.5.      | Service Tax on construction of residential services  | 91,379/-          | 0/-                      |
| B.1.      | Service Tax on Renting of Immovable Property Services  | 1,81,895/-        |                          |
| A.5.+B.1. | <b>Total Service Tax</b>   | <b>2,73,274/-</b> |                          |

8.4 In view of the above shown table, I find the the appellant are liable to pay service tax amounting to Rs.2,73,274/- along with interest and penalty.

9. In view of the above discussions and findings, I pass the following order in appeal.

- (i) I uphold the Service Tax demand of Rs.2,73,274/- only under the provisions of Section 73(1) of the Finance Act,1994 along with interest at applicable rate on the upheld demand of service tax under Section 75 of the Finance Act, 1994.
- (ii) I uphold the penalty of Rs.2,73,274/- only under the provisions of Section 78 of the Finance Act, 1994.



(iii) I uphold the penalty of Rs.10,000/- under the provisions of Section 77 of the Finance Act, 1994.

(iv) I uphold the penalty of Rs.20,000/- under the provisions of Section 70 of the Finance Act, 1994.


10. 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: 28<sup>th</sup> February, 2024

सत्यापित/Attested :

  
मनीष कुमार  
अधीक्षक (अपील्स)  
सी जी एस टी, अहमदाबाद



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2. The Commissioner, CGST and Central Excise, Gandhinagar
3. The Assistant Commissioner, CGST, Division – Kadi, Gandhinagar  
Commissionerate.
4. The Superintendent (Systems), CGST, Appeals, Ahmedabad, for publication of  
OIA on website.
5. Guard file.
6. PA File.