



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
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| (क) | फाइल संख्या / File No. | GAPPL/COM/STP/1141/2022-APPEAL / 2122 - 26 |
| (ख) | अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date | AHM-EXCUS-003-APP-035/2023-24 and 26.05.2023 |
| (ग) | पारित किया गया / Passed By | श्री अखिलेश कुमार, आयुक्त (अपील) Shri Akhilesh Kumar, Commissioner (Appeals) |
| (घ) | जारी करने की दिनांक / Date of issue | 12.06.2023 |
| (ङ) | Arising out of Order-In-Original No. 179/AC/DEM/MEH/ST/Pooja Construction/2021-22 dated 31.03.2022 passed by the Assistant Commissioner, CGST, Division-Mehsana, Gandhinagar Commissionerate | |
| (च) | अपीलकर्ता का नाम और पता / Name and Address of the Appellant | M/s Pooja Construction Co., 21, Harikrupa Society, B/h Dharam Cinema, Nr. Hinglaj Society, Mehsana, Gujarat-384002 |

कोई व्यक्ति इस अपील-आदेश से असंतोश 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 अंततः 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 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 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, अपीलों 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-8 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 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) 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 Pooja Construction Co., 21, Harikrupa Society, B/H – Dharam Cinema, Near Hinglaj Society, Mehsana - 384002 (hereinafter referred to as the appellant) against Order in Original No. 179/AC/DEM/MEH/ST/Pooja Construction/2021-22 dated 01/04/2022 [hereinafter referred to as “*impugned order*”] passed by the Assistant Commissioner, CGST, Division : Mehsana, Commissionerate : Gandhinagar [hereinafter referred to as “*adjudicating authority*”].

2. Briefly stated, the facts of the case are that the appellant were holding Service Tax Registration No. AARFP8238JSD001 for providing taxable services. As per the information received from the Income Tax department, discrepancies were observed in the total income declared by the appellant in their Income Tax Return (ITR) when compared with Service Tax Returns (ST-3) filed by them for the period F.Y. 2015-16 and F.Y. 2016-17. Accordingly, letter dated 08.05.2020 was issued to the appellant through e-mail calling for the details of services provided during the period F.Y. 2015-16 and F.Y. 2016-17. The appellants did not submit any reply. The services provided by the appellant during the relevant period were considered taxable under Section 65 B (44) of the Finance Act, 1994 and the Service Tax liability for the F.Y. 2015-16 and F.Y. 2016-17 was determined on the basis of value of ‘Sales of Services’ under Sales/Gross Receipts from Services (Value from ITR) or “Total amount paid/credited under Section 194C, 194I, 194H & 194J of Income Tax Act, 1961” shown in the ITR-5 and Form 26AS for the relevant period as per details below :

Table

| (Amount in Rs) | | | | |
|----------------|---------------|---|---------------------|-----------------------|
| Sr. No | Period | Differential Taxable Value as per Income Tax data | Rate of Service Tax | Amount of Service Tax |
| 1 | F.Y.– 2015-16 | 0 | 14.5% | 0 |
| 2 | F.Y.– 2016-17 | 21,45,605/- | 15% | 3,21,841/- |
| | | | Total | 3,21,841/- |

3. The appellant were issued Show Cause Notice vide F.No. V.ST/11A-72/POOJA/2020-21 dated 30.06.2020 (in short ‘SCN’), wherein it was proposed



- Demand and recover service tax amounting to Rs. 3,21,841/- under the proviso to Section 73 (1) of the Finance Act, 1994 alongwith Interest under Section 75 of the Finance Act, 1994 ;
- Impose penalty under Section 77(2), 77C and 78 of the Finance Act, 1994;

4. The said SCN was adjudicated vide the impugned order wherein the demand for Rs. 3,21,841/- leviable on differential taxable value of Rs. 21,45,605/- for the period F.Y. 2016-17 was confirmed under Section 73 (2) of the Finance Act, 1994 alongwith interest under Section 75. Penalty amounting to Rs. 3,21,841/- was imposed under Section 78 of the Finance Act, 1994 alongwith option for reduced penalty under clause (ii). Penalty of Rs.10,000/- was imposed under Section 77 (2) of the Finance Act, 1994 and Penalty @ Rs.200/- per day till the date of compliance or Rs. 10,000/- whichever is higher, was imposed under the provisions of Section 77 C of the Finance Act, 1994.

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

⊙ The appellant was engaged in providing Works Contract Service which was covered under RCM. These facts were not considered by the department and the demand was confirmed entirely on the basis of data received from Income Tax department which is not justifiable. In support, they further relied on the following citations :

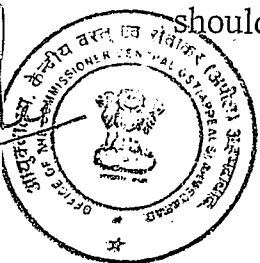
- ⊙ Decision of the Hon'ble CESTAT in the case of Regional Manager Tobacco Board Vs Commr. of C.Ex., Mysore - 2013 (31) STR 673 (Tri.Bang).
- ⊙ Decision of the Hon'ble CESTAT in the case of Anvil Capital Management (P) Ltd Vs Commr. of S.T, Mumbai - 2010 (20) STR 789 (Tri. Mum).
- ⊙ Decision of the Hon'ble CESTAT in the case of Commr. of Service Tax, Ahmedabad Vs Purni Ads Pvt.Ltd - 2010 (19) STR 242 (Tri. Ahmd).
- ⊙ Decision of the Hon'ble CESTAT in the case of Sify Technologies Vs Commissioner of Service Tax, Chennai - 2009 (16) STR 63 (Tri. Mad).
- ⊙ Decision of the Hon'ble CESTAT in the case of Bhogilal Chhagulal Vs Commr. of S.T, Ahmedabad - 2013 (30) STR 62 (Tri. Ahmd).



- ⊙ The appellant have executed works contract service to M/s ONGC (Oil and Natural Gas Commission Limited). They were providing these services with goods and service and the same are squarely covered the definition of 'Works Contract Service', which is a composite/single contract for providing transfer of property in goods as well as provision of service.
- ⊙ Citing the provisions of Rule 2A of Service Tax (Determination of value) Rules, 2006, they submitted that since they have provided Works Contract Service they were eligible for an abatement of 60% of the total value of service and therefore they are liable to pay Service Tax on the remaining 40% of the total value of service.
- ⊙ As the appellant were Service providers and are covered under the category of Individual / Hindu undivided family / partnership firm, and the service receivers wre Body corporate (M/s ONGC), the services rendered by them to ONGC are eligible for benefit of partial Reverse Charge mechanism (RCM) in terms of Notification No. 30/2012-ST dated 20.06.2012. Hence, they are liable to pay only 50% of the total service tax as the remaining 50% was required to be paid by the service receivers. Therefore, in addition to an abatement of 60% of the total value of service, they were also eligible for payment of 50% of the total service tax calculated.
- ⊙ They have submitted a sales reconciliation statement in tabulated form as shown below :

| Particulars | Amount in Rs. |
|-----------------------------------|---------------|
| Total Receipt as per ITR | 46,13,731/- |
| Abatement @ 60% | 27,68,239/- |
| Taxable @ 40% | 18,45,492/- |
| Exempt @ 50% payable by recipient | 9,22,746/- |
| Net Taxable Amount | 9,22,746/- |
| Service Tax liability @ 15% | 1,38,412/- |
| Service Tax already paid | 89,135/- |
| Net Service Tax liability | 49,277/- |

On the basis of the above tabulated statement, they have submitted that since they have paid Rs. 89,135/- during the relevant period, their demand should be reduced to Rs. 49,277/- which they are willing to pay.



⊙ The demand is time barred. Penalty under Section 78 cannot be imposed as there is no suppression of facts on part of the appellant.

⊙ They further relied on the following citations :

- Hindustan Steel Ltd Vs State of Orissa reported as AIR 1970 (SC) 253.
- Kellner Pharmaceuticals Vs CCE, reported as 1985 (20) ELT 80.
- CCE Vs Chemphar Drugs and Liniments reported as 1989 (40) ELT 276 (SC)
- Bharat Wagon & Engg.CO.Ltd Vs Commissioner of C.Ex., Patna reported as (146) ELT 118 (Tri.Kol).
- Goenka Woollen Mills Ltd Vs Commissioner of C.Ex., Shillong, reported as 2001(135) ELT 873 (Tril Kol.)
- Bhilwara Spinners Ltd. Vs Commissioner of Central Excise, Jaipur reported as 2001 (129) ELT 458 (Tri. Del).

⊙ Alongwith their appeal memorandum they submitted the following documents :

- * Copies of 05 e-receipt for Service Tax payment.
- * Copies of 04 Service Entry Sheets prepared by M/s ONGC Mehsana in respect of the work done by the appellant.

6. Personal Hearing in the case was held on 18.05.2023. Shri Vipul Khandhar, Chartered Accountant, appeared on behalf of the appellant for the hearing. He submitted a written submission during the hearing. He reiterated the submissions made in the appeal memorandum.

6.1 Vide their additional written submission, the appellant reiterated the grounds submitted in their appeal memorandum and submitted that since the issue in the case pertains to interpretation of statutes, therefore, penalty is not imposable. They re-submitted copies of the documents submitted alongwith the appeal memorandum.

7. I have gone through the facts of the case, submissions made in the Appeal Memorandum, oral submissions made during hearing and the additional written submission submitted by the appellant. The issue to be decided in the present appeal is whether the demand for Service Tax amounting to Rs. 3,21,841/-



confirmed vide the impugned order alongwith interest and penalties, in the facts and circumstances of the case, is legal and proper or otherwise. The demand pertains to the period F.Y. 2016-17.

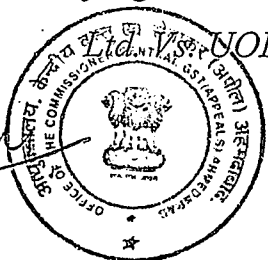
8. It is observed from the case records that the SCN in the case has been issued only on the basis of data received from the Income Tax department. The appellant is registered with the service tax department, which is apparent from the SCN, which mentions the Service Tax Registration No. of the appellant. It is also observed that the SCN has been issued without classifying the services provided by the appellant which implies that, no further verification has been caused so as to ascertain the exact nature of services provided by the appellant during the period F.Y. 2016-17. Hence, the SCN issued in this case is vague.

8.1 It is also observed that although the appellants had submitted a defence reply, the same was not considered by the adjudicating authority presumably for non-submission of documents. Further, the adjudicating authority had granted three opportunities for personal hearing in the case, which was not attended by the appellant. Hence, the impugned order has been passed on the basis of demand raised in SCN, which in turn was issued on the basis of Income Tax data.

8.2 I find that at Para 15 of the impugned order, it has been recorded that the opportunity of personal hearing was granted on 17.02.2022, 02.03.2022 and 22.03.2022 but the appellant had neither appeared for hearing nor asked for any extension and even not filed any written submission. The adjudicating authority had, thereafter, decided the case ex-parte.

8.3 In terms of Section 33A (1) of the Central Excise Act, 1944, (made applicable to Service Tax vide Section 83 of the Finance Act, 1994) the adjudicating authority shall give an opportunity of being heard. In terms of sub-section (2) of Section 33A, the adjudicating authority may adjourn the case, if sufficient cause is shown. In terms of the proviso to Section 33A (2), no adjournment shall be granted more than three times. I find that in the instant case, three adjournments as contemplated in Section 33A of the Central Excise Act, 1944 have not been granted to the appellant. I find it relevant to refer to the judgment of the *Hon'ble High Court of Gujarat* in the case of *Regent Overseas Pvt.*

NOI - 2017(6) GSTL 15 (Guj) wherein it was held that:



12. Another aspect of the matter is that by the notice for personal hearing three dates have been fixed and absence of the petitioners on those three dates appears to have been considered as grant of three adjournments as contemplated under the proviso to sub-section (2) of Section 33A of the Act. In this regard it may be noted that sub-section (2) of Section 33A of the Act provides for grant of not more than three adjournments, which would envisage four dates of personal hearing and not three dates, as mentioned in the notice for personal hearing. Therefore, even if by virtue of the dates stated in the notice for personal hearing it were assumed that adjournments were granted, it would amount to grant of two adjournments and not three adjournments, as grant of three adjournments would mean, in all four dates of personal hearing."

Considering the facts of the instant case with the legal provisions and the order of the Hon'ble High Court, I find that the impugned order has been passed in violation of principles of natural justice and is not legally sustainable.

9. I also find it relevant to refer to the CBIC Instruction dated 26.10.2021, wherein at Para-3 it is instructed that:

...
3. It is once again reiterated that instructions of the Board to issue show cause notices based on the difference in ITR-TDS data and service tax returns only after proper verification of facts, may be followed diligently. Pr. Chief Commissioner /Chief Commissioner (s) may devise a suitable mechanism to monitor and prevent issue of indiscriminate show cause notices. Needless to mention that in all such cases where the notices have already been issued, adjudicating authorities are expected to pass a judicious order after proper appreciation of facts and submission of the noticee
...

Examining the facts of the case and the specific Instructions of the CBIC, I find that the SCN and the impugned order has been issued indiscriminately and without application of mind, and is vague, being issued in clear violation of the instructions of the CBIC discussed above. Further, it is also observed that the appellants were registered with Service Tax department, however the adjudicating authority have not conducted any inquiry in the case and the impugned order was passed in the violation of principles of natural justice, hence the impugned order is legally unsustainable.

10. I also find that the appellant have, in their appeal memorandum and in additional submission, submitted various documents i.e Copies of Service Entry Sheets prepared by M/s ONGC, Mehsana in respect of the work done by the appellant in their defense. They have claimed abatement of 60% from the value of Services provided in terms of Rule 2A of Service Tax (Determination of value) Rules, 2006. Further, they have also claimed benefit of partial Reverse Charge Mechanism (RCM) in terms of Notification No. 30/2012-ST dated 20.06.2012.




These submissions of the appellant were not perused by the adjudicating authority earlier as the appellants were not able to present their case in person in their defense. Accordingly, the submissions of the appellant are being presented before this authority for the first time. Therefore, it would be in the fitness of things and in the interest of natural justice that the matter is remanded back to the adjudicating authority to consider the submissions of the appellant, made in the course of the present appeal, and, thereafter, adjudicate the matter by passing a speaking order.

11. In view of the above, I am of the considered view that the appellant have not contested the SCN properly and the matter requires submission of relevant documents and their verification before arriving at a conclusion. Further, the impugned order was passed in violation of the principles of natural justice, as discussed supra, hence, it would be in the interest of justice that the matter is remanded back to the adjudicating authority to examine the contentions of the appellant before according the benefits claimed by the appellant. Therefore, the matter is required to be remanded back for denovo adjudication by the adjudicating authority, who shall, after affording the appellant opportunity of filing their defense reply and after granting them opportunity of personal hearing, pass a speaking order.

12. Accordingly, the impugned order is set aside and the matter is remanded back to the adjudicating authority for adjudication afresh. The appellant is directed to submit their written submission alongwith all relevant documents to the adjudicating authority within 15 days of the receipt of this order. The appellant should also attend the personal hearing as and when fixed by the adjudicating authority. The appeal filed by the appellant is allowed 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 of in above terms.


(Akhilesh Kumar)
Commissioner (Appeals)
Date: 26th May, 2023

Attested:

(Somnath Chaudhary)
Superintendent (Appeals),
CGST, Ahmedabad.



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1. The Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Principal Commissioner, CGST, Commissionerate - Gandhinagar.
3. The Assistant Commissioner, Central GST Division - Mehsana,
Commissionerate : Gandhinagar.
4. The Assistant Commissioner (System), CGST, Appeals, Ahmedabad. (for
uploading the OIA)
- ✓ 5. Guard File.
6. P.A. File.



