आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
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सत्यमेव जयते

आज़ादी का अमृत महोत्सव

By SPEED POST
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(क)	फ़ाइल संख्या / File No.	GAPPL/COM/STP/2369/2022-APPEAL/1949-53
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-041/2023-24 ; dated 31.05.2023
(ग)	पारित किया गया / Passed By	श्री अखिलेश कुमार, आयुक्त (अपील) Shri Akhilesh Kumar, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	02.06.2023
(ङ)	Arising out of Order-In-Original No. 175/AC/DEM/MEH/ST/Bhavesh Enterprise/2021-22, dated 31.03.2022/01.04.2022 ' passed by the Assistant Commissioner, CGST & C.Ex., Division – Gandhinagar, Commissionerate - Gandhinagar	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	**M/s Bhavesh Enterprise,** 74 G, Umiya Shopping Center, Near Classic Plaza Highway, Mehsana Industrial Estate, Mehsana , Gujarat.

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 अतत नीचे बताए गए मामलों के बारे में पूवोक्त 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 मे 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 मामलें 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 डयूटी केडिट 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 दिनाँक 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 रूपये या उससे कम होतो रूपये 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, अंहमदाबाद में 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद-380004।

To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2ndfloor, 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. Registar 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 ओदश 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 हैं।

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 संषोधित 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 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 in 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 अपीलो 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 राशिय;
(3) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि।

यह पूर्व जमा ' लंबित अपील' में पहले पूर्व जमा की तुलना मेंए 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

M/s Bhavesh Enterprise, 74 G, Umiya Shopping Center, Near Classic Plaza Highway, Mehsana Industrial Estate, Mehsana (hereinafter referred to as the *"appellant"*) have filed the present appeal against Order-In-Original No. 175/AC/ DEM/MEH/ST/Bhavesh Enterprise/2021-22, dated 31.03.2022/01.04.2022 (hereinafter referred to as the *"impugned order"*), issued by the Assistant Commissioner, CGST & C.Ex., Division - Mehsana, Commissionerate - Gandhinagar (hereinafter referred to as the *"adjudicating authority"*) .

2. Briefly stated, the facts of the case are that the appellant were holding Service Tax Registration No. ACVPK0364NST001 for providing taxable services. As per the information received from the Income Tax department, discrepancies were observed in the total income declared in Income Tax Returns/26AS, when compared with Service Tax Returns of the appellant for the period F.Y. 2014-15. In order to verify the said discrepancies as well as to ascertain the correct discharge of Service Tax liabilities by the appellant during the F.Y. 2014-15, letter dated 19.06.2020 was issued to them by e-mail by the department. The appellant failed to file any reply to the query. It was also observed that the nature of services provided by the appellant were covered under the definition of 'Service' as per Section 65B(44) of the Finance Act, 1994, and their services were not covered under the 'Negative List' as per Section 66D of the Finance Act, 1994. Further, their services were not exempted vide the Mega Exemption Notification No. 25/2012-S.T., dated 20.06.2012 (as amended).

3. In the absence of any other available data for cross-verification, the Service Tax liability of the appellant for the F.Y. 2014-15 was determined on the basis of value of difference between 'Sales of Services under Sales/Gross Receipts from Services (Value from ITR)' as provided by the Income Tax department and the 'Taxable Value' shown in the Service Tax Returns for the relevant period as per details below:

TABLE (Amount in Rs.)

F.Y.	Taxable Value as per Income Tax data	Taxable Value declared in ST-3 Return	Differential Taxable Value as per Income Tax Data	Rate of Service Tax including Cess	Demand of Service Tax
2014-15	45,94,690	42,66,062	3,28,628	12.36%	**40,618**

4. The appellant were issued Show Cause Notice vide F.No. IV/16-13/TPI/PI/ Batch 3C/2018-19/Gr.II, dated 25.06.2020, wherein it was proposed to:-

- Demand and recover Service Tax amount of Rs. 40,618/- under the proviso to Section 73 (1) of the Finance Act, 1994 along with interest under Section 75 of the Finance Act, 1994 ;
- Impose penalty under Section 77(2), 77C and 78 of the Finance Act, 1994.

5. The said Show Cause Notice was adjudicated, ex-parte, vide the impugned order wherein:-

- Demand of Service Tax amount of Rs. 40,618/- was confirmed under the proviso to Section 73 (1) of the Finance Act, 1994;
- Interest was ordered to be recovered under section 75 of the Finance Act, 1994;
- Penalty amounting to Rs. 40,618/- was imposed under Section 78 of the Finance Act, 1994 ;
- A penalty Rs. 10,000/- under Section 77(2) of the Finance Act, 1994 was also imposed.
- A penalty @ Rs.200/- per day till the date of compliance or Rs. 10,000/-, whichever is higher under Section 77(1)(c) of the Finance Act, 1994 was also imposed.
- Option was given for reduced penalty vide clause (ii) of the second proviso to Section 78(1) of the Finance Act, 1994.

6. Being aggrieved with the impugned order, the appellant have filed this appeal wherein they, *inter alia,* contended as under:-

- On the basis of ITR, the department has issued SCN. Letters/ informative notices issued by the department were not received by them.
- SCN was issued based on presumptions without any verification and hence not sustainable. The SCN is grossly wrong and incorrect.
- The appellant have filed Income tax Return on 08.08.2015. Hence, it can be concluded that department is very well aware about their details. They promptly disclosed income or receipt in Income tax Return.
- Department has issued such notice with same structure, it is not just and proper and against the principles of natural justice. It can be conclude that department is raising such notice is kind of fishing notice or creating roving inquiry.
- They have filed the Service Tax Returns for the F.Y. 2014-15 for April,2014 - September,2014 on 16.10.2014 and for October,2014 - March,2015 on 11.04.2015. They submitted the copies of ST-3 Returns.
- The learned adjudicating officer has raised the demand without verification of service tax data.

- The notice is totally time barred. Extended period of limitation is not applicable in the present matter in terms of Section 73 of the Finance Act, 1994. In support they relied upon the decision in case of *M/s Cosmic Dye Chemical Vs Collector of C.Ex., Bombay [1995(75) ELT 721 (SC)].*
- They submitted the income details for the F.Y. 2014-15 as under :-

ST-3 Return period	Amount (a)	S.Tax (b)	Total (a+b)
April-September	20,23,901	2,51,154	22,74,055
October-March	22,42,161	2,77,132	25,19,293
	Total		47,93,343
	Value of Turnover as per Profit & Loss account and ITR		45,94,690
	Difference		0

They further submitted that there is no such difference of value as pointed out in the SCN. Their Profit and Loss Account value is including Service Tax whereas value shown in the ST-3 Returns is basic value. The learned officer also never informed how the difference raised or even not stated the details in SCN and the impugned order. The learned officer has not considered the factual aspect as well as details before passing the present order. There is no such difference in income tax data and service tax data. Hence, there is no such difference and no tax liabilities. They submitted copies of ITR, ST-3 Returns and Profit and Loss Account, in support of their claim.

- They further contended that no penalty is imposable upon them as there was no intention to evade tax. They relied upon the decision of *Apex Court in case of M/s Hindustan Steel Vs State of Orissa- 1978 ELT (J159).*

7. Personal hearing in the matter was held on 18.05.2023. Shri Arpan Yagnik, Chartered Accountant, appeared as authorized representative of the appellant. He re-iterated the submissions made in the appeal memorandum.

8. I have gone through the facts of the case, submissions made in the Appeal Memorandum as well as submissions made at the time of personal hearing and the materials available on the record. The issue before me for decision is as to whether the impugned order confirming the demand of Service Tax amounting to Rs. 40,618/- , along with interest and penalty, in the facts and circumstances of the case, is legal and proper *or* otherwise. The demand pertains to the F.Y. 2014-15.

9. It is observed that the appellant were registered with the department for providing taxable services viz. Courier Agency Service. They were issued SCN on the basis of the data received from the Income Tax Department. The appellant were called upon to

submit documents/required details of services provided during the F.Y. 2014-15. However, the appellant failed to submit the required details. Therefore, the appellant were issued SCN demanding Service Tax considering the income earned from providing taxable services as declared in the Income Tax Returns. The adjudicating authority had confirmed the demand of Service Tax, along with interest and penalty, ex-parte, vide the impugned order.

9.1. I find it pertinent to refer to Instruction dated 26.10.2021 issued by the CBIC, wherein it was directed that:

> *"2. In this regard, the undersigned is directed to inform that CBIC vide instructions dated 1-4-2021 and 23-4-2021 issued vide F.No. 137/472020-ST, has directed the field formations that while analysing ITR-TDS data received from Income Tax, a reconciliation statement has to be sought from the taxpayer for the difference and whether the service income earned by them for the corresponding period is attributable to any of the negative list services specified in Section 66D of the Finance Act, 1994 or exempt from payment of Service Tax, due to any reason. It was further reiterated that demand notices may not be issued indiscriminately based on the difference between the ITR-TDS taxable value and the taxable value in Service Tax Returns.*
>
> *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."*

9.2 However, in the instant case, I find that no such exercise, as instructed by the Board has been undertaken by the adjudicating authority, and the impugned order has been issued only on the basis of the data received from the Income Tax department. The appellant were admittedly registered with the department. Further, the appellant have claimed that there is no such difference of value as pointed out in the show cause notice. In support of their claim, they have submitted copies of Income tax Return and also Profit and Loss Account for the F.Y. 2014-15 alongwith reconciliation of data. They have claimed that as there is no difference in the value hence no tax liability is upon them. The fact of ST-3 Return filed by the appellant alongwith the figures reported therein was required to be examined in the case, which was not done. Therefore, I find that the impugned order has been passed without following the directions issued by the CBIC. Further, the impugned order is a non-speaking order, hence, is not legally sustainable and is liable to be set aside on this ground.

10. I further find that at Para 15 of the impugned order, it has been recorded that the opportunity of personal hearing was granted on 22.02.2022, 09.03.2022 and 31.03.2022 but the appellant had not appeared for hearing. It has also been recorded in the Para 14 that no reply has been filed by the appellant in response to the SCN. The adjudicating authority had, thereafter, decided the case ex-parte.

10.1 In terms of Section 33A (1) of the Central Excise Act, 1944, 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. Ltd. Vs. UOI - 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."*

Therefore, the impugned order has been passed in violation of principles of natural justice and is not legally sustainable.

11. It is also observed that the appellant have contended that there is no such difference of value as pointed out in the show cause notice. In support of their claim, they submitted copies of Income tax Return, ST-3 Returns and also Profit and Loss Account for the F.Y. 2014-15 alongwith reconciliation of data. They claimed that as there is no difference in the value hence no tax liabilities upon them.

11.1 I find that the appellant have submitted the copies of the Service Tax Returns for the F.Y. 2014-15 for April, 2014 – September, 2014 filed on 16.10.2014 and for October, 2014 – March,2015 filed on 11.04.2015. On going through the returns, it is observed that the appellant have declared the taxable value and paid the appropriate tax on the declared taxable value. Details under ST-3 Return for the said period are as under:-

(Amount in Rs.)

ST-3 Return period [2014-15]	Amount (a)	S.Tax (b)	Total (a+b)
April-September	20,23,901	2,51,154	22,74,055
October-March	22,42,161	2,77,132	25,19,293
	Total		47,93,343
	Value of Turnover as per Profit & Loss account and ITR		45,94,690
	Difference		0

The appellant have also submitted the Profit & Loss account for the F.Y. 2014-15 wherein value of Turnover has been declared as Rs. 45,94,690/-. The value alongwith tax declared in the ST returns is Rs. 47,93,343/-. Therefore, it is apparent that tax liabilities have already been discharged by the appellant for the relevant period for which the department has alleged the taxable value declared in the ST-3 Return only of Rs. 42,66,062/-, which is the assessable value excluding Service Tax. It is observed that appellant have declared the taxable value in the Income Tax Return of Rs. 45,94,690/- and Service Tax of Rs. 3,18,802/- as Indirect Expenses in their Profit and Loss Account for the F.Y. 2014-15. I find that the department has arrived the differential taxable value to the tune of Rs. 3,28,628/- in the notice, which is almost matching to Rs. 3,18,802/-, which the appellant have declared in their Profit and Loss account. I find that the adjudicating authority has erroneously arrived to the differential taxable value in the show cause notice and confirmed the said demand without proper verification and justification. Therefore, I find that the impugned order suffers from legal infirmity and is not lawfully sustainable and is liable to be set aside.

11.2 It is further observed that Service Tax Returns for the first half of the F.Y. 2014-15, for April, 2014 – September, 2014, has been filed by the appellant on 16.10.2014 and the SCN was issued on 25.06.2020, after expiry of five years. Therefore, I find that the demand of Service Tax, for the first half of the F.Y. 2014-15 confirmed vide the impugned order under proviso to Section 73 (1) of the Finance Act, 1994, is barred by limitation and is legally not sustainable. Hence, the same is

hereby set aside on limitation ground. I also find that demand for the first half as well as of second half of the F.Y. 2014-15 is also not sustainable on merit, as discussed in the Para 11.1. Since the demand of service tax fails to sustain, the question of interest and penalty does not arise. Hence, the same are also set aside.

12. Accordingly, the impugned order is set aside and the appeal filed by the appellant is allowed with consequential relief, if any.

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.

31st May 2023.

(Akhilesh Kumar)
Commissioner (Appeals)

Date: 31.05.2023

Attested

2/6/23

(Ajay Kumar Agarwal)
Assistant Commissioner [In-situ] (Appeals)
Central Tax, Ahmedabad.

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