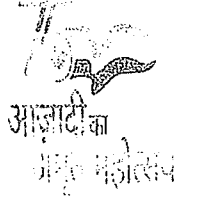




सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी, अहमदाबाद-380015
GST Bhavan, Ambawadi, Ahmedabad-380015
Phone: 079-26305065 - Fax: 079-26305136
E-Mail : commrappl1-cexamd@nic.in
Website : www.cgstappealahmedabad.gov.in



By SPEED POST

DIN:- 20230764SW0000718870

(क)	फाइल संख्या / File No.	GAPPL/COM/STP/1785/2022-APPEAL /2983-88
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-052/2023-24 and 30.06.2023
(ग)	पारित किया गया / Passed By	श्री शिव प्रताप सिंह, आयुक्त (अपील) Shri Shiv Pratap Singh, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	10.07.2023
(ङ)	Arising out of Order-In-Original No. 48/AC/DEM/MEH/ST/PRADIPSINH/2021-22 dated 28.02.2022 passed by Assistant Commissioner, CGST, Division-Mehsana, Gandhinagar Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Pradipsinh Bhaguji Rathod, Navin Rajputvas Mandali (Kharod), Vijapur, Mandali, Mehsana, Gujarat-382840

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:-

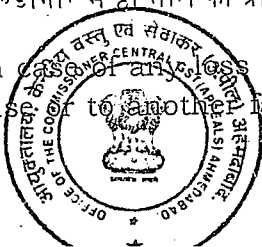
Revision application to Government of India:

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतः 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 जाने 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 त्रिन 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 ईए-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 ई 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 बनाए अनुसार के अन्वावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (मिस्टेट) 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 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) एक 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।

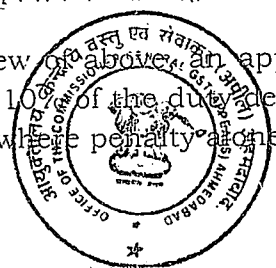
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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

This order arises out of an appeal filed by M/s Pradipsinh Bhaguji Rathod, Navin Rajputvas, Mandali (Kharod) Taluka: Vijapur, Mandali, Mehsana, Pin - 382840 (hereinafter referred to as the "*appellant*") against Order-In-Original No. 48/AC/DEM/MEH/ST/PRADIPSINH/2021-22, dated 28.02.2022 (hereinafter referred to as the "*impugned order*"), issued by Assistant Commissioner, CGST & C.Ex., Division-Mehsana, Commissionerate-Gandhinagar (hereinafter referred to as the "*adjudicating authority*").

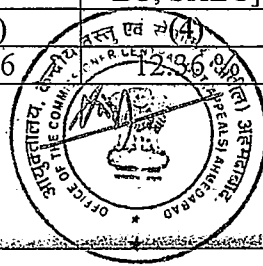
2. Briefly stated, the facts of the case are that the appellant were holding Service Tax Registration No. BQVPR3566ASD001 for providing taxable services. As per the information received from the Income Tax department, discrepancies were observed in the total income declared in Income Tax Returns/26AS, 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 fact whether the appellant had discharged their Service Tax liabilities during the period F.Y. 2014-15, letter dated 19.06.2020 was issued to them by the department. The appellant failed to file any reply to the query. It was also observed by the jurisdictional officers 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, nor were they exempted vide the Mega Exemption Notification No. 25/2012-S.T., dated 20.06.2012 (as amended). Hence, the services provided by the appellant during the relevant period were considered taxable.

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.	Total Income as per Income Tax Data	Taxable Value declared in ST-3 Returns	Difference of value (Col-1- Col-2)	Service Tax Rate [including EC, SHEC]	Demand of Service Tax
	(1)	(2)	(3)	(4)	(5)
2014-15	2,12,40,392	2,09,05,516	3,34,876	12.36%	41,390



4. The appellant were issued a Show Cause Notice vide F.No. IV/16-13/TPI/PI/ Batch3C/2018-19/Gr.II, dated 25.06.2020, wherein it was proposed to:

- Demand and recover Service Tax amount of Rs. 41,390/- 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 76, 77(2), 77(c) and 78 of the Finance Act, 1994.

5. The said Show Cause Notice was adjudicated vide the impugned order wherein:

- Demand for Rs. 41,390/- was confirmed under the proviso to Section 73(1) of the Finance Act, 1994;
- Interest was to be recovered under Section 75 of the Finance Act, 1994;
- Penalty amounting to Rs. 41,390/- was imposed under Section 78 of the Finance Act, 1994 alongwith option for reduced penalty vide clause (ii) of the second proviso to Section 78(1) of the Finance Act, 1994
- Penalty of Rs. 10,000/- was imposed under Section 77(2) of the Finance Act, 1994;

6. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal alongwith application for condonation of delay, on following grounds:

- They were providing Manpower recruitment / supply agency services and registered with the department. They were filing ST-3 returns on regular basis.
- As the service provider were providing Manpower supply service, they, being proprietorship firm, were required to discharge Service Tax on 25% value of the services and the remaining 75% of the service tax was to be discharged by the recipient on Reverse Charge Mechanism (RCM) basis by virtue of Notification No. 30/2012- S.T., dated 20.06.2012, as amended.
- Upon inquiry by the jurisdictional Superintendent vide their letter dated 18.02.2019, they paid Service Tax amounting to Rs. 74,538/- alongwith interest amounting to Rs. 49,097/-. The appellant was ignorant about the reasons of demand and the provisions of the law.



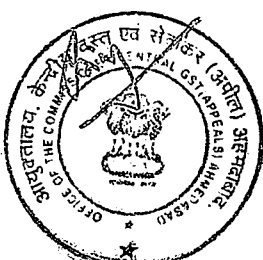
- | Description | Total Value of Services provided (in Rs.) | Taxable Value @ 25% (in Rs.) | Service Tax @ 3.09% (in Rs.) | Interest (in Rs.) |
|----------------------|---|------------------------------|------------------------------|-------------------|
| As per S.Tax Challan | 2,32,90,880 | 58,22,720 | 7,20,517 | 51,002 |
| As per S.Tax Returns | 2,09,05,516 | 52,26,379 | 6,45,980 | 0 |
| As per Balance Sheet | 2,12,40,392 | 53,10,098 | 6,56,328 | 0 |
| Excess paid | 20,50,488 | 5,12,622 | 64,189 | 51,002 |

0

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- Decision of the Hon'ble CESTAT, Bangalore in the case of Commissioner of Central Excise, Bangalore-I Vs Indus Legal Clothing Ltd., reported as 2010 (262) ELT-376 (Tri. Bang.)
 - Decision of the Hon'ble CESTAT, Principal Bench in the case of J.K.Sugar Ltd. Vs Commissioner of Central Excise, Meerut-II reported as 2010 (255) ELT 554 (Tri.-Del).
 - Decision of the Hon'ble CESTAT, Allahabad Bench in the case of Mohan Goldwater Breweries Limited Vs Commissioner of Central Excise & Service Tax, Lucknow reported as 2017 (4) GSTL 170 (Tri.-All).
 - Decision of the Hon'ble CESTAT, Principal Bench in the case of Ranbaxy Laboratories Vs Commissioner of Central Excise & Service Tax, Chandigarh-I reported as 2015 (329) ELT 867 (Tri.-Del).
- They contended that they are not liable to pay the amount of service tax demanded alongwith interest and penalty.

7. Personal Hearing in the case was held on 30.06.2023. Shri Anil Gidwani, Advocate, appeared on behalf of the appellant for the hearing. He reiterated the submissions made in the appeal memorandum. He submitted that the delay in filing of the appeal had occurred as the father of the proprietor was hospitalized and also requested for condonation as the delay was within the condonable period. They further submitted that they have paid the amount of pre-deposit. That the lower authority has issued the SCN on the basis of Income Tax data without appreciating the fact that the value shown in Income Tax returns was inclusive of the Service Tax component. This was further evident from the fact that the sum of the confirmed demand (as per SCN) and the taxable value shown in the ST-3 returns equals to the value declared for Income Tax purpose. Therefore, the service tax demanded vid the SCN is actually the tax on the tax already paid by the appellant. Further, as the tax has already been paid and Service Tax return was filed correctly, the appellant is not liable to pay Service Tax demanded alongwith penalty. Therefore, they requested to set aside the impugned order. They also submitted that the demand/SCN for the period F.Y. 2014-15 was issued on 25.06.2020 and is therefore, time barred being issued after the extended period of five years.



8. It is observed from the records that the present appeal was filed by the appellant on 13.06.2022 against the impugned order dated 28.02.2022, which was received by the appellant on 15.03.2022.

8.1 It is also observed that the Appeals preferred before the Commissioner (Appeals) are governed by the provisions of Section 85 of the Finance Act, 1994. The relevant part of the said section is reproduced below :

“(3A) An appeal shall be presented within two months from the date of receipt of the decision or order of such adjudicating authority, made on and after the Finance Bill, 2012 received the assent of the President, relating to service tax, interest or penalty under this Chapter: .

Provided that the Commissioner of Central Excise (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of two months, allow it to be presented within a further period of one month.”

8.2 As per the legal provisions above, the period of two months for filing appeal before the Commissioner (Appeals) for the instant appeal ends on 14.05.2022 and further period of one month, within which the Commissioner (Appeals) is empowered to condone the delay upon being satisfied with the sufficient reasons shown by the appellant, ends on 13.06.2022. This appeal was filed on 13.06.2022, i.e after a delay of 30 days from the last date of filing appeal, and is within the period of one month that can be condoned.

8.3 In their application for condonation of delay, the appellant have submitted that during the period, father of the appellants was required to be hospitalized and he was busy looking after his ailing father. These reasons were also explained by them during the course of personal hearing, the grounds of delay cited and explained by the appellant appeared to be genuine, cogent and convincing. Considering the submissions and explanations made during personal hearing, the delay in filing appeal is condoned in terms of proviso to Section 85 (3A) of the Finance Act, 1994.

9: It is observed that the appellant is registered with Service Tax department and have filed their Service Tax Returns (ST-3) during the period. However, the SCN was issued entirely on the basis of data received from Income Tax department



and without classifying the Services rendered by the appellant and the impugned order was issued without causing any further verifications in this regard. It is also observed that during the course of scrutiny of the assessment for the period F.Y. 2014-15, the jurisdictional officer had detected short payment amounting to Rs. 74,538/- by the appellant. On being informed vide letter/email F.No.R-III/MCH/scrutiny/ST-03/17-18 dated 18.02.2019 the said amount was immediately paid by the appellant alongwith interest.

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

*Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes & Customs)
CX & ST Wing Room No.263E,
North Block, New Delhi,*

Dated- 21st October, 2021

*To,
All the Pr. Chief Commissioners/Chief Commissioners of CGST & CX Zone, Pr.
Director General DGGI*

Subject:-Indiscreet Show-Cause Notices (SCNs) issued by Service Tax Authorities-reg.

Madam/ Sir,

...
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
...

Considering the facts of the case and the specific Instructions of the CBIC, I find that the SCN as well as the impugned order has been passed indiscriminately and mechanically without application of mind, and is vague, issued in clear violation of the instructions of the CBIC discussed above.

10. It is further observed that the assessment made by the appellant in the ST-3 returns has not been disputed by the department. Hence, the classification of service, abatement/RCM claimed and availed by the appellant during the period F.Y. 2014-15 stands undisputed. It is further observed that the adjudicating authority was aware of the above facts and have recorded them at Para-26 of the impugned order. However,



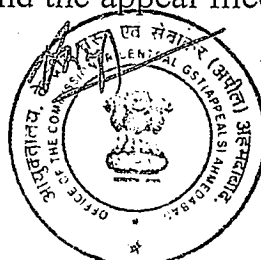
the demand of Service Tax was confirmed invoking the extended period of limitation vide the impugned order. Hence, the impugned order is legally unsustainable being passed indiscriminately without application of mind and liable to be set aside on grounds of limitation alone.

10.1 I find that, the appellants claim that during the period F.Y. 2014-15 apart from the Service Tax paid vide their ST-3 Returns they have paid an amount of Rs.74,538/- on 19.02.2019 as per the directives of the jurisdictional officer vide letter dated 18.02.2019 being short payment for the period April-2014-September-2014. It is also observed that the adjudicating authority has passed the impugned order without considering this aspect. I also find that this amount of Rs.74,538/- is more than the Service Tax demand of Rs. 41,390/- confirmed vide the impugned order. Further, the detailed analysis of the total invoice value, taxable value, duty liability and duty payment is as per the table below :

Description	Value (in Rs.)	Total Duty (in Rs.) [@ 12.36% of Value at Col-2]	Duty liability (in Rs.) [25% of value at Col-3]	Actual Duty Paid (in Rs.)
1	2	3	4	5
Declared value as per Income Tax data	2,12,40,392/-	26,25,312/-	6,56,328/-	7,20,517/-
Declared Value as Per ST-3 Return	2,09,05,516/-	25,83,922/-	6,45,980/-	7,20,517/-

Upon examining the duty liability confirmed on the appellant vide the impugned order and the actual Service Tax paid by the appellant, I find that they have paid a total amount of Rs. 7,20,517/- towards Service Tax during the period F.Y. 2014-15. Comparing this amount with the figures reflected in the ST-3 Returns of the appellant it is observed that an amount of Rs.74, 537/- was paid in excess. Hence, as this amount is more than the demand confirmed vide impugned order, the demand stands nullified.

11. In view of the above, I am of the considered opinion that since the adjudicating authority have failed to consider the amount of Rs.74, 537/- paid by the appellant as Service Tax for the period F.Y. 2014-15 on 19.02.2019, and this amount is more than the demand of Service Tax confirmed vide impugned order, the demand fails to sustain. As the demand is unsustainable, question of interest and penalty does not arise. Therefore, the impugned order is set aside and the appeal filed by the appellant is allowed.



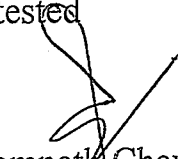
12. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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


(Shiv Pratap Singh)
Commissioner (Appeals)

Date: 30.06.2023

Attested


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



BY RPAD / SPEED POST

To,
M/s Pradipsinh Bhaguji Rathod,
Navin Rajputvas, Mandali (Kharod),
Taluka: Vijapur, Mandali,
Mehsana, Pin – 382840, Gujarat.

Copy to: -

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.

