



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:- 20230864SW000000E0F8

(क)	फाइल संख्या / File No.	GAPPL/COM/STP/2723/2022-APPEAL / <i>HN5H-58</i>
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-066/2023-24 and 31.07.2023
(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	16.08.2023
(ङ)	Arising out of Order-In-Original No. PLN-AC-STX-70/2022-23 dated 30.06.2022 passed by The Assistant Commissioner, CGST, Division-Palanpur, Gandhinagar Commissionerate.	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Nikunj Kumar Bharatbhai Amin, 11, Ashtvinayak Bungalows, Dessa Road, Patan, Gujarat-384265.

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:-

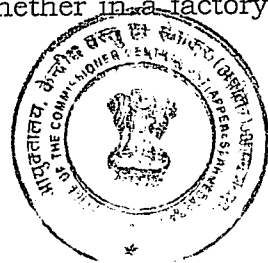
**Revision application to Government of India:**

(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 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 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 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.

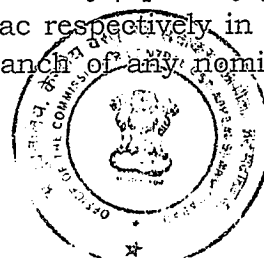
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-  
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

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

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

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) एके प्रति अपील के मामले में कर्तव्यमांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवाकर के अंतर्गत, शामिल होगा कर्तव्य की मांग (Duty Demanded)।

- (1) खंड (Section) 11D के तहत निर्धारित राशि;
- (2) लिया गलत सेनवैट क्रेडिट की राशि;
- (3) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि।

यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में 'अपील' दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994).

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

(6) (i) इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



अपीलिय आदेश / ORDER-IN-APPEAL

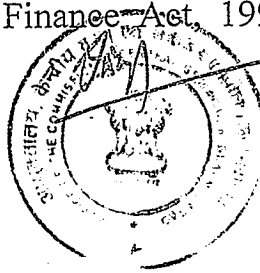
This Order arises out of an appeal filed by M/s. Nikunjikumar Bhartabhai Amin, 11, Ashtvinayak Bungalows, Deesa Road, Patan - 384265 [hereinafter referred to as the appellant] against OIO No. PLN-AC-STX-70/2022-23 dated 30.06.2022 [hereinafter referred to as the impugned order] passed by Assistant Commissioner, Central GST, Division: Palanpur, Commissionerate: Gandhinagar [hereinafter referred to as the adjudicating authority].

2. Briefly stated, the facts of the case are that the appellant are registered with Service Tax under Registration No. AKBPA6116CSD001 and are engaged in 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 ST-3 Returns when compared with their Income Tax Return (ITR-5) and details of Form 26 AS for the period F.Y. 2016-17. Accordingly, e-mail dated 23.05.2020 was issued to the appellant calling for the details of services provided during the period F.Y. 2016-17. The appellant did not submit any reply. However, the jurisdictional officers observed that the appellant had filed their Service Tax Returns (ST-3) during the period and considered that the services provided by them during the relevant period were taxable under Section 65 B (44) of the Finance Act, 1994 and the Service Tax liability for the F.Y. 2016-17 was determined 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 as per details below :

Table

Sr.No	Details	F.Y. - 2016 - 17 (in Rs.)
1	Taxable value as per Income Tax data i.e Total Amount Paid/Credited under Section 194C, 194H, 194I, 194J or Sales/Gross Receipts from Services (From ITR)	25,69,490/-
2	Taxable Value declared in ST-3 Returns	10,707/-
3	Differential Taxable Value (S.No-1-2)	25,58,783/-
4	Amount of Service Tax including cess	3,83,817/-

2.1 Show Cause Notice F.No. AR-V/Nikunjikumar B. Amin/ST-3-SCN/2020-21 dated 17.06.2020 (SCN for short) was issued to the appellant wherein it was proposed to demand and recover service tax amounting to Rs. 3,83,817/- for the period F.Y. 2016-17 under the proviso to Section 73 (1) of the Finance Act, 1994 along with interest under Section 75 of the Finance Act, 1994. Imposition of



penalty was proposed under Sections 76, 77(2), 77 C and 78 of the Finance Act, 1994.

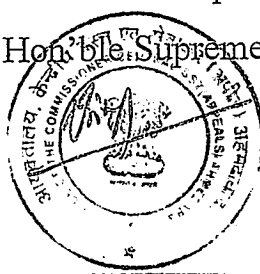
2.2 The SCN was adjudicated vide the impugned order wherein the demand for service tax amounting to Rs. 3,83,817/- (considering the taxable value as Rs. 25,69,490/-) was confirmed along with interest under Section 75 of the Finance Act, 1994. Penalty amounting to Rs. 3,83,817/- was imposed under Section 78 of the Finance Act, 1994 alongwith option for reduced penalty in terms of clause (ii). Penalty amounting to 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 under the provisions of Section 77(c) of the Finance Act, 1994.

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

(i) They are a Proprietorship firm carrying out business related to providing construction related services. During the period F.Y. 2016-17 they have earned income from mainly from services provided to UGVCL (Uttar Gujarat Vij Company Limited). The SCN was issued on the basis of data received from Income Tax department. The letter for personal hearing was received very late by them and they were unable to submit any documents and the impugned order was issued on the basis of income tax data.

(ii) The SCN was issued entirely on the basis of data received from Income Tax department and without verification of facts. They have promptly filed their ST-3 during the period as well as their Income Tax returns, hence there was no suppression of facts for invoking the provisions of Section 73 of the Finance Act, 1993.

(iii) The adjudicating authority have confirmed the demand under Section 73 of the Finance Act., invoking extended period of time limitation. As, there was no suppression of facts or malafide intention on part of the appellant the extended period cannot be invoked as the department has failed to fulfill their burden of proof in establishing the invocation of extended period. In support of their contention they cited the decision of the Hon'ble Supreme Court in the case



of M/s Cosmic Dye Chemical Vs Collector of Cen.Excise, Bombay reported as 1995 (75) ELT 721 (SC).

(iv) The appellant has mainly carried out construction and maintenance work of UGVCL which is a government organization. As they have availed the benefit of Notification Nos. 25/2012-ST dated 20.06.2012; 24/2012-ST dated 20.06.2012 and 26/2012-ST dated 20.06.2012 and therefore they have not paid any Service Tax. Further, the adjudicating authority have not accepted the claim of availment of benefit on part of the appellant and has confirmed the demand. As they have assessed their Returns and paid taxes after availing the benefit of exemption/abatment vide the above 3 notifications, no service tax liability is pending with them.

(v) As per their submissions, since no demand of Service Tax is sustainable against them, therefore, imposition of penalty stands infructuous. In support they cited that decision of the Hon'ble Supreme Court in the case of Hindustan Steel Vs State of Orissa reported as 1978 ELT (J159).

(v) Alongwith their submissions they submitted copies of Form-26AS for the period F.Y. 2016-17, Copy of Work Order dated 24.01.2017 of M/s UGVCL, Patan, Copy of Income Tax Return for the F.Y. 2016-17; Expenditure statement for the F.Y. 2016-17, copies of ST-3 Returns for the F.Y. 2016-17.

5. Personal hearing in the case was held on 30.06.2023. Shri Arpan Yagnik, Chartered Accountant, appeared on behalf of the appellant for hearing. He submitted that they have provided services of Construction of Individual residential units, which are exempt from Service Tax under the mega-exemption notification. They have also provided 'Works Contract Services' for site preparation to UGVSL, which is eligible for abatment, after which the taxable value is below the threshold limit. Therefore, they requested to set aside the impugned order.

6. I have gone through the facts of the case, submissions made in the Appeal Memorandum, oral submissions made during the personal hearing, and materials available on records. The issue before me for decision is whether the demand of Service Tax amounting to Rs. 3,83,817/- confirmed alongwith interest and penalty



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

6. It is observed from the case records that the appellant are registered under Service Tax and during the relevant period that they were engaged in providing taxable services falling under the category of 'Construction Service'. During the period F.Y. 2016-17 they have filed their ST-3 Returns. These facts are undisputed. 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 passed ex-parte in violations of the principles of natural justice.

6.1 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- 21<sup>st</sup> October, 2021*

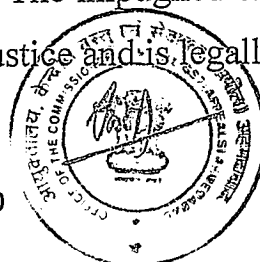
*To,  
All the Pr. Chief Commissioners/Chief Commissioners of CGST & CX Zone, Pr.  
Director General DGGI*

*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. The impugned order was passed ex-parte in violation of the principles of natural justice and is legally unsustainable.



7. It is further observed that the appellants have claimed to have provided services majorly to M/s Uttar Gujarat Vij Nigam Limited (UGVCL) a wholly owned company under the Government of Gujarat and is engaged in the supply of Electricity in the state of Gujarat. From the copy of contract submitted by the appellant, it is observed that during the relevant period they have provided services related to '*Erection work of HT Transmission Lines and LT Distribution lines and construction of Transformer Sub-stations*'. The appellants have claimed exemption in respect of the services provided to UGVCL in terms of Notification No.25/2012-ST dated 20.06.2012. Relevant portion of the said notification is reproduced below :

Government of India  
Ministry of Finance  
(Department of Revenue)

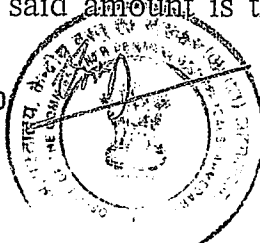
Notification No. 25/2012-Service Tax  
New Delhi, the 20<sup>th</sup> June, 2012

*G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification number 12/2012- Service Tax, dated the 17<sup>th</sup> March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 210 (E), dated the 17<sup>th</sup> March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services leviable thereon under section 66B of the said Act, namely:-*

...  
12. *Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -  
(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;...*

7.1 Upon co-relating the above legal provisions with the facts and circumstances of the case I find that as per the Form 26 AS submitted by the appellant it is observed that during the period F.Y. 2016-17 an amount of Rs. 15,32,566/- has been credited under Section 194C of the Income Tax Act, 1961 from M/s UGVCL. This implies that the appellant has provided services amounting to the said amount to M/s UGVCL. Further, M/s UGVCL is a Government Company and is engaged in generation and distribution of Electricity in the state of Gujarat, therefore I find that the services provided by the appellant to M/s UGVCL is exempted vide Sr.No.12 (a) of Notification No. 25/2012-ST dated 20.06.2012.

8. From the documents submitted by the appellant it is observed that as per the Profit & Loss Account statement for the F.Y. 2016-17 an amount of Rs.25,69,490/- was reflected as '*Job-work Income*' and the said amount is the same as per the





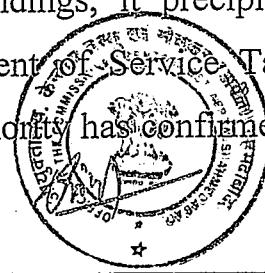
amount reflected in the Table in the SCN. It is further observed that as per the Form 26AS for the period F.Y. 2016-17 an amount of Rs.10,00,000/- has been credited under Section 194C of the Income Tax Act, 1961 from M/s Radhi Infraconstruct Pvt.Ltd. It is also observed that Invoice No.19 dated 31.03.2017 was issued by the appellant in favour of M/s Radhi Infraconstruct Pvt.Ltd., Patan for an amount of Rs.10,00,000/-. From the said Invoice it is also confirmed that the appellant has provided the services of 'Construction of Residential House No.23' to M/s Radhi Infraconstruct Pvt.Ltd., Patan. The appellant has claimed abatement in respect of this service in terms of Notification No. 24/2012-ST dated 20.06.2012.

7.2 Upon referring the provisions of the Notification No.24/2012-ST dated 20.06.2012 with the facts of the case I find that as the services provided by the appellant pertains to Construction of Residential House, therefore the said service is for original work and not repair or maintenance work. Hence, the said services would appropriately be covered under the explanation "(A) in case of works contracts entered into for execution of original works, service tax shall be payable on forty per cent. of the total amount charged for the works contract".

7.3 In view of the above the above services would merit abatement @ 60 percent in terms of Notification No. 24/2012-ST dated 20.06.2012. Considering the same the actual taxable value comes to Rs. 4,00,000/- only.

8. Therefore, I find that, in view of the above discussions I find that out of the total value of Services provided by the appellant during the year i.e Gross Taxable Value for the F.Y. 2016-17 comes to Rs. 25,69,491/-. Out of the said amount Rs. 15,32,566/- is covered under exemption as discussed supra. Further considering the abatement in terms of Notification No. 24/2012-ST dated 20.06.2012 the final Taxable Value come to Rs.4,00,000/-. As the said amount is within the amount of threshold exemption limit of Rs.10,00,000/- in terms of Notification No. 33/2012-ST dated 20.06.2012 the same is exempted from levy of Service Tax during the period F.Y. 2016-17.

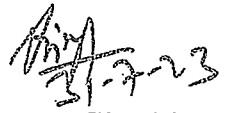
9. In view of the above discussions and findings, it precipitates that the appellant are eligible for exemption from payment of Service Tax during the period F.Y. 2016-17. Further, the adjudicating authority has confirmed the demand



of Service Tax amounting to Rs. 3,83,817/- ex-parte vide the impugned order in violation of principles of natural justice. Further, the appellant has produced all relevant documents in support of their defense before this authority and presented the case in person, I am of the considered view that the demand of Service Tax amounting to Rs. 3,83,817/- confirmed by the impugned order is liable to be set aside in terms of law as well as on merits. As the demand fails to sustain, the question of interest and penalty does not arise.


10. Accordingly, the impugned order is set aside and the appeal filed by the appellants is allowed.

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

  
(Shiv Pratap Singh)  
Commissioner (Appeals)

Dated: 21 July, 2023

Attested:

  
(Somnath Chaudhary)  
Superintendent, CGST,  
Appeals, Ahmedabad



BY RPAD / SPEED POST

To

M/s. Nikunj Kumar Bhartabhai Amin,  
11, Ashtvinayak Bungalows,  
Deesa Road, Patan - 384265.

Copy to:

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Principal Commissioner, CGST, Gandhinagar.
3. The Assistant Commissioner, CGST & Central Excise, Division : Palanpur, Commissionerate : Gandhinagar
4. The Dy/Assistant Commissioner (Systems), CGST Appeals, Ahmedabad.  
(for uploading the OIA)
5. ✓ Guard File.
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