



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:- 20230864SW000000C900

(क)	फाइल संख्या / File No.	GAPPL/COM/STP/2905/2022-APPEAL /मुनन-78
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-072/2023-24 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. AHM-CEX-003-ADC-AR-001-22-23 dated 31.08.2022 passed by The Additional Commissioner, CGST, Gandhinagar Commissionerate.	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Bhaskaracharya National Institute of Space Applications and Geo-Informatics, Near CH-0, Circle Indulala Yagnik Marg, Gandhinagar, Gujarat-382007.

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, 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 करखाने 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 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.

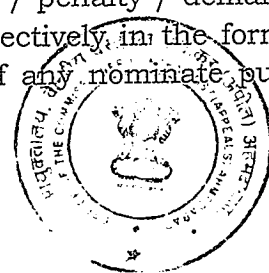
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 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 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

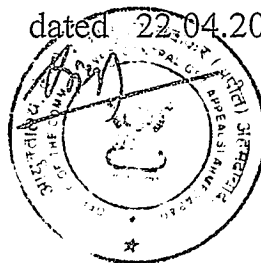
This Order arises out of an appeal filed by M/s. Bhaskaracharya Institute for Space Applications and Geo Informatics, Near Ch-0 Circle, Indulala Yagnik Marg, Gandhinagar - 382007 [hereinafter referred to as the appellant] against OIO No. AHM-CEX-003-ADC-AR-001-22-23 dated 31.08.2022 [hereinafter referred to as the impugned order] passed by Additional Commissioner, Central GST, 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. AABTB0498GST001 and are engaged in business activity of 'Broadcasting Services', 'Commercial Training or Coaching', 'Survey and map making service'. The Income Tax department had provided details of various assesses, wherein the Income Tax Returns (ITR-5) for the Financial Year 2015-16 and F.Y. 2016-17 were provided alongwith the details from Form 26AS which reflected discrepancies in the total income. In order to verify letter/email dated 09.04.2021 and 16.04.2021 were issued to the appellant calling for the details of services provided during the period F.Y. 2015-16 and F.Y. 2016-17. The appellant did not submit any reply. It was also observed by the jurisdictional officers that the appellants have not filed their Service Tax Returns (ST-3 Returns) during the relevant period. The jurisdictional officers, hence, considered that the services provided by the appellant 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. 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) and Form 26AS for the relevant period as per details below :

Table

Sr. No	Details	F.Y. - 2015 - 16 (in Rs.)	F.Y. - 2016 - 17 (in Rs.)
1	Total Income as per ITR-5	5,03,84,050/-	00
2	Taxable Value declared in ST-3 Returns	00	00
3	Differential Taxable Value (S.No-1-2)	5,03,84,050/-	00
4	Amount of Service Tax including cess (@ 12.36%)	73,05,687/-	00

2.1 Show Cause Notice F.No. GEXCOM/SCN/GST/376/2021-ADJN-O/o COMMR-CGST-GANDHINAGARI/301958/2021 dated 22.04.2021 (SCN for



short) was issued to the appellant wherein it was proposed to demand and recover service tax amounting to Rs. 73,05,687/- for the period F.Y. 2015-16 and 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 77(2), 77(3)(C) and 78 of the Finance Act, 1994.

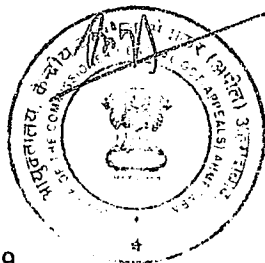
2.2 The SCN was adjudicated vide the impugned order wherein the demand for service tax amounting to Rs. 73,05,687/- was confirmed along with interest invoking the extended period of limitation under Section 73 (1) of the Finance Act, 1994. Penalty equivalent to the amount of Rs. 73,05,687/- confirmed 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 amounting to Rs. 87,800/- was imposed under the provisions of Section 77 (1)(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 registered society located at Gandhinagar. Earlier they were registered under Department of Science and Technology, however, vide Notification issued by the Ministry of Electronics and Information Technology (MEIT). Vide notification issued by MeitY dated 21.04.2020 the appellant institute (BISAG) was elevated as Autonomous Scientific Society under Societies Registration Act, 1860.

(ii) They have construed that being a Government entity and a registered institute under Section 12AA of the Income Tax Act, 1961, they are not required to collect and pay Service Tax. On account of the same they have neither collected nor paid Service Tax during the period F.Y 2016-17.

(ii) The SCN was issued entirely on the basis of data received from Income Tax department and without verification of facts. Further, there is no document produced by the department confirmation of receipt of the Order. They have promptly filed their Income Tax returns wherein they have declared all the facts required to be declared.



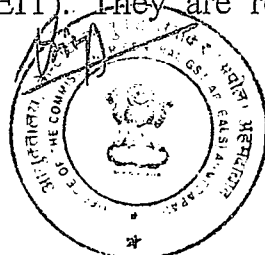
(iii) The adjudicating authority have confirmed the demand under Section 73 of the Finance Act., invoking extended period of time limitation. Whereas, there was no suppression of facts or malafide intention on part of the appellant. Moreover, the department have failed to fulfil their burden to prove and justify the validity of invoking the extended period of limitation. In absence of the same the SCN becomes invalid and incorrect. In support of their contention they cited the decision of the Hon'ble Supreme Court of India in the case of M/s Cosmic Dye Chemical Vs Collector of Central Excise, Bombay reported as 1995 (75) ELT 721 (SC). They also cited the following citations :

- CST Vs Kamal Lalwani – 2017 (49) STR 552 (Tri.Del.);
- Indian Hotels Company Limited Vs Commissioner – 2012 (41) STR 913 (tri.Mum);
- Padmini Products Vs Collector 1989 (43) ELT 1959 (SC);
- CCE Vs HMM Limited – 1995 (76) ELT 495 9 (SC).

(iv) That the SCN was issued in violation of the guidelines issued by the Board vide Circular No. 1053/02/2017-CX, dated 10.03.2017 issued from F.No. 96/1/2017-CX.I. The Circular categorically states that SCN should be issued after proper verification of facts and the onus is on the department to prove the invocation of extended period of five years. They also alleged that the SCN dated 25.06.2020 was time barred as it was issued after the stipulated period of five years.

(v) That the SCN was issued without any pre-show cause notice (Pre-SCN) consultation. Vide Instruction No. 1080/09/DLA/MISC/15 dated 21.12.2015, it is mandated that in case of all show cause notices involving demand amounting to Rs.50 Lakhs or more pre-SCN consultation with the noticee is required. In the instant case the said requirement was not complied with. In this context they cited the decision of the Hon'ble Delhi High Court in the case of M/s Amadeus India Pvt.Ltd. Vs Principal Commissioner, C.Ex., S.Tax & Central Tax reported as 2019 (25) G.S.T.L. 486 (Del.).

(vi) The appellants are an autonomous society under Ministry of Electronics and Information Technology (MEIT). They are registered under

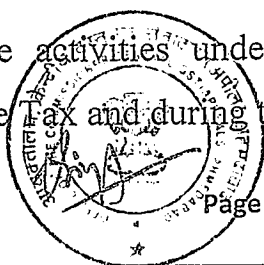


Section 12AA of Income Tax Act and are claiming exemption from payment of Income Tax as the activity of the appellant are covered under the definition of charitable activities under the Income Tax Act. As their activities were of charitable in nature they were under the bonafide belief that are eligible for exemption from payment of Service Tax under mega exemption Notification No. 25/2012. Hence, the appellant being under bonafide belief of non-taxability of their service, extended period cannot be invoked in such cases. In support they cited the decision of CESTAT in the case of Confederation of Indian Indusrty Vs Commissioner of Central Excise & Service Tax, Chandigarh reported as – 2023(7) TMI 57-Cestat, Chandigarh.

4. Personal hearing in the case was held in virtual mode on 14.07.2023. Shri Brijesh Thakkar, Chartered Accountant appeared alongwith Shri. Sharif Hudda, Director Administration of the appellant company appeared for Personal Hearing. During the course of hearing they submitted that the Appellant is working under the MEIT and they cannot have fraudulent intentions of evading legitimate Service Tax. Hence, in the absence of any fraudulent intention, extended period cannot be invoked for confirming the demand of Service Tax. They further submitted that they were not offered pre-SCN consultation which was mandatory. The impugned order and the SCN are bad in law as it violated the provisions under law and those in master Circular. They requested to set aside the impugned order.

5. I have gone through the facts of the case, submissions made in the Appeal Memorandum, additional written submission, 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. 73,05,687/- 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. 20115-16 and F.Y. 2016-17.

6. It is observed from the case records that the appellant are an autonomous society under Ministry of Electronics and Information Technology (MEIT). They are registered under Section 12AA of Income Tax Act, 1961 and are claiming exemption from payment of Income Tax as their activity are covered under the definition of charitable activities under the Income Tax Act. They are also registered under Service Tax and during the relevant period that they were engaged



in providing taxable services falling under the category of 'Broadcasting Services', 'Commercial Training or Coaching', 'Survey and map making service'. However, the SCN was issued entirely on the basis of data received from Income Tax department without causing any independent verifications.

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- 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,

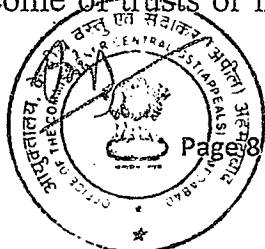
...

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

...

Examining the specific Instructions of the CBIC with the facts of the case , I find that the SCN in the case was issued without causing any verification entirely on the basis of data received from Income Tax department and is vague, issued in clear violation of the instructions of the CBIC discussed above. Further, the impugned order is passed indiscriminately without any verification and appreciation of the facts and submissions of the appellant and is therefore legally unsustainable.

7. The appellant have contended that they are registered under Section 12AA of Income Tax Act, 1961 and are claiming exemption from payment of Income Tax as their activity are covered under the definition of charitable activities under the Income Tax Act. In this regard I find that Section 12 of the Income Tax Act, 1961 deals with the 'Income of trusts or institutions from voluntary contributions'

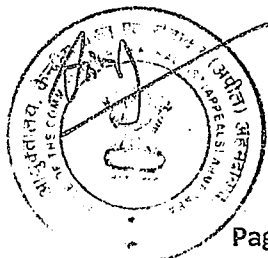


and Section 12AA is related to the procedure of registration of such trust or institution.

7.1 The appellant have further contended that being registered as Charitable Society under MEIT, Govt. of India they would not have any fraudulent intention and therefore extended period cannot be invoked in confirming the demand. I find that the appellant is an autonomous Scientific Society registered under the Societies Registration Act, 1860 under the MeitY (Ministry of Electronics Information and Technology, Govt. of India). BISAG-N was formed by the Government of India to undertake technology development and management, research & development, facilitate National & International cooperation, capacity building and support technology transfer and entrepreneurship development in area of geo-spatial technology. Considering the formation and objective of the appellant body, I find force in the argument of the appellant that they did not have any fraudulent intentions in their activities, hence the invocation of extended period of limitation on these grounds is totally misconstrued and unjustified.

7.2 Considering the above, I also find that in such circumstances of the case invocation of extended period for reasons of fraud, collusion, misstatement or misinformation on part of the appellant for confirmation of the demand vide the impugned order is indiscriminate, incorrect, legally unsustainable and liable to be set aside. It is further observed that these facts were submitted by the appellant before the adjudicating authority. Therefore, it is apparent that the impugned order was passed without considering the above submissions of the appellant, therefore the impugned order is passed in violation of justice and not sustainable and liable to be set aside.

8. The appellants have further contended that the SCN in the case was issued without conducting mandatory pre-SCN consultation and is defective. In this regard I find that the concept of Pre-SCN consultation was introduced in the year-2015. Further vide CBIC, Circular No. 1076/02/2020-CX., dated 19-11-2020 issued from F. No. 116/13/2020-CX. 3 it was made mandatory for all cases having revenue implication above Rs. 50,00,000/-, the provisions of the above circular is reproduced below :



C.B.I. & C. Circular No. 1076/02/2020-CX.,
dated 19-11-2020
F. No. 116/13/2020-CX. 3

Government of India
Ministry of Finance (Department of Revenue)
Central Board of Indirect Taxes & Customs, New Delhi

Subject : Clarification on holding of Pre-Show Cause Notice Consultation -
Regarding.

References have been received from the field formations seeking clarification on "who will hold pre-show cause notice consultation with the assessee concerned in cases where the show cause notices are to be issued by the Audit Commissionerates" in terms of para 3.0 of the instructions issued under F.No. 1080/11/DLA/CC Conference/2016, dated 13-10-2016 and para 5.0 of Master Circular No. 1053/02/2017-CX., dated 10-3-2017 [2017 (347) E.L.T. (T33)].

...
4. Due to the above change in monetary limits of adjudication and to lend clarity on this issue, it is hereby clarified that "Pre-show cause notice consultation with assessee, prior to issuance of SCN in case of demands of duty is above Rupees 50 Lakhs (except for preventive/offence related SCN's), is mandatory and shall be done by the Show Cause Notice issuing authority".
...

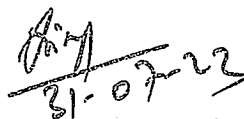
8.1 Examining the above legal provisions with the facts and circumstances of the case I find that the SCN in the case have been issued indiscriminately in clear violation of the above mandatory provisions which should be considered as violation of the principles of natural justice and is vague and liable to be set aside.

9. In view of the above discussions I am of the considered view that the SCN in the case is issued in clear violations of the legal provisions imposed by the CBIC as well as the impugned order passed confirming the demand of Service Tax amounting to Rs. 73,05,687/- alongwith interest and penalty is legally unsustainable as well as in clear violations of the principles of justice and therefore is liable to be set aside.

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


11. अपीलकर्ताद्वारा 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: 31 July, 2023

Attested:


(Somnath Chaudhary)
Superintendent, CGST,
Appeals, Ahmedabad



BY RPAD / SPEED POST

To

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Gandhinagar - 382007

Copy to: .

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Gandhinagar.
3. Additional Commissioner, Central GST, H.Q,
Commissionerate: Gandhinagar
4. The Dy/Assistant Commissioner (Systems), CGST Appeals ,Ahmedabad.
(for uploading the OIA)
- ✓ 5. Guard File.
6. P.A. File.



