



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
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By SPEED POST

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(क)	फाइल संख्या / File No.	GAPPL/COM/STP/2671/2022-APPEAL 19469-23
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-083/2023-24 and 28.08.2023
(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	11.09.2023
(ङ)	Arising out of Order-In-Original No. PLN-AC-STX-65/2022-23 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 Krishnakant D Patel, Dharnidhar Society, Rev Survey No. 219/3, Tharad, Banskantha, Gujarat-385565.

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:

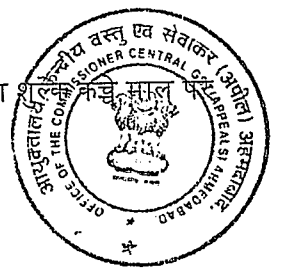
(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली: 110001 को की जानी चाहिए :-

A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :-

(क) यदि माल की हानि के मामले में जब ऐसी हानिकार खाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के दौरान हुई हो।

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग उत्पादन शुल्क के रिबेट के मामले 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 भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ का मुख्य शीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(3) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम होतो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

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

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-
Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(2) उक्तलिखित परिच्छेद में बताए अनुसार के अलावा की अपील, 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 पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

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

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

(5) इन 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।

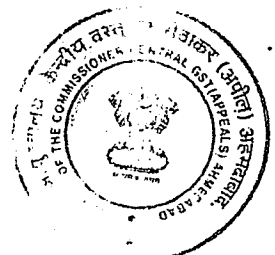
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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

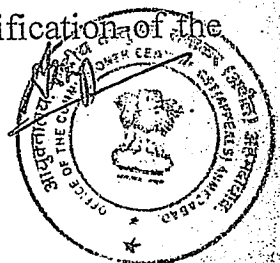
This Order arises out of an appeal filed by M/s Krishnakant D Patel, Dharnidhar Society, Rev. Survey No. 219/3, Tharad, Banskantha, Gujarat-385565 [hereinafter referred to as the appellant] against OIO No. PLN-AC-STX-65/2022-23 dated 30.06.2022 [hereinafter referred to as the impugned order] passed by the 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 were holding Service Tax Registration No. AGCPP7463JSD001 and were engaged in providing "Works Contract Service" and "Erection, Commissioning and Installation Services". Audit of the records of the appellant for the period October-2015 to June-2017 was conducted by the Officers of Central Tax Audit Commissionerate, Ahmedabad. During the course of Audit, the appellant were requested to provide documents such as Trial Balance, Work Orders, Income/Sale/Expense Ledgers etc vide the letter dated 28.01.2021 and that they had not produced their books of accounts in proper manner. The officers of audit observed that the appellant has not maintained/produced the records namely trial balance/ ledgers, work or purchase orders and invoices of the sale/ purchase of goods/services. There also appeared contravention of the provisions of Rule 5(2) of the Service Tax Rules, 1994, hence, they appeared to be liable for penalty under the provisions of Section 77(1)(b) of the Finance Act, 1994 as they have failed to maintain / produce the said records during the course of Audit.

2.1 Further, discrepancies were observed upon reconciliation of the income shown in their financial statements vis-à-vis the details shown in their Service Tax Returns (ST-3) for the F. Y. 2015-16 & 2016-17, as per details tabulated below :

Sr. No.	Particulars	F.Y. 2015-16 (in Rs.)	F.Y. 2016-17 (in Rs.)
1	Income as per 26AS	50,96,707/-	1,10,94,143/-
2	Income as per P & L	52,18,081/-	1,10,94,144/-
3	Higher of P & L and 26 AS	52,18,081/-	1,10,94,144/-
4	Value as per ST-3	45,94,158/-	1,05,56,740/-
5	Difference	6,23,923/-	5,37,404/-
6	Service Tax payable	90,469/-	80,611/-
	Total Service Tax payable	1,71,080/-	

The officers of Audit observed that the appellants have short paid Service Tax amounting to Rs. 1,71,080/- during the aforesaid period. Upon verification of the



ST-3 returns, it was observed by Audit team that the appellant had not paid the service tax within the prescribed due dates and therefore, interest amounting to Rs. 19,845/- is required to be recovered under Section 75 of the Act. The details are as under:

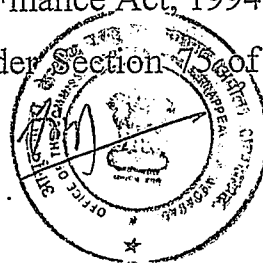
Challan No.	Amount Paid	Payable on date	Paid on date	No of days delay	Interest payable @24% P.A.
80037	7,40,738/-	06/01/2017	22/01/2017	16	7,793/-
80016	3,12,069/-	06/01/2017	04/03/2017	57	11,696/-
80031	36,063/-	06/07/2017	21/07/2017	15	356/-
Total Interest payable					19,845/-

2.2 These observations of audit were communicated to the appellant, who submitted reply vide letter dated 03.01.2021. They submitted that most of their records were destroyed in the flood that happened in 2017 at Tharad District. They were engaged in the works contract for UGVCL and already paid the due service tax. They have submitted a copy of work order dated 15.07.2015 with their written submission.

2.3 The audit further observed that the work order dated 15.07.2015 given by UGVCL, Deesa pertains to erection of HT, LT Line and T / C work. The Schedule - B to the Work Order lists out the nature and description of work to be carried out by the appellant. The specific nature of work shown is erection of single pole structure, stringing of ACSR, erection of special two pole structure, erection of stay set, erection of earthling plate, erection of guarding, erection of transformer etc. All these activities pertaining to erection work cannot be considered as "Works Contract". Therefore, the arguments made by the appellant were not considered by audit.

2.4 A Show Cause Notice No. 105/2020-21 dated 24.03.2021 was issued from F.No. VI/1(b)-166/IA/Krishnakant D Patel/19-20/AP-62 (in short SCN) wherein it was proposed to :-

- demand and recover Service Tax amounting to Rs. 1,71,080/- under the proviso to Section 73(1) of the Finance Act, 1994 alongwith interest under Section 75 of the Act ;
- penalty under Section 78 (1) & 77(1) (b) of the Finance Act, 1994 ;
- charge and recover interest of Rs. 19,845/- under Section 75 of the Finance Act, 1994;



3. The SCN was adjudicated vide the impugned order wherein:-

- ▣ the demand for Rs. 1,71,080/- (considering the differential taxable value of Rs. 11,61,327) was confirmed under Section 73 (2) of the Finance Act, 1994 alongwith interest under Section 75;
- ▣ penalty amounting to Rs. 1,71,080/- was imposed under Section 78 of the Finance Act, 1994 alongwith option for reduced penalty under proviso to clause (ii) ;
- ▣ order to pay the interest amounting to Rs. 19,845/- leviable on delayed payment of service tax for the month of December-2016, under Section 75 of the Finance Act, 1994 ;
- ▣ penalty of Rs. 10,000/- was imposed for non-maintenance of proper books of accounts and non-producing the same during audit, under Section 77(1) (b) of the Finance Act, 1994 ;

4. Aggrieved with the impugned order, the appellant have filed the instant appeal on following grounds:

- ❖ They were a "A" Class Registered Contractor and participating in Tender with M/s Uttar Gujarat Vij Corporation Limited (UGVCL) for providing services in respect of installing pole (Supplied by UGVCL) by fixing wire, earthing , coal , salt , fixing bolt and nut, colour, fabrication and TC Structure, and to fix stay set for support on pole. The services are provided to the Government for public amenities including street lighting and public convenience. They had received Tender for erection work of HT Line and Transformer center at Tharad (Part-E) S/Dn. Under D.O.Deesa-2 dated 23/11/2016, 28/09/2017, 9/8/2018, 4/3/2019 and 1/10/2020.
- ❖ UGVCL is a public company incorporated on 15/9/2003. Its CIN is U40102GJ2003SGCO42906 and its registration no. 42906. It is classified as a state government company and is registered with the Registrar of Companies, Ahmedabad (ROC). The company is engaged in production, collection and distribution of electricity in areas of North Gujarat. It is pertinent to note that, during the financial year 2015-16 and 2016-17, they had provided services to the state government company in respect of installing pole (Supplied by UGVCL) by fixing wire, earthing , coal , salt , fixing bolt and nut, colour, fabrication and TC Structure and to fixed stay



set to support there on as per the terms of Tender and received payment against services provided to the Government which is exempted service in context of the Government or local authority or government authority vide Entry number 12 of Notification no. 25/2012-ST dated 20/06/2012, effective from 01/07/2012.

- ❖ In respect of contracts entered in to before 01-03-2015, retrospective exemptions was granted in terms of provision of section 102 of the Finance Act 1994 for the period from 1/4/2015 to 29/02/2016 and prospective exemption was granted w.e.f. 01-03-2016 in terms of notification no.9/2016-ST amending notification no. 25/2012-ST.
- ❖ In terms of provisions of section 102 of the Finance Act, 1994 as inserted by Finance Act, 2016 w.e.f. 14-05-2016 notwithstanding anything contained in section 66B, no service tax shall be levied or collection during the period from 01-04-2015 to 29-02-2016. They submit herewith, the text of section 102 of Finance Act, 2016 which has inserted a new section 102 to provide for special retrospective exemption in certain cases relating to services provided to the government, local authority or a government authority by way of construction, repair, maintenance etc. of specified civil structure or residential complex.
- ❖ Further, they stated that being a contractor the Tender was awarded by the UGVCL and as per the practice of UGVCL sub-division was preparing Bill from their Department and payment was made as per the measurement and inventory provided by the UGVCL at different site. Therefore, they were not preparing running bills.
- ❖ They further contended that the Finance Act, 2016 has inserted a new section 102 to provide for special retrospective exemption in certain cases. The Appellant for in section 102(1)(a). It is stated that "the same has been restored for the services provided under a contract which had been entered in to prior to 01/03/2015 and on which appropriate stamp duty where applicable had been paid prior to that date. The exemption has been restored till 31/03/2020. As per the proviso to entry 12A, above exemption shall be applicable till 31/03/2020.



- ❖ They requested that in view of the above referred facts and circumstances of the case as the service provided by them is exempted service from the whole of the service tax leviable u/s. 66B of the Act, as per notification no.25/2012-ST dated 20/06/2012 and as per Notification no. 9/2016-ST dated 1/3/2016 the service tax worked out by the Learned Asst. Commissioner Central GST and C.Ex. Palanpur Division, may please be dropped on merits.

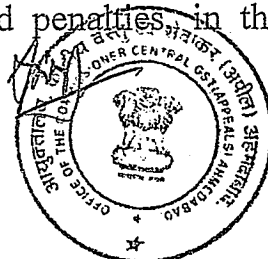
5. Personal hearing in the case was held on 03.05.2023. Shri Shailesh J Shah, Chartered Accountant, appeared on behalf of the appellant for hearing. He reiterated the submissions made in appeal and submitted a written submission during hearing.

5.1 On account of change in the appellate authority, Personal Hearing was conducted on 28.07.2023. Shri Shailesh J Shah, Chartered Accountant, appeared on behalf of the appellant for hearing. He reiterated the submissions made in appeal. He submitted a written submission dated 03.05.2023 & an additional written submission during the hearing. They also submitted that the appellant provided service of installation of electric poles for UGVCL, which is a Government Company. The provided Service is exempted In terms of provisions of section 102 of the Finance Act, 1994. Further, he requested to set aside the impugned order, keeping in view of the submissions made in the appeal and those in the additional written submissions submitted on 03.05.2023.

5.2. In their additional written submissions, the appellant have reiterated the grounds of appeal submitted in their appeal memorandum. They submitted copies of the following documents :

- Copy of Tender of UGVL dated 02.04.2013, 30.04.2013, 10.07.2013, 21.01.2014, 15.03.2014
- Copy of Notification No. 25/2012-ST dated 20.06.2012.
- Copy of Notification No. 09/2016-ST dated 01.03.2016.

6. I have gone through the facts of the case, submissions made in the Appeal Memorandum, oral submissions made during the personal hearing, additional written submissions and materials available on records. The issue before me for decision is whether the impugned order confirming the demand of Service Tax amounting to Rs. 1,71,080/- alongwith interest and penalties, in the facts and



circumstances of the case, is legal and proper or otherwise. The demand pertains to the period F.Y. 2015-16 and F.Y. 2016-17.

8. It is observed that the SCN in the case was issued in pursuance of the observations of Audit of the Service Tax records of the appellant conducted for the period October-2015 to June-2017. The appellant are a Proprietorship firm registered under Service Tax and engaged in providing services under the taxable services viz. "Works Contract Service" and 'Erection, Commissioning and Installation Service'. They had filed their periodical ST-3 Returns for the period October-2015 to June-2017. They are registered with M/s UGVCL as A-Class Contractors. From the copies of contracts submitted by them it is evident that the appellant had obtained various Contracts from M/s UGVCL during the period F.Y. 2012-13 and F.Y. 2013-14. Considering the period of completion of the last copy of Contract dated 15.03.2014 it is apparent that the appellant was awarded works classifiable under 'Erection, Commissioning and Installation' services by M/s UGVCL.

8.1 Further I find that the appellant have claimed exemption vide Sr.No. 12A of Notification No. 25/2012-ST dated 20.06.2012 as amended. In order to have a better understanding, the relevant part of the notification is reproduced below :

*Government of India
Ministry of Finance
(Department of Revenue)
Notification No. 25/2012-Service Tax*

New Delhi, the 20 th June, 2012

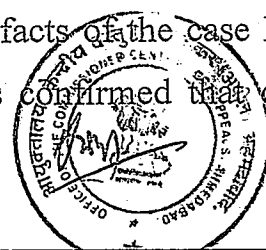
G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification number 12/2012- Service Tax, dated the 17 th March, 2012, published in the Gazette of India, Extraordinary,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

1. Services provided to the United Nations or a specified international organization;

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;

8.2 Examining the above legal provisions with the facts of the case I find that from the Form-26AS produced by the appellant it is confirmed that during the

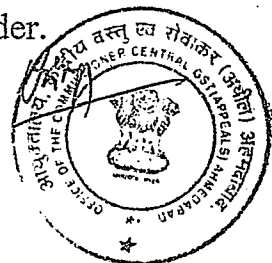


relevant period the appellant have provided services to M/s UGVCL only. The figures reflected at table at Para-3 of the impugned order also matches with the figures reflected in Form-26AS. It is also undisputed that M/s UGVCL is a Government company engaged in the production and distribution of Electricity in various parts of the Gujarat State. The sample copies of work orders submitted by the appellant confirms the fact that the nature of service provided by the appellant fall under 'Erection, Commissioning and Installation' services. Therefore, it is apparent that the services provided by the appellant during the relevant period to M/s UGVCL merits exemption in terms of Sr.No.12 (a) of Notification No. 25/2012-ST dated 20.06.2012, as amended.

8.3 I also find that the appellant have never claimed this exemption before filing of the ST-3 returns after self-assessment. Their assessment was not disputed by the department and assessment for the period F.Y. 2015-16 and F.Y. 2016-17 was finalized by way of Final Audit Report No. CE/ST-1082/2020-21 dated 22.03.2021 issued from F.No.VI/I(b)-166/IA/Krishnakant D.Patel/19-20/AP-62 (FAR) and the same was not disputed by the appellant. Therefore the benefit of exemption in terms of Sr.No.12 (a) of Notification No. 25/2012-ST dated 20.06.2012, as amended, should be restricted to the Services provided by the appellant of Taxable Value – Rs. 11,61,327/- during the period F.Y. 2015-16 and F.Y. 2016-17 only, as per table at Annexure-A to FAR dated 22.03.2021.

9. In view of the above discussions, I am of the considered view that the demand of Service Tax amounting to Rs. 1,71,080/- (levied on a taxable value of Rs. 11,61,327/-) confirmed vide the impugned order is legally unsustainable and liable to be set aside. As the demand of duty is not sustained, the question of interest and penalty does not arise.

9.1 However, in terms of the discussions supra, regarding the demand of Interest amounting to Rs. 19,845/- confirmed vide the impugned order, I find that the provision of interest flows from the statute and is not disputed. It is also apparent that this relates to the amount of Service Tax already paid by the appellant on the basis of self assessment and the assessment stands finalized. Further, the appellants have not submitted any sustainable grounds in their submissions against the levy of interest. Therefore, I uphold the confirmation of demand of Interest amounting to Rs. 19,845/- imposed vide para 23(IV) of the impugned order.



10. Accordingly the demand of Service Tax amounting to Rs. 1,71,080/- is set aside alongwith interest and penalties. The demand of Interest amounting to Rs. 19,845/- imposed vide para 23(IV) of the impugned order is upheld.

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.

Attested/

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

BY RPAD / SPEED POST

To,

M/s Krishnakant D Patel,
Dharnidhar Society,
Rev Survey No. 219/3,
Tharad, Banskantha,
Gujarat-385565.

Copy to:

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

(Shiv Pratap Singh)
Commissioner (Appeals)
Date: August, 2023

