



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:- 20230964SW0000604092

(क)	फाइल संख्या / File No.	GAPPL/COM/STP/2718/2022-APPEAL / 5982 - 86
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-095/2023-24 and 15.09.2023
(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	18.09.2023
(ङ)	Arising out of Order-In-Original No. 88/AC/DEM/MEH/ST/Maruti Labour Security/2022-23 dated 23.06.2022 passed by the Assistant Commissioner, CGST, Division-Mehsana, Gandhinagar Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Maruti Labour Security & Transport Company, No.11, Third Floor, M.G. Shopping Center, Rajmahel Road, Mehsana, Gujarat-384001.

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:-

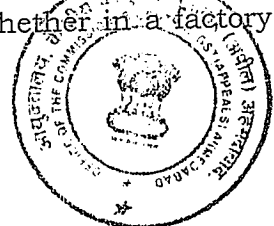
Revision application to Government of India:

(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 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 प्रकिया के दौरान हुई हो।

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



(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के 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 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.

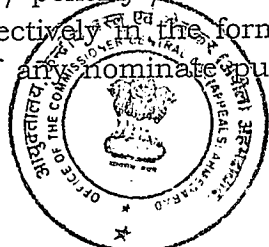
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 nominated 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

The present appeal has been filed by M/s Maruti Labour Security & Transport Company, No.11, Third Floor, M.G. Shopping Center, Rajmahal Road, Mehsana, Gujarat-384001 [hereinafter referred to as "the appellant"] against 88/AC/DEM/MEH/ST/Maruti Labour Security/2022-23 dated 23.06.2022 [hereinafter referred to as "the impugned order"] passed by the Assistant Commissioner, CGST & Central Excise, Division: Mehsana, Gandhinagar Commissionerate [hereinafter referred to as "the adjudicating authority"].

2. Briefly stated, the facts of the case are that the appellant were engaged in providing taxable services under Service Tax Registration No. AALFM4652RSD001. Whereas as per information received through preventive section, HQ, Gandhinagar vide DG Systems Report No. 02 & 03, discrepancies were observed in the total income declared in the Income Tax Returns and Service Tax Returns by the appellant during the period F.Y. 2015-16 & F.Y. 2016-17. Accordingly, letter dated 08.05.2020 was issued to the appellant calling for the details of services provided during the period F.Y. 2015-16 & F.Y. 2016-17. The appellant did not submit any reply. However, the jurisdictional officers 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 & 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 :

Sr. No	Period (F.Y.)	Differential Taxable Value as per Income Tax Data (in Rs.)	Rate of Service Tax incl. Cess	Service Tax demanded (in Rs.)
1	2015-16	2,01,44,400/-	14.5%	29,20,938/-
2	2016-17	0	15%	0
	Total	2,01,44,400/-		29,20,938/-

3. The appellant was issued Show Cause Notice No. V.ST/11A-08/Maruti Labour/2020-21 dated 29.06.2020 (in short SCN) alleging to demand and recover Service Tax amounting to Rs. 29,20,938/- under proviso to Section 73 (1) of Finance Act, 1994 by invoking extended period of limitation along with interest under Section 75 of the Act. The SCN also proposed imposition of penalty under Section 77(2), Section 77C and Section 78 of the Finance Act, 1994.



4. The SCN was adjudicated vide the impugned order wherein :

- Service Tax demand amounting to Rs. 19,47,669/- was confirmed (on differential taxable value of Rs. 1,34,32,202/-) alongwith interest under Section 75 of the Finance Act, 1994.
- Penalty amounting to Rs.10,000/- was imposed under Section 77(2) of the Finance Act, 1994.
- Penalty of Rs.200/- per day till the date of compliance or Rs.10,000/-whichever is higher under the provisions of Section 77 (1) (c) of the Finance Act, 1994.
- Penalty amounting to Rs. 19,47,669/- was imposed under Section 78 of the Finance Act,1994 with option for reduced penalty in terms of proviso to clause (ii).
- The demand of Service Tax amounting to Rs. 9,73,269/- was dropped under Section 73(2) of the Finance Act, 1994.

5. Aggrieved by the impugned order, the appellant has preferred this appeal on following grounds:

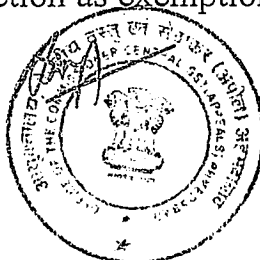
- The appellant is a partnership firm and having service tax registration no AALFM4652RSD001. They are engaged in providing Manpower Recruitment and Supply services to various educational institute. The show cause notice issued covered the period F.Y. 2015-16. The notice has been issued on the basis of income tax return filled by appellant for the period.
- Further, appellant have submitted that income tax return on which department relied and issued Show Cause Notice. The show cause notice is grossly wrong and incorrect. The SCN is issued merely on the basis of difference between Income Tax return and service tax return without any verification. In this regards apex court has in the case of M/s. Cosmic Dye chemical Vs Collector of Cen. Excise, Bombay [1995 (75) E.L.T. 721 (S.C.) held that
 - a) the burden is on the revenue to prove any of the above elements to uphold validity of an extended period of 5 years.
 - b) that detailed verification must be made prior to issuing SCN and complete details be provided to the person in the SCN.



- There is no base or verification even after disclosing fact in return as per Income Tax Act. Both the laws are different and applicability of taxes are different so relying on information of one department and issue such notice is utterly incorrect. It is totally against the work method of department and internal guideline. Only writing a statement in show cause notice regarding suppression or misstatement not make department stand for extended period. The notice itself is against department circular and guideline as quoted in judgment.
- The burden is on the department to prove with evidence and details as to which transaction falls in the above category. The officers are mandated to carry out proper verification before issuing such SCN. In present scenario which is not followed and against the object of department.
- The notice is totally time barred as per the provision of Section 73 of Finance Act. They requested that notice required to be squashed and proceeding initiated against them is required to be dropped.
- The appellant has filed service tax return and paid due taxes for F Y 2015-16. The appellant has submitted their reply dated 26/08/2020 and contended that they have paid due taxes and for service provided to educational institute is exempted vide notification number 25/2012 dated 20/06/2012 as amended. The summary is as under:

Particular (2015-16)	Amount	Detail
Value on Tax Paid	5761747/-	
Service Tax Paid	835453/-	Tax Paid
Exempt Service	13547200/-	Exemption Vide Notification No 25/2012
Total	20144400/-	

- The adjudicating authority has granted exemption for services provided to educational institute amounting 8,61,897/- and also granted deduction of tax paid in ST-3 return amounting 58,50,301/-. The adjudicating authority has determined tax liability on value of 1,34,32,202/-.
- The adjudicating authority has not considered that the appellant has provided services to various Adarsh Nivasi Shala of different district accordingly value of the same required to be allowed as deduction as exemption. (Notification No



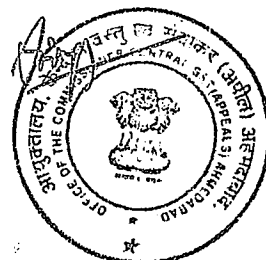
25/2012 dated 20/06/2012). Such services are out of the purview of the service tax and service tax is not applicable on it. They produced relevant ledger and supporting document in support of their contention and requested to consider the same and set aside impugned order.

- They further stated that penalty would be imposable where there is intention to evade the tax. As discussed supra, there is no intention to evade tax, the appellant has acted on bonafide belief and tried to comply with provision of the act. They rely on the decision of Hon'ble Supreme Court in the matter of Hindustan steel v State of Orissa 1978 ELT (J159).

6. Personal Hearing in the case was held on 28.07.2023. Shri Arpan Yagnik, CA appeared for personal hearing on behalf of the appellant. He reiterated submissions made in the appeal memorandum. He also submitted that the appellant provided manpower supply to Educational Institutions of tribes for security and catering services which are exempt under Mega Exemption Notification. The adjudicating authority has only granted partial benefit without taking into account and issued the order. He has submitted all the supporting documents with reconciliation at the time of personal hearing and requested to set aside the impugned order.

6.1 Vide the additional submission, they submitted copies of the following documents:-

- Reconciliation Statement in respect of the amount of Service Tax demand.
- Form 26 AS for the period of F. Y. 2015-16.
- Work Order dated 19.06.2015 issued by the Vigilance Officer, Office of the Tribal Development, Jorawar Palace Compound, Bahumali Bhawan, Palanpur, Dist-Banaskantha
- Work Order dated 29.06.2015 issued by the Assistant Commissioner, Tribal Development, District Service Sadan -2, B-Block, 4th Floor, Valsad, Dist-Valsad.
- Work Order dated 01.09.2015 issued by the Vigilance Officer, Office of the Tribal Development, Jorawar Palace Compound, District Service Sadan -2, 2nd Floor, Palanpur, Dist-Banaskantha



- Work Order dated 01.09.2016 issued by the Vigilance Officer, Office of the Tribal Development, Jorawar Palace Compound, District Service Sadan -2, 2nd Floor, Palanpur, Dist-Banaskantha
- Work Order dated 25.07.2014 issued by the Vigilance Officer, Office of the Tribal Development, Jorawar Palace Compound, District Service Sadan -2, 2nd Floor, Palanpur, Dist-Banaskantha

7. I have carefully gone through the facts of the case available on record, grounds of appeal in the appeal memorandum, additional submission, oral submissions made during personal hearing and the impugned order passed by the adjudicating authority. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority, in the facts and circumstances of the case, confirming the demand of service tax amounting to Rs. 19,47,669/- under proviso to Section 73 (2) of Finance Act, 1994 alongwith interest, and imposing penalties under Section 77(2), 77C(1)C and Section 78 of the Finance Act, 1994, is legal and proper or otherwise. The demand pertains to the period F.Y. 2015-16.

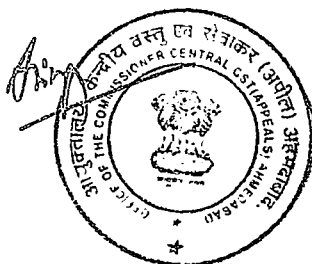
9. It is observed that the appellant are registered with the department and have filed their ST-3 Returns. However, the SCN in the case has been issued only on the basis of the data received from the Income Tax Department without ascertaining the nature of service provided or classifying them. It is apparent that no further verification has been caused to ascertain the nature of service and whether any exemptions/abatements were claimed by the appellant. Hence, the SCN was issued in clear violation of the CBIC Instructions dated 20.10.2021, relevant portion of the Instructions is re-produced as under :

...

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 was issued indiscriminately and is vague.



10. It is further observed that the appellants have filed their ST-3 Returns for the period F.Y. 2015-16 and their assessment was never disputed by the department. This implies that the appellant have made complete disclosures before the department and the department was aware about the activities being carried out by the appellant and these facts are not disputed. However, the demand of service tax was confirmed vide the impugned order invoking the extended period of limitation in terms of Section 73 (1) of the Finance Act, 1994. In this regard I find it relevant to refer the decision of the Hon'ble Supreme Court of India in the case of *Commissioner v. Scott Wilson Kirkpatrick (I) Pvt. Ltd. - 2017 (47) S.T.R. J214 (S.C.)*], wherein the Hon'ble Court held that "...ST-3 Returns filed by the appellant wherein they Under these circumstances, longer period of limitation was not invocable".

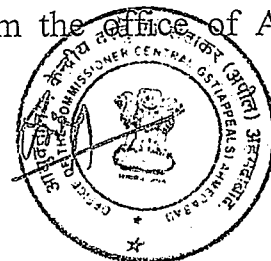
10.1 Further, the Hon'ble High Court of Gujarat in the case of *Commissioner v. Meghmani Dyes & Intermediates Ltd. reported as 2013 (288) ELT 514 (Guj.)* ruled that "if, prescribed returns are filed by an appellant giving correct information then extended period cannot be invoked".

• I also rely upon the decision of various Hon'ble Tribunals in following cases :

- (a) *Aneja Construction (India) Limited v. Commissioner of Service Tax, Vadodara* [2013 (32) S.T.R. 458 (Tri.-Ahmd.)]
- (b) *Bhansali Engg. Polymers Limited. v. CCE, Bhopal* [2008 (232) E.L.T. 561 (Tri.-Del.)]
- (c) *Johnson Matthey Chemical India P. Limited v. CCE, Kanpur* [2014 (34) S.T.R. 458 (Tri.-Del.)]

10.2 In view of the above judicial pronouncements, I find that the impugned order have been passed in clear violation of the settled law and is therefore legally incorrect, unsustainable and liable to be set aside on these grounds alone.

11. It is observed that during the period F.Y. 2015-16, the appellant have filed their ST-3 Returns, classifying their services under 'Manpower Recruitment and Supply Agency Service', paid Service Tax on the taxable value amounting to Rs. 58,50,301/-. The appellants had presented their case before the adjudicating authority and the adjudicating authority vide para 24 of the impugned order have recorded that the appellants have received various work orders from the office of Aadijaati Vikas,



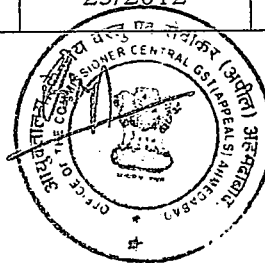
Palanpur pertaining to providing Cleaning services to various rural schools and hostels controlled by them. These facts are undisputed. These facts are further corroborated by the amounts reflected as received by the appellant under Section 194 C of the Income Tax Act, 1961 as per the Form-26AS submitted by the appellant. From the documents submitted by the appellant it is also confirmed that the Work Orders dated 19.06.2015, 15.07.2014, 01.09.2015 are all issued by the Vigilance Officer, Aadijaati Vikas, Palanpur and they have been accepted by the adjudicating authority in the impugned order. However, the amounts received under Section 194 C of the Income Tax Act, 1961 from the Vigilance Office/Vigilance Officer as per the Form-26AS was rejected by the adjudicating authority.

11.1 The Taxable Value amounting to Rs. 2,01,44,400/- considered in the SCN is not under dispute. The appellants have submitted a reconciliation table showing the break-up of the taxable values as under :

1	Total Amount of as per ITR/SCN	Rs. 2,01,44,400/-
2	Taxable Value as per ST-3, on which Service Tax liability was discharged	Rs.58,50,301/-
3	Amount of taxable value considered under exemption by the impugned order	Rs.8,61,897/-
4	Differential taxable amount [1-(2+3)]	Rs. 1,34,32,202/-

11.2 The appellants have also submitted a reconciliation statement for the period F.Y. 2015-16 as reproduced below:

Sr. No.	Services Recipient	Amount (in Rs.)	Type of Organisation	Exempted or otherwise	Exemption granted vide impugned order (in Rs.)
1	Adarsh Nivasi Shala Ambaji	5,07,376/-	School/ Hostel	vide Noti. No. 25/2012	5,07,376/-
2	Bahucharaji Mataji Temple Trust	8,34,402/-	School/ Hostel	vide Noti. No. 25/2012	
3	M N College	1,02,000/-	School/ Hostel	vide Noti. No. 25/2012	1,02,000/-
4	Touchstone Foundation Ahmedabad	55,36,758/-	Private Entity	Paid the eligible tax	
5	Vigilance Office Tribal Development Palanpur	33,03,191/-	School/ Hostel	vide Noti. No. 25/2012	
6	Vigilance Office Tribal Development Ahmedabad	6,10,770/-	School/ Hostel	vide Noti. No. 25/2012	
7	Adarsh Nivasi Shala (S.T.) Kanya Shala Umbergaon	83,300/-	School/ Hostel	vide Noti. No. 25/2012	83,300/-



8	Adarsh Nivasi Shala Vapi	41,650/-	School/ Hostel	vide Noti. No. 25/2012	41,650/-
9	Adarsh Nivasi Shala	1,81,097/-	School/ Hostel	vide Noti. No. 25/2012	
10	Social Welfare Officer Tribal Development- Dangs Ahwa	14,55,187/-	School/ Hostel	vide Noti. No. 25/2012	
11	Vigilance Officer (Class-I) Tribal Development	5,53,700/-	School/ Hostel	vide Noti. No. 25/2012	
12	Vigilance Officer (Class-I)	13,03,908/-	School/ Hostel	vide Noti. No. 25/2012	
	Total	1,45,13,339/-			7,34,326/-

12. The appellants have claimed exemption in terms of Sr.No.9 of the Notification No. 25/2012-ST dated 20.06.2012, as amended in respect of the services provided to various schools/hostels. In order to have a better understanding the relevant portion 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:-

9. Services provided.-

(a) by an educational institution to its students, faculty and staff;

(b) to an educational institution, by way of,-

(i) transportation of students, faculty and staff;

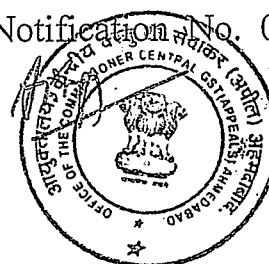
(ii) catering, including any mid-day meals scheme sponsored by the Government;

(iii) security or cleaning or house-keeping services performed in such educational institution;

(iv) services relating to admission to, or conduct of examination by, such institution;;

Examining the above legal provisions with the facts of the case I find that the services provided by the appellant detailed at the table of reconciliation except for services mentioned at Sr.No.4 of the table are eligible for exemption in terms of the provisions of the said Notification.


13. In view of the above discussions I am of the considered view that the appellants are eligible for exemption in terms of Sr.No. 9 (b) (iii) of the Notification No. 25/2012-ST dated 20.06.2012 as amended vide Notification No. 06/2012-ST



dated 11.07.2014 in respect of the cleaning services provided to various educational institutions as discussed supra and the impugned order confirming the demand of Rs. 19,47,669/- is liable to be set aside being legally unsustainable as well as on merits. As the demand fails to sustain, question of interest and penalty does not arise.


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

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


(SHIV PRATAP SINGH)
Commissioner (Appeals)

Dated: 15 Sept, 2023

सत्यापित /Attested:


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



By REGD/SPEED POST A/D

To,

M/s Maruti Labour Security & Transport Company
No.11, Third Floor, M.G. Shopping Center,
Rajmahel Road, Mehsana, Gujarat-384001

Copy to :

1. The Principal Chief Commissioner, CGST and Central Excise, Ahmedabad.
2. The Principal Commissioner, CGST and Central Excise, Gandhinagar
3. The Deputy /Asstt. Commissioner, Central GST, Division- Mehsana ,
Gandhinagar Commissionerate.
4. The Superintendent (Systems), CGST, Appeals, Ahmedabad, for publication of
OIA on website.
- ✓ 5. Guard file
6. PA File