



सत्यमेव जयते

आयुक्त (अपील) का कार्यालय,  
Office of the Commissioner (Appeal),  
केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद  
Central GST, Appeal Commissionerate, Ahmedabad  
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.  
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015  
07926305065- टेलिफैक्स 07926305136



DIN:20230264SW000000EC01

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/1813/2022-APPEAL / ६३९१ - ९६
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-002-APP-155/2022-23  
दिनांक Date : 14-02-2023 जारी करने की तारीख Date of Issue 16.02.2023  
आयुक्त (अपील) द्वारा पारित  
Passed by Shri Akhilesh Kumar, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. CGST/WT-07/RAJ/125/2022-23 दिनांक: 26.05.2022,  
issued by Deputy/Assistant Commissioner, CGST, Division-VII, Ahmedabad-North
- घ अपीलकर्ता का नाम एवं पता Name & Address

1. Appellant

M/s Maithil Sudhirkumar jogeshwar,  
A-11, Siddhy Co-operative Housing Society Ltd.,  
Satyamev Hospital, Kalol Highway,  
Chandkheda, Ahmedabad-380061

2. Respondent

The Deputy/ Assistant Commissioner, CGST, Division-VII, Ahmedabad  
North, 4th Floor, Shajanand Arcade, Nr. Helmet Circle, Memnagar,  
Ahmedabad-380052

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर 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।

(i) 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 :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने 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।

(ii) 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.



(क) 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 हैं।

(A) 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.

(ख) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(B) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

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।

(c) 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.

(1) 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 भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष 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.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो 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 सेवाकर 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 :-

(क) उक्तलिखित परिच्छेद 2 (1) क 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

(a) 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 in para-2(i) (a) above.



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 मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर 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.

- (7) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (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 सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग" (Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) 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.

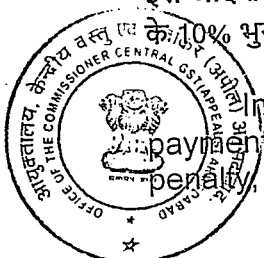
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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

इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो मांग 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."



**ORDER IN APPEAL**

M/s. Maithil Sudhirkumar Jogeshwar, A-11, Siddhy Co-Operative Housing Society Ltd, Satyamdev Hospital, Kalol Highway, Chandkheda, Ahmedabad-380061 (hereinafter referred to as '*the appellant*') have filed the present appeal against the Order-in Original No.CGST/WT-07/RAJ/125/2022-23 dated 26.05.2022 (in short '*impugned order*') passed by the Deputy Commissioner, Central GST, Division-VII, Ahmedabad North, Ahmedabad (hereinafter referred to as '*the adjudicating authority*').

2. The facts of the case, in brief, are that on the basis of the data received from the Central Board of Direct Taxes (CBDT) for the F.Y. 2015-16 to 2016-17, it was noticed that the appellant is holding PAN No.AGOPM9271B and had earned substantial income by way of providing taxable services. They have neither obtained Service Tax registration nor paid the applicable service tax thereon. The appellant had earned an income of Rs.22,99,801/- and Rs.36,55,900/- during the F.Y. 2015-16 to 2016-17 respectively, which was reflected under the heads "Sales / Gross Receipts from Services (Value from ITR)" or "Total amount paid / credited under Section 194C, 194I, 194H, 194J (Value from Form 26AS)" of the Income Tax Act, 1961, on which no tax was paid. Letters were, therefore, issued to the appellant to explain the reasons for non-payment of tax and to provide certified documentary evidences for the F.Y. 2015-16 & F.Y. 2017-18 (upto June). However, neither any documents nor any reply was submitted by them for non-payment of service tax on such receipts.

2.1 A Show Cause Notice (SCN) No.CGST/AR-V/Div-VII/A'bad-North/TPD UR 15-16/10/2020-21 dated 23.12.2020 was issued to the appellant proposing recovery of service tax demand of Rs.8,81,856/- not paid on the differential value of income amounting to Rs.59,55,701/- received during the F.Y. 2015-16 to F.Y. 2016-17, along with interest under Section 73(1) and Section 75 of the Finance Act, 1994, respectively. Imposition of penalty under Sections 77 and Section 78 of the Finance Act, 1994, were also proposed.

2.2 The said SCN was adjudicated vide the impugned order, wherein the service tax demand of Rs.3,64,930/- was confirmed alongwith interest. Penalty of Rs.10,000/- each was imposed under Section 77 (1) & (2) and equivalent penalty of Rs.3,64,930/- was also imposed under Section 78.

3. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal on the grounds elaborated below:-

- The appellant is engaged in the business of providing construction services directly to clients and also as sub-contractor to the main contractor. They have provided construction services to entity registered under Section 12 AA of the Income Tax Act, 1961 and construction meant predominately for religious use by general public; Construction services to Governmental Authorities for construction of predominantly meant for clinical establishment; Construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration residential single units; Construction services of commercial establishments.

They construction work for Ambaji Mandir Sankul Development and beautification of Ambaji Temple is a service rendered to entity registered under Section 12 AA of



the Income Tax Act, 1961 and as construction is meant predominately for religious use by general public, it is exempted vide SL.No.13 of Notification No.25/2012-ST dated 20.06.2012. Hence, no service tax is chargeable on such services.

- Similarly services provided to Tripur Builder are taxable under works contract service and that the construction work was for Hospital and Thelesemia Centre at Red Cross Society, which is a Governmental Authorities. As the construction was for clinical establishments, the same are also exempted vide SL.No.12A(b) of the said notification.
- The construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration residential single units are exempted vide SL.No. 14(b) of Notification No.25/2012-ST dated 20.06.2012. Hence, no service tax is chargeable on such services.
- Further, the repair of commercial building carried out by the appellant for M/s. Gujarat Mineral Development Corporation Ltd. is also exempted. Hence, no service tax is chargeable on such services.
- There are arithmetical error at Sr.No.17 of the order, where in value of taxable income of Rs.9,54,000/-was considered as Rs.27,54,000/-. Similarly, the taxable value service of Rs.2,00,000/- rendered to Tripura Builders has been considered as Rs.20,00,000/-, resulting in consequential error of Rs.18,00,000/-.

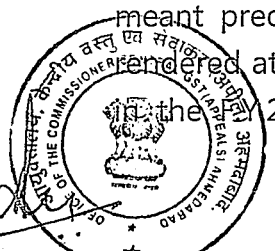
4. Personal hearing in the matter was held on 18.01.2023. Shri Nishit B.Thakkar, Chartered Accountant, appeared on behalf of the appellant. He reiterated the submissions made in the appeal memorandum. He also submitted paper book elaborating the grounds of appeal and copy of The Indian Red Cross Society Act, 1920 and Work Order No. TB/Abd/11/15-16 dated 01.12.2015, entered with Tripur Builders.

5. I have carefully gone through the facts of the case, the impugned order passed by the adjudicating authority, submissions made in the appeal memorandum as well as the submissions made at the time of personal hearing. The issue to be decided in the present case is as to whether the service tax demand of Rs.3,64,930/- confirmed alongwith interest and penalties in the impugned order passed by the adjudicating authority, in the facts and circumstances of the case, is legal and proper or otherwise?

The demand pertains to the period F.Y. 2015-2016 to F.Y. 2017-18 (upto June).

6. It is observed that the SCN was issued proposing recovery of service tax demand of Rs.8,81,856/- not paid on the differential value of income received during the F.Y. 2015-16 to F.Y. 2016-17, along with interest and penalties under Sections 77 and under Section 78 of the Finance Act, 1994. Thereafter, in terms of Para 2.8 of the Master Circular No. 1053/2/2017-CX., dated 10-3-2017, the service tax liability for the F.Y. 2017-18 (upto June) was also quantified by the adjudicating authority based on the data provided by the appellant and the tax liability of Rs.40,775/- was also incorporated.

6.1 The adjudicating authority has denied the exemption on the services rendered to Tripur Builder on the findings that the construction was of hospital, which is not a building meant predominantly for religious use by general public. For the construction service rendered at Ambaji Temple, the same was held as exempted, and considering the income in the F.Y. 2014-15 being less than the threshold limit of Rs.10 lakh, the adjudicating



authority has granted the SSI exemption for the F.Y. 2015-16. Thus, the taxable income was considered as Rs.27,54,000/- and after granting the SSI exemption, the remaining taxable income was arrived at Rs.17,54,000/-. The demand of Rs.3,64,929/- was confirmed after granting 60% abatement on the income earned in F.Y. 2015-16 considering the service as 'original work', and 30% abatement was granted for income under Repair Work in the F.Y. 2016-17 to F.Y. 2017-18 (Upto June). Thus, the taxable value of Rs.7,01,600/, Rs.14,82,820/- & Rs.2,71,831/- for the F.Y.2015-16, F.Y.2016-17 & F.Y. 2017-18 (upto June) respectively was considered after abatement.

7. The impugned order has been challenged by the appellant claiming that the admissibility of exemption under Notification No.25/2012-ST dated 20.06.2012 was not examined by the adjudicating authority. The appellant have claimed that the construction service rendered to Sh Nilesh O. Jani is exempted as the service rendered is covered under Sl.No.13(c) of the notification. It is observed in this regard that the adjudicating authority, at Para-17 of the impugned order, has granted the exemption under Sl.No.13(c) of the Notification No.25/2012-ST by holding that Sh Nilesh O. Jani, is the Main Contractor, who was entrusted the construction work of Ambaji Temple. As the Ambaji Temple was a building owned by an entity registered under Section 12AA of the Income Tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public, the appellant has been held to be eligible for exemption in terms of Entry No.29(h) of the said notification. I find that as the adjudicating authority has already considered the exemption for the F.Y.2015-16, period during which the said service was rendered, there is no merit in claim of the appellant seeking the exemption again.

8. Further, the appellant have also claimed exemption for the construction service provided to Tripur Builder claiming that the construction work carried out was for 'Hospital and Thelesemia Centre' at Red Cross Society, which they claimed is a governmental authority, hence exempted under SL.No.13(c) or Sl.No.12A(b) of Notification No.25/2012-ST. The adjudicating authority has denied the exemption and held that services rendered to Tripura Builder were for construction of hospital, which is not a building meant predominantly for religious use by general public.

8.1 To examine the issue, relevant text of the notification is re-produced below:-

Notification No. 25/2012-ST dated 20.6.2012

**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 -**

(c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;

**Definitions**

(j) "**clinical establishment**" means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent



entity or a part of an establishment to carry out diagnostic or investigative services of diseases;

s) **"governmental authority"** means a board, or an authority or any other body established with 90% or more participation by way of equity or control by Government and set up by an Act of the Parliament or a State Legislature to carry out any function entrusted to a municipality under article 243W of the Constitution;

**13. Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-**

(c) a building owned by an entity registered under section 12AA of the Income Tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public;

Notification No. 09/2016-ST dated 01.03.2016

**12A. 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 -**

(b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or

under a contract which had been entered into prior to the 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date :

8.2 Thus, on plain reading of above notifications, it is obvious that Sl. No.12(c) of Notification No.25/2012-ST, exempts construction of a structure meant predominantly for use as a clinical establishment, if the said service was provided to the Government, a local authority or a governmental authority. However, this exemption was withdrawn with effect from 1<sup>st</sup> April, 2015 vide Notification No.06/2015-ST dated 01.03.2015, as clause (a), (c) and (f) of Entry 12 were omitted. It is further observed that the appellants are, however, claiming exemption under Sl. No.12A(b), which, I find was inserted vide Notification No.09/2016-ST dated 01.03.2016. In terms of Sl. No. 12A (b), the exemption is available, provided a contract had been entered into prior to 1st March, 2015 and on which appropriate stamp duty, where applicable had been paid prior to such date.

8.3 It is observed that M/s Tripur Builders vide Contract dated 01.12.2015, sub-contracted the work of construction of "Hospital & Thelesamia Centre at Indian Red Cross Society" Vadaj, Ahmedabad, to the appellants. The Indian Red Cross Society is constituted under an Act of Indian Legislative Council in 1920 and is auxiliary to the state authorities and armed forces medical services as per statutes of the Red Cross Red Crescent Movement. Though, 'Hospital & Thelesamia Centre' are covered under term '*clinical establishment*' defined under clause (j) of the aforesaid notification but I find that the Indian Red Cross Society does not fall under the scope of '*governmental authority*' defined under clause (s) of the Notification No.25/2012-ST, as they are not entrusted to carry out any function entrusted to a municipality under Article 243W of the Constitution. Further, the appellants also failed to provide any proof evidencing the fact that the contract had been entered prior to 1st March, 2015 and appropriate stamp duty had been paid prior to that date.



8.4 Further, it is also observed that in terms of Sl.No.13(c) of the Notification No.25/2012-ST, exemption is available only if the construction is carried out for a building owned by an entity registered under section 12AA of the Income Tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public. I find that the Indian Red Cross Society, though a charitable trust and registered under Section 12AA of the IT Act, but the 'Hospital & Thelesamia Centre' constructed is not meant predominantly for religious use by general public. I, therefore, do not find any reason to interfere in the findings of the adjudicating authority and hold that the exemption has been rightly denied to the appellant for the said activity.

9. In respect of the construction of single units undertaken for various customers, the appellant have claimed exemption under SL. No. 14(b) of Notification No.25/2012-ST dated 20.06.2012. Relevant text of the said Entry is re-produced below:-

**14. Services by way of construction, erection, commissioning, or installation of original works pertaining to,-**

(b) a single residential unit otherwise than as a part of a residential complex;

9.1 I find that this aspect was not examined by the adjudicating authority as the impugned order is silent on the above claim of the appellant. I, therefore, find that in the interest of natural justice, the matter needs to be remanded back to the adjudicating authority for consideration of this issue.

10. In respect of the repair of commercial building carried out for M/s. Gujarat Mineral Development Corporation Ltd, the appellant have claimed exemption under Sl.No. 14(b) of the aforesaid notification. It is observed that the adjudicating authority has not given any findings justifying the denial of above claim. It is a well settled position of law that the adjudicating authority, while deciding the SCN, is duty bound to consider the grounds of challenge and is also required to pass a reasoned and speaking order considering and dealing with those grounds. The contentions raised against the demand have not been considered and, therefore, the impugned order has been passed in violation of principles of natural justice, being non-speaking order. The same deserves to be set-aside and remitted back to the adjudicating authority for passing of a reasoned and speaking order dealing with the contentions raised in the written submission.

11. Further, the appellant have also claimed that the impugned order contains arithmetical error, as at Para-17, the value of taxable income of Rs.9,54,000/-was wrongly considered as Rs.27,54,000/-. Similarly, they have also claimed that the taxable value of service rendered to Tripur Builders of Rs.2,00,000/- has been considered as Rs.20,00,000/-, resulting in excess valuation of Rs.18,00,000/-. As regards the taxable value of Rs.2,00,000/- is concerned, it is observed that the same has been rightly mentioned. Further, the argument that Rs.9,54,000/- was wrongly considered as Rs.27,54,000/-, is not supported by any documentary evidences. Hence, I find that the same cannot be entertained.

In view of the above discussion, I remand the matter to the adjudicating authority to re-examine issues relating to (i) exemption claimed by the appellant under Sl. No. 14(b) for





the construction of single units undertaken by the appellant for various customers and (ii) repair of commercial building carried out by the appellant for M/s. Gujarat Mineral Development Corporation Ltd. The appellant is, therefore, directed to submit all the relevant documents / details to the adjudicating authority, including those submitted in the appeal proceedings, in support of their contentions. The adjudicating authority shall decide the remanded issue afresh on merits and accordingly pass a reasoned order after following the principles of natural justice.

**12.1** The demand pertaining to service tax in relation to construction of Hospital and Thelesamia Centre for Indian Red Cross Society is upheld. The appeal preferred by the appellant on this issue is rejected.

**13.** Accordingly, I partially allow the appeal filed by the appellant by way of remand and partially reject the appeal to the extent as discussed at Para-7 and Para 8 to Para 8.4 above.

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

The appeal filed by the appellant stand disposed off in above terms.

*Akhil Kumar*  
14<sup>th</sup> February 2023  
(अखिलेश कुमार) no 23.  
आयुक्त(अपील्स)

Attested

*Rekha A. Nair*  
(Rekha A. Nair)

Superintendent (Appeals)  
CGST, Ahmedabad



**By RPAD/SPEED POST**

To,

M/s. Maithil Sudhirkumar Jogeshwar,  
A-11, Siddhy Co-Operative Housing Society Ltd,  
Satyamdev, Hospital, Kalol Highway, Chandkheda,  
Ahmedabad-380061

- **Appellant**

The Deputy Commissioner,  
Central GST, Division-VII,  
Ahmedabad North, Ahmedabad

- **Respondent**

**Copy to:**

1. The Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Ahmedabad North.
3. The Assistant Commissioner (H.Q. System), CGST, Ahmedabad North.  
(For uploading the OIA)
4. Guard File.
5. The Superintendent (System), CGST, Appeals, Ahmedabad, for uploading the OIA on the website.

