



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:20230364SW000021212E

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/2702/2022-APPEAL / 4357 - 61
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-002-APP-176/2022-23
दिनांक Date : 28-02-2023 जारी करने की तारीख Date of Issue 10.03.2023
आयुक्त (अपील) द्वारा पारित
Passed by Shri Akhilesh Kumar, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. CGST/WT07/RAJ/58/2022-23 दिनांक: 27.04.2022,
issued by Deputy/Assistant Commissioner, CGST, Division-VII, Ahmedabad-North
- घ अपीलकर्ता का नाम एवं पता Name & Address

1. Appellant

M/s Jigar Praveenlal Shah,
Shadhna Bunglows, Prashant Society Corner,
Opp. Stadium , Navrangpura,
Ahmedabad-382016

2. Respondent

The Deputy/ Assistant Commissioner, CGST, Division-VII, Ahmedabad
North , 4th Floor, Shahjanand Arcade, 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, 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 :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में 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 है।

(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 दिनोंक 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.

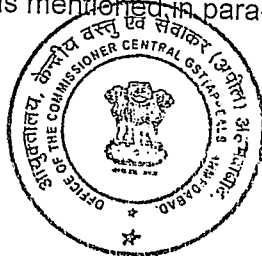
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद -380004

(a) 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 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.

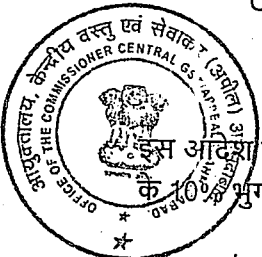
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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



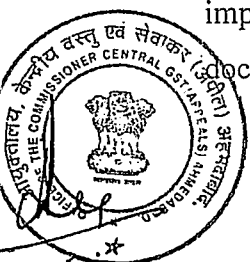
ORDER-IN-APPEAL

The present appeal has been filed by M/s. Jigar Praveenlal Shah, Shadhna Bungalows, Prashant Society Corner, Opp. Stadium, Navrangpura, Ahmedabad – 382016 (hereinafter referred to as “the appellant”) against Order-in-Original No. CGST/WT07/RAJ/58/2022-23 dated 27.04.2022 (hereinafter referred to as “the impugned order”) passed by the Deputy Commissioner, Central GST, Division VII, Ahmedabad North (hereinafter referred to as “the adjudicating authority”).

2. Briefly stated, the facts of the case are that the appellant is holding PAN No. ACZPS3467J. On scrutiny of the data received from the Central Board of Direct Taxes (CBDT) for the Financial Year 2014-15, it was noticed that the appellant had earned an income of Rs. 18,34,446/- during the FY 2014-15, 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)” provided by the Income Tax department. Accordingly, it appeared that the appellant had earned the said substantial income by way of providing taxable services but has neither obtained Service Tax registration nor paid the applicable service tax thereon. The appellant was called upon to submit copies of Balance Sheet, Profit & Loss Account, Income Tax Return, Form 26AS, for the said period. However, the appellant had not responded to the letters issued by the department.

2.1 Subsequently, the appellant was issued a Show Cause Notice No. CGST/AR-I/Div-VII/A’bad North/87/Jigar/20-21/744 dated 26.09.2020 demanding Service Tax amounting to Rs. 2,26,738/- for the period FY 2014-15, under proviso to Sub-Section (1) of Section 73 of the Finance Act, 1994. The SCN also proposed recovery of interest under Section 75 of the Finance Act, 1994; and imposition of penalties under Section 77(1)(a), Section 77(1)(c), Section 77(2) & Section 78 of the Finance Act, 1994. The SCN also proposed recovery of unquantified amount of Service Tax for the period FY 2015-16 to FY 2017-18 (up to Jun-17).

2.2 The Show Cause Notice was adjudicated ex-parte by the adjudicating authority vide the impugned order wherein the demand of Service Tax amounting to Rs. 2,26,738/- was confirmed under proviso to Sub-Section (1) of Section 73 of the Finance Act, 1994 along with Interest under Section 75 of the Finance Act, 1994 for the period from FY 2014-15. Further (i) Penalty of Rs. 2,26,738/- was also imposed on the appellant under Section 78 of the Finance Act, 1994; (ii) Penalty of Rs. 10,000/- was imposed on the appellant under Section 77(1)(a) and Section 77(1)(c) of the Finance Act, 1994; and (iii) Penalty of Rs. 10,000/- was imposed on the appellant under Section 77(2) of the Finance Act, 1994 for not submitting documents to the department when called for.

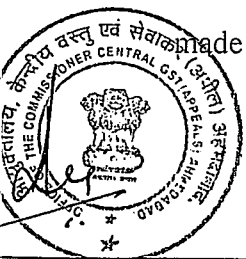


3. Being aggrieved with the impugned order, the appellant have preferred the present appeal on the following grounds:

- The appellant is engaged in intermediate production process of manufacturing of packing material for the final product known as integral process and as “job work” during the relevant period.
- The appellant is engaged in the making of plastic bottles which will be used by the manufacturer as packing material and pack the final product into the same. The packing material manufactured by the appellant is as per specification and material provided by the manufacturer. All the details are specified in agreement entered into between the different parties.
- The appellant has given reference of the job work definition given in Rule 2(n) of the Cenvat Credit Rules, 2004 and given in Notification No. 214-86 dated 25.03.1986. The process carried out by the appellant is covered under job work as the manufacturing of the packing material is an integral process to complete the manufacturing of the final product and sale of product in the market.
- As per Entry 30(c) of Mega Exemption Notification No. 25/2012-ST dated 20.06.2012, job work in relation of any goods on which appropriate duty is payable by the principal manufacturer is exempted. The appellant also give reference to the negative list of services, under Section 66D(f) of the Finance Act, 1994, as per which any process amounting to manufacture or production of goods is not taxable service.
- Further, what is “Process amounting to manufacture or production of goods”, is defined under Section 65(B)(40) of the Finance Act, 1994, means “*A process on which duties of excise are leviable under Section 3 of the Central Excise Act, 1944 or any process amounting to manufacture of alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force.*”
- Hence, it is clear that even under Negative list regime, if, the process amounts to manufacture service tax is not applicable to the appellant as the same will be covered under negative list as per Section 66D(f) of the Finance Act, 1994.



- With regard to the demand of Service Tax confirmed in the impugned order under manpower supply services, the appellant submitted that they had done labour work only on the materials provided by the supplier. Therefore, the same can be considered intermediate process and according to the appellant, their activity cannot be brought under the fold of manpower supply service.
 - As per the Entry No. 30(ii)(c) of the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012, it is clear that services provided by the appellant were of the category of “intermediate production process as job work” is exempted. The appellant also submitted documents showing details regarding the production of intermediate product as job work services provided by the appellant along with appeal memorandum.
 - In support of their view, the appellant relied upon the following case laws:
 - (a) M/s. Anmol Biscuits Limited Vs. Commissioner of Service Tax-II, Kolkata [(Service Tax Appeal No. 75880 of 2017) (Final Order No. 75112/2022)]
 - (b) Dhanshree Enterprises, Jai Maharashtra Enterprises Vs. CCE, Pune-I reported in 2017 (7) TMI 762 – CESTAT Mumbai.
 - (c) M/s. Manish Enterprises Vs. CCE, Pune-I reported in 2016 (1) TMI 630 – CESTAT Mumbai.
 - The services provided by the appellant is exempted in nature and not liable to pay Service Tax, therefore, the appellant is not liable to take registration and imposing of penalty under Section 77 of the Finance Act, 1994. Penalty under proviso to Section 78(1) of the Finance Act, 1994 also not imposable as there was no suppression of wilfull misstatement on part of the appellant.
4. Personal hearing in the case was held on 15.02.2023. Shri Arjun Akruwala, Chartered Accountant, and Shri Aashal Patel, Chartered Accountant, appeared on behalf of the appellant for personal hearing. They reiterated submission made in appeal memorandum. They stated that they would submit copies of documents relevant for assessment as additional written submission.
- 4.1 The appellant, vide letter dated 27.02.2023, have submitted sample copies of job work invoices, copy of Form 26AS and copy of Audit Report for the 2014-15.
5. I have carefully gone through the facts of the case, grounds of appeal, submissions made in the Appeal Memorandum and documents available on record. The issue to be decided



in the present appeal is whether the impugned order passed by the adjudicating authority, confirming the demand of service tax against the appellant along with interest and penalty, in the facts and circumstance of the case, is legal and proper or otherwise. The demand pertains to the period FY 2014-15.

6. I find that in the SCN in question, the demand has been raised for the period FY 2014-15 based on the Income Tax Returns filed by the appellant. Except for the value of "Sales of Services under Sales / Gross Receipts from Services" provided by the Income Tax Department, no other cogent reason or justification is forthcoming from the SCN for raising the demand against the appellant. It is also not specified as to under which category of service the non-levy of service tax is alleged against the appellant. Merely because the appellant had reported receipts from services, the same cannot form the basis for arriving at the conclusion that the respondent was liable to pay service tax, which was not paid by them. In this regard, I find that CBIC had, vide Instruction dated 26.10.2021, directed that:

"It was further reiterated that demand notices may not be issued indiscriminately based on the difference between the ITR-TDS taxable value and the taxable value in Service Tax Returns.

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."

6.1 In the present case, I find that letters were issued to the appellant seeking details and documents, which were allegedly not submitted by them. However, without any further inquiry or investigation, the SCN has been issued only on the basis of details received from the Income Tax department, without even specifying the category of service in respect of which service tax is sought to be levied and collected. This, in my considered view, is not a valid ground for raising of demand of service tax.

7. I find that the main contention of the appellant is that they are engaged in intermediate production process as job work for the packaging material in plastic and that the process carried out by them is covered under job work, as the manufacturing of the packing material is an integral process to complete the manufacturing of the final product and sale of product in



the market and their income was not liable to Service Tax. The appellant have also contended that as per Entry No. 30(c) of Mega Exemption Notification No. 25/2012-ST dated 20.06.2012, job work in relation of any goods on which appropriate duty is payable by the principal manufacturer is exempted. The appellant have also given reference to the negative list of services, under Section 66D(f) of the Finance Act, 1994, as per which any process amounting to manufacture or production of goods is not a taxable service.

8. For ease of reference, I hereby produce the relevant text of the Negative List as per Section 66(D)(f) of the Finance Act, 1994 and the Notification No. 25/2012-ST dated 20.06.2012, as amended, which reads as under:

Negative List as per Section 66(D)(f) of the Finance Act, 1994

"Section 66(D) Negative list of services.—

The negative list shall comprise of the following services, namely :—

(a)

(f) amounting to manufacture or production of goods

....."

"Notification No. 25/2012-Service Tax dated 20th June, 2012

G.S.R. 467(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 No. 12/2012- Service Tax, dated the 17th 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 17th 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...

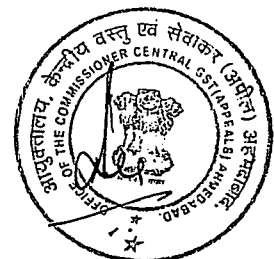
2... ..

30. Carrying out an intermediate production process as job work in relation to -
(a) agriculture, printing or textile processing;

(b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986);

(c) any goods excluding alcoholic liquors for human consumption, on which appropriate duty is payable by the principal manufacturer; or

(d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;"



9. I find that the appellant have attached a declaration, regarding job work contract signed by M/s. Rasna Private Ltd., Ahmedabad, engaged in manufacturing and production of soft drink concentrates, instant drink powders, milkshake, mixes, fruit jams, sports drinks, health drinks, fruit juices, ice tea and non-alcoholic beverages, inter alia, stating that they have appointed the appellant for doing job work of flavor wise cap and PP jars; that the appellant would clear intermediate goods to them for completing manufacturing process; that at the end excise duty on the final products is paid by them as a principal manufacturer.

10. On scrutiny of the documents viz. job work invoices for the FY 2014-15 submitted by the appellant, and process carried out by the appellant as explained in the appeal memorandum, it appears that the appellant are engaged in manufacturing of PP Jars / Bottles and flow regulators, etc. from Plastic Granules on job work basis for M/s. Rasna Private Limited, Ahmedabad and various other customers viz. Sailesh Surgical, Royal Surgicare Pvt. Ltd., etc..

10.1 On verification of the Profit & Loss Account and its schedules, I find that during the FY 2014-15, the appellant have earned total income of Rs. 1,43,33,471/- and shown the same in head of "Sales" in their P&L Account. Out of the said amount they have shown income of Rs. 19,30,441/- from "Sales Labour" and rest from the "OGS Sales 2%", "Output Sales @ 4%". On verification of the Form 26AS, I find that the appellant have received an amount of Rs. 18,34,446/- from various customers on which TDS under Section 194C has been deducted, and I also find that in the present case, the Service Tax has been demanded on the said amount of Rs. 18,34,446/-.

10.2 In view of the above, I find that the appellant received the said amount of Rs. 18,34,446/- as job work charges for manufacturing Jars / Bottles and flow regulators for various customers. Thus, process carried out by them is amounting to manufacture and such job work falls under Negative list as per Section 66(D)(f) of the Finance Act, 1994.

11. In view of the above discussion, I am of the considered view that the activity carried out by the appellant falls under Negative list as per Section 66(D)(f) of the Finance Act, 1994 and the appellant are not liable to pay Service Tax during the FY 2014-15. Hence, the demand confirmed by the adjudicating authority vide the impugned order is not legally sustainable and is liable to be set aside. Since the demand of Service Tax is not sustainable on merits, there does not arise any question of charging interest or imposing penalties in the case.

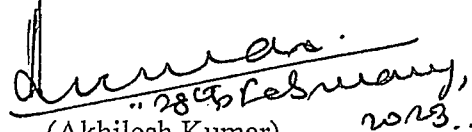
12. In view of above, I hold that the impugned order passed by the adjudicating authority confirming demand of Service Tax, in respect of job work income received by the appellant



during the FY 2014-15, is not legal and proper and deserve to be set aside. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.


13. अपील कर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

The appeal filed by the appellant stands disposed of in above terms.


.. 28 Feb 2023..
(Akhilesh Kumar)
Commissioner (Appeals)

Attested

Date : 28.02.2023


(R. C. Maniyar)
Superintendent(Appeals),
CGST, Ahmedabad



By RPAD / SPEED POST

To,
M/s. Jigar Praveenlal Shah,
Shadhna Bungalows,
Prashant Society Corner,
Opp. Stadium, Navrangpura,
Ahmedabad – 382016

Appellant

The Deputy Commissioner,
CGST, Division-VII,
Ahmedabad North

Respondent

Copy to :

- 1) The Principal Chief Commissioner, Central GST, Ahmedabad Zone
- 2) The Commissioner, CGST, Ahmedabad North
- 3) The Deputy Commissioner, CGST, Division VII, Ahmedabad North
- 4) The Assistant Commissioner (HQ System), CGST, Ahmedabad North

(for uploading the OIA)

- ✓ 5) Guard File
- 6) PA file

