केंद्रीय कर आयुक्त (अपील)

O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,

सत्यमेव जयते केंद्रीय उत्पाद शुल्क भवन, 7th Floor, Central Excise Building,

सातवीं मंजिल, पोलिटेकनिक के पास, Near Polytechnic,

आम्बावाडी, अहमदाबाद-380015 Ambavadi, Ahmedabad-380015

फोन : 079-26305065 टेलेफैक्स : 079 - 26305136

रजिस्टर डाक ए .डी .द्वारा

क फाइल संख्या (File No.) : V2(STC)3 /North/Appeals/ 2017-18 /1874 to 1878

ख अपील आदेश संख्या (Order-In-Appeal No.): **AHM-EXCUS-002-APP- 335-17-18**

दिनांक (Date): **23-Feb-2018** जारी करने की तारीख (Date of issue): 23/03/18

श्री उमा शंकर, आयुक्त (अपील-II) द्वारा पारित

Passed by **Shri Uma Shanker** ,'Commissioner (Appeals)

ग _____ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-I), अहमदाबाद उत्तर, आयुक्तालय द्वारा जारी मूल आदेश सं _____ दिनांक _____ से सृजित

Arising out of Order-In-Original No **SD-01/03/AC/Savaliya Devlopers/2017-18 Dated: 01/05/2017**

issued by: Assistant Commissioner Central Excise (Div-I), Ahmedabad North

घ अपीलकर्ता/प्रतिवादी का नाम एवम पता (Name & Address of the Appellant/Respondent)

M/s Savaliya Buildocon

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 an 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) (क) (i) केंद्रीय उत्पाद शुल्क अधिनियम 1994 की धरा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परंतुक 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 Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi-110001, 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 हानि कारखाने से किसी भंडारगार या अन्य कारखाने में या किसी भंडारगार से दूसरे भंडारगार में माल ले जाते हुए मार्ग में, या किसी भंडारगार या भंडार में चाहे वह किसी कारखाने में या किसी भंडारगार 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 |

O. C

Cont...2

(c) 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 डयूटी केडिट 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।

(d) 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 दिनाँक 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 रूपये या उससे कम हो तो रूपये 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 अपीलः–
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35–बी/35–इ के अंतर्गतः–

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(क) वर्गीकरण मूल्यांकन से संबंधित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक नं. 3. आर. के. पुरम, नई दिल्ली को एवं

(a) the special bench of Custom, Excise & Service Tax Appellate Tribunal of West Block No.2, R.K. Puram, New Delhi-1 in all matters relating to classification valuation and.

(ख) 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 ओ–20, न्यू मैन्टल हास्पिटल कम्पाउण्ड, मेघाणी नगर, अहमदाबाद–380016.

(b) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Metal Hospital Compound, Meghani Nagar, Ahmedabad : 380 016. in case of appeals other than as mentioned in para-2(i) (a) above.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इ.ए–3 में निर्धारित किए अनुसार अपीलीय न्यायाधिकरणें की गई अपील के विरूद्व अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहां रूपए 1000/– फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/– फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहां रूपए 10000/– फीस भेजनी होगी। की फीस सहायक रजिस्टार के नाम से

रेखाकिंत बैंक ड्राफ्ट के रूप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सार्वजनिक क्षेत्र के बैंक की शाखा का हो जहाँ उक्त न्यायाधिकरण की पीठ स्थित है।

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. Registar 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 ओदश 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 हैं।

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 not withstanding 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 अनुसूचि–1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रू.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 in 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), के प्रति अपीलो 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. 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 सन्दर्भ में 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."

ORDER-IN-APPEAL

Briefly stated the facts of the case are that on the basis of information received by the Service Tax Commissionerate from the Income Tax department that **M/s Savaliya Developers Pvt. Ltd.**, 702, Surmount Complex, Opposite: Iscon Temple, S.G. Highway, Ahmedabad – 380 016 (hereinafter referred to as 'the appellant') had received extra money to the tune of **Rs.3,68,42,425/-** in F.Y. 2010-11 from its customers who had booked flats in its schemes but had not paid appropriate Service Tax thereon, an investigation was initiated against the appellant by the Preventive Wing of the Service Tax department. On the basis of investigation it was revealed that the appellant had floated one scheme called 'Krish Avenue-1' consisting of 73 Flats and that the only source of income for the appellant was from bookings / sale of flats / shops in 'Krish Avenue-1' in 2010-11. A Show Cause Notice F. No. STC/4-23/O&A/ADC/Prev.(D-II)/15-16 dated 18/02/2016 (the SCN) was issued to the appellant proposing to consider the amount of Rs.3,68,42,425/- received from the customers during 2010-11 as assessed by the Income Tax Officer to be taxable value for services rendered under the category of 'Construction of Residential complex'; demanding Service Tax amount of **Rs.9,48,693/-** under proviso to Section 73(1) of F.A., 1994, after allowing abatement of 75% and invoking extended period of demand; demanding interest under Section 75 of F.A., 1994 and proposing to impose penalty on the appellant under Section 76 , Section 77(2) and Section 78 of F.A., 1994. The SCN was adjudicated *vide* O.I.O.No.SD-01/03/AC/SAVALIYA DEVLOPERS/2017-18 dated 28/04/2017 (hereinafter 'the impugned order') the demand for Service Tax treating the unaccounted amount as value of taxable service defined under Section 65(105)(zzzh) of the Finance Act, 1994 has been confirmed along with interest as proposed in the SCN and a penalty of Rs.10,000/- under Section 77(2) of F.A., 1994 and a penalty of Rs.9,48,693/- u/s 78 *ibid* has been imposed on the appellant in the impugned order.

2. The appellant has preferred the present appeal mainly on the following grounds:

1) The SCN is vague and beyond comprehension as it fails to explain how the alleged income is earned by the appellant. It has been held in the case of CCE vs Shemco India Transport – 2011 (24) STR 409 (Tri.-Del.) that as the SCN did not show how a carrier without seats could be considered as a 'cab', the SCN was fatal to adjudication. In the case of Amrit Food vs CC – 2005 (190) ELT 433 (SC) it has been held that no penalty is imposable where neither the SCN nor the order specifies the contravention. The impugned order has proceeded to confirm the demand of Tax purely on assumption and presumption. The appellant submits that during the course of Search and Seizure from Income Tax department at its premises, the appellant had voluntarily disclosed Rs.2 crores as and it had deposited Service Tax on said Rs. 2 crores. The Income Tax

department had issued a SCN to the appellant alleging non-disclosure to the tune of Rs.3,68,42,425/- and disallowe4d expenses claimed on account of Service Tax payment of Rs.3,87,081/-, that was upheld by the Income Tax adjudicating authority *in toto*. The appellant had preferred an appeal against the said order with Commissioner Appeal, Income Tax that was decided by OIA NO. CIT(A)-III/131/DCIT.CC.2(1)/13-14 dated 28/11/2013 setting aside the addition to the income on account of undisclosed income to the tune of Rs.3,59,87,425/- and also set aside the addition on account of disallowance of Service Tax expense. In a nutshell Honorable Commissioner Appeal. Income Tax has confirmed only Rs.8,55,000 and set aside the whole of the remaining demand. As of now this O.I.A. prevails over the Order of Income Tax Officer and hence demand of Service Tax can be made beyond Rs.14,10,000/-. The appellant has preferred an appeal to Income Tax Appellate Tribunal, Ahmedabad against CIT(A)-III/131/DCIT.CC.2(1)/13-14 dated 28/11/2013 in the Income Tax appellate Tribunal that is pending decision.

2) The appellant would like to submit that it was under a *bona fide* belief that it was not liable to pay Service Tax and extended period of demand could not be invoked as there was no suppression of facts with intent to evade Service Tax. As the demand for Service Tax is not valid and the appellants were not liable to pay Service Tax, hence there was question of imposing penalty. Interest was not payable in the present case and this was a fit case for invoking Section 80 of F.A., 1994 for setting aside the penalties.

3. Personal hearing in the instant appeal was held along with a similar matter in the case of M/s Savaliya Buildcon. Shri Pratik Trivedi, C.A. appeared and reiterated the grounds of appeal.

4. I have carefully gone through the facts of the case on records and grounds of appeal filed by the appellant. The case for evasion of Service Tax was booked by the Preventive officers of Service Tax on the basis of information received from the Income Tax department that the appellant had received what is referred to as 'extra money i.e. unaccounted money from the customers who had booked Flats / shops, on which no Service Tax was paid. In pursuance of this information, detailed investigation was undertaken by the Preventive wing of the Service Tax department during the course of which several documents were examined and statement of the Partner was recorded under Section 14 of the Central Excise Act, 1944. On going through the gist of the deposition made by Shri Harshad Kantibhai Savalia, Partner of the appellant, as relied upon in paragraph 3 of the impugned order, it is seen that the deponent had categorically admitted that during the search proceedings carried out under Section 132

of the Income Tax Act, 1961 on 06/01/2011, the appellant had voluntarily and *suo moto* declared an undisclosed income of Rs.2,00,00,000/- for F.Y. 2010-11 and had paid Service Tax on Rs.1.50 crores calculated on *pro rata* basis and subsequently the appellant had discharged Service Tax on the remaining 50lakhs also along with interest of Rs.63,810/- and penalty of Rs.32,188/- on 06/10/2014 relating to the unaccounted income of Rs. 50lakhs. Further, in this statement, the partner also admitted that the appellant was ready to pay Service Tax on the amount confirmed at the higher appellate forum as such amount was received against the booking of flats in case the appellant lost the Income Tax case. This clearly indicates that there was suppression of the correct taxable value by the appellant and the evasion of Service Tax remains an admitted fact on record. This statement admitting evasion has never been retracted by the deponent. The Service Tax department has carried out a detailed investigation to arrive at the value of taxable service and evasion as is evident from paragraph 17 of the impugned. It has been clearly brought out that based on the value of Rs.9,661/- per square meter on 5883.7sq. meters disclosed during the Income Tax raid and after considering the voluntary disclosure of Rs.2,00,00,00/-, the excess value works out to Rs.3,68,42,425/- received during 2010-11. The evasion of Service Tax after allowing admissible rebate has been worked out as Rs.9,48,693/- for 2010-11. Therefore, I find no merit in the contention of the appellant that the case was based on assumptions and presumptions. The fact that stands established by the department against the appellant is that it had received unaccounted money from the customers, a fact that was admitted by the appellant both before the Income Tax authorities as well as the Service Tax Preventive officers. It also remains a fact that no Service Tax was paid on such unaccounted money received from the customers. It is the plea of the appellant that the Commissioner Appeals of Income Tax had reduced the undisclosed amount assessed by the Income tax officer to only Rs.8,55,000/- and that it had approached the Income Tax Tribunal to even set aside the undisclosed income of Rs.8,55,000/- which is pending decision. Based on this argument, the appellant pleads that the entire demand of Service Tax confirmed in the impugned demand along with interest and penalties requires to be set aside. However, it has been brought out in paragraph 7(iii) of the impugned order that as informed by the Deputy Commissioner of Income Tax, Circle 4(1)(1), Ahmedabad, the Income Tax department had filed an appeal against the order of the Commissioner Appeals, Income Tax, who had reduced the undisclosed income to Rs.8,55,000/-. Further, on the basis of the scrutiny of Balance sheets and Profit and Loss accounts of the appellant, it has been established by the Preventive officers of Service Tax that the only source of income for the appellant during F.Y. 2010-11 was from booking / sale of flats/shops in its scheme called 'Krish Avenue-1'. The appellant has not succeeded in refuting that it had accepted 'extra money' or unaccounted money from the customers but it is objecting to the fact that the amount of unaccounted receipts in case of a few buyers of flats / shops cannot be extrapolated to all the 73

units that it sold during the F.Y.2010-11. However, the appellant has not come out with any justification with regards to the undisclosed receipts or adduced any evidence to show that Service Tax was paid on the amount of receipts that were not mentioned in its books of accounts. In the grounds of appeal the appellant has contended that as the SCN fails to explain how the alleged income is earned by the appellant, the adjudication based on such an SCN is required to be set aside. Thus the appellant casts the onus on the department, which is unacceptable in the eyes of law. Once it has been established that there was unaccounted receipts from the customers and that the only source of income for the appellant during the F.Y. 2010-11 for the appellant was by way of selling flats/shops in its scheme called 'Krish Avenue-1', the Revenue had proved its case by way of preponderance of probability and the onus was on the appellant to adduce evidence to show that it had assessed and paid the correct Service Tax in respect of the unaccounted receipts, which it has failed to do in the instant case. It is settled law that in Fiscal matters, the department would be deemed to have discharged its burden, if it adduces so much evidence, circumstantial or direct, as is sufficient to raise a presumption in its favour with regard to the existence of the fact sought to be proved. In the case of C.C.E., Chandigarh vs Vinay Traders – 2016 (340) E.L.T. 521 (Tri.-Del.), it was held by Hon'ble Tribunal that ***"Strict proof is essential in criminal proceedings. But the evidence demonstrating probability is enough to draw inference in fiscal proceeding."***

Further, in the case of Collector of Customs, Madras and Others vs D. Bhoormull – 1983 (13) E.L.T. 1546 (S.C.), Hon'ble Supreme Court has explained by way of examples as to how the onus shifts from prosecution to the accused once a *prima facie* case is established against the accused. The relevant portion is reproduced below:

> **43.** If we may so with great respect, it is proper to read into the above observations more than what the context and the peculiar facts of that case demanded. While it is true that in criminal trials to which the Evidence Act, in terms, applies, this section is not intended to relieve the prosecution of the initial burden which lies on it to prove the positive facts of its own case, it can be said by way of generalisation that the effect of the material facts being exclusively or especially within the knowledge of the accused, is that it may, proportionately with the gravity or the relative triviality of the issues at stake, in some special type of case, lighten the burden of proof resting on the prosecution. For instance, once it is shown that the accused was travelling without a ticket; a *prima facie* case against him is proved. If he once had such a ticket and lost it, it will be for him to prove this fact within his special knowledge. Similarly, if a person is proved to be in recent possession of stolen goods, the prosecution will be deemed to have established the charge that he was either the thief or had received those stolen goods knowing them to be stolen. **If his possession was innocent and lacked the requisite incriminating knowledge, then it will be for him to explain or establish those facts within his peculiar knowledge, failing which the prosecution will be entitled to take advantage of the presumption of fact arising against him, in discharging its burden of proof.**

In the present case the fact that the appellant had intentionally avoided the entry of certain receipts from the buyers of flats / shops and by virtue of the fact that it is not disputed, that there was no source of income for the appellant in F.Y. 2010-11 other

than from the sale of flats / shops, the department has succeeded in establishing a *prima facie* case against the appellant whereas the appellant has failed to provide a proper explanation for the unaccounted receipts and adduce evidence that it had assessed and paid the correct Service Tax in respect of the unaccounted receipts. The appellant has not challenged the classification of the services impugned in the instant case, which proves that the extra money was undisclosed receipts towards sales of flats / shops. In view of these facts, the confirmation of demand for Service Tax along with interest and the imposition of penalties in the instant case are justified and is legally sustainable. The appeal is rejected.

6. **अपीलकर्ता द्वारा दर्ज की गई अपीलो का निपटारा उपरोक्त तरीके से किया जाता है।**
The appeal filed by the appellant stands disposed of in the above terms.

(उमा शंकर)
आयुक्त (अपील्स-१)

Date: 23 / 02/2018

Attested

(K. P. Jacob)
Superintendent (Appeals-I)
Central Excise, Ahmedabad.

By R.P.A.D.
To
M/s Savaliya Developers Pvt. Ltd.,
702, Surmount Complex,
Opposite: Iscon Temple, S.G. Highway,
Ahmedabad – 380 016.

Copy to:

1. The Chief Commissioner of C.G.S.T., Ahmedabad.
2. The Commissioner of C.G.S.T. & Central Excise, Ahmedabad (North).
3. The Additional Commissioner, C.G.S.T (System), Ahmedabad (North).
4. The A.C / D.C., C.G.S.T Division: VI, Ahmedabad (North).
5. Guard File.
6. P.A.