

 सत्यमेव जयते	<b>केंद्रीय कर आयुक्त (अपील)</b>	
<b>O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,</b>		
केन्द्रीय उत्पाद शुल्क भवन, 7 <sup>th</sup> Floor, Central Excise Building, Near Polytechnic, Ambavadi, Ahmedabad-380015.		
सातवीं मंजिल, पॉलिटेक्निक के पास, आम्बावाडी, अहमदाबाद-380015		
☎ 079-26305065	टेलीफैक्स : 079-26305136	

रजिस्टर डाक ए.डी.द्वारा

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क फाइल संख्या (File No.): V2(STC)86 /North/Appeals/ 2017-18  
 ख अपील आदेश संख्या (Order-In-Appeal No.): **AHM-EXCUS-002-APP-379-17-18**  
 दिनांक (Date): **22-Mar-2018** जारी करने की तारीख (Date of issue): 9/4/2018  
 श्री उमा शंकर, आयुक्त (अपील-II) द्वारा पारित  
 Passed by **Shri Uma Shanker**, Commissioner (Appeals)

ग \_\_\_\_\_ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-III), अहमदाबाद उत्तर, आयुक्तालय द्वारा जारी  
 मूल आदेश सं \_\_\_\_\_ दिनांक \_\_\_\_\_ से सृजित  
 Arising out of Order-In-Original No **16/JC/2017/GCJ** Dated: **30/11/2017**  
 issued by: Joint Commissioner Central Excise (Div-III), Ahmedabad North

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

**M/s PSP Projects Ltd**

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 हैं।



- (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 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।

- (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 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 :-

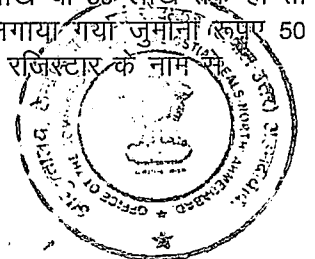
- (क) वर्गीकरण मूल्यांकन से संबंधित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक नं. 3. आर. के. पुरम, नई दिल्ली को एवं

- (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 मेटल हॉस्पिटल कम्पाउण्ड, मेघानी 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 न्यायाधिकरणों की गई अपील के विरुद्ध 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



रेखांकित 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. 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.

- (6) 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 वाखिल करने के लिए पूर्व शर्त बना दिया गया है।

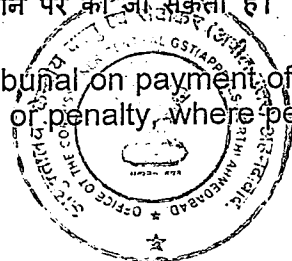
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 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 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."



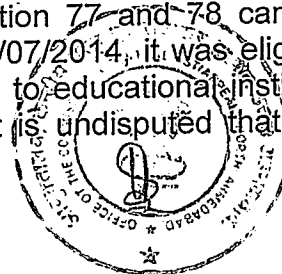
## ORDER-IN-APPEAL

M/s PSP Projects Pvt. Ltd., Opposite Celesta Courtyard, PSP House, Opposite Lane of Vikram Nagar Colony, ISCON-Ambli Road Ahmedabad – 380 058 (hereinafter referred to as 'the appellant') are engaged in providing the service under the category of 'Construction Services' other than residential Complex but including Commercial / Industrial Buildings or Civil Structures under the erstwhile section 65(105)(zzq) and Section 65(105) (zzzza) respectively of the finance Act, 1994.

2. During the course of audit of the records of the appellant by the officers of the department it was noticed that during the period from **01/07/2012 to 10/07/2014**, the appellant had provided **construction services under 'works Contract'** to M/s Gujarat Cancer society for construction of Medical College campus but had not paid Service Tax claiming the benefit of exemption under Sr.No.9 of the Table to Notification No. 30/2012-ST dated 20/06/2012 which reads as: '*Service provided to or by an educational institution in respect of education exempted from service tax, by way of – (a) auxiliary educational services; (b) renting of immovable property;*' It appeared that the services provided by the appellant did not qualify for exemption under the Notification *ibid* in as much as the construction activity undertaken by the appellant under 'Works Contract service for construction of medical college', does not fall under the definition of 'auxiliary educational service'. Therefore, a Show Cause Notice No.CEA-II/ST/15-25/C-V/APXXII/FAR-45/RP-02/16-17 dated 20/03/2017 (hereinafter referred to as 'the SCN') was issued to the appellant proposing to deny the benefit of notification No.25/2012-ST dated 20/06/2012; demanding Service Tax amounting to **Rs.1,05,78,846/-** under 'Works Contract service' under proviso to Section 73(1) of the Finance Act, 1994, invoking larger period; demanding interest under Section 75 of the Finance Act, 1994 and proposing to impose penalty on the appellant under Section 76, Section 77(2) and under Section 78 of the Finance Act, 1994. This SCN was adjudicated *vide* O.I.O. No. 16/JC/2017/GCJ dated 30/11/2017 (hereinafter referred to as 'the impugned order') passed by the Joint Commissioner, Central GST and Central Excise, Ahmedabad North (hereinafter referred to as 'the adjudicating authority'). The demand for duty along with interest has been confirmed in the impugned order as proposed in the SCN. A penalty of Rs.10,000/- under section 77(2) of the Finance Act, 1994 and a penalty of Rs.52,89,423/- under Section 78 of the Finance Act, 1994 have been imposed on the appellant in the impugned order.

3. Aggrieved by the impugned order, the appellant has preferred the instant appeal, mainly on the following grounds:

- i. The salient issue to be addressed are whether the appellant has rightly availed exemption for service provided to educational institution registered trust under 12AA of Income Tax Act for the period prior to 10/07/2014; whether extended period can be invoked and whether penalty under section 77 and 78 can be imposed. The appellant wants to submit that prior to 10/07/2014, it was eligible for exemption from Service Tax on the service provided to educational institute as per mega exemption Notification No. 25/2012-ST. It is undisputed that the



appellant had carried out construction work for the educational institute registered under Section 12A of Income Tax Act during the period 01/04/2014 to 09/07/2014. As per the clarification issued by Board, the claim is tenable because the appellant had carried out construction for educational institute relating to education development, which has been outsourced to the appellant by the education institute during the impugned period as the list of service in the clarification is not exhaustive but elaborative and any service provided to educational institute were exempt from Service Tax prior to 09/07/2014, which has been evident from the amendment w.e.f. 10/07/2014 vide D.O. Letter F.No.334/15/2014-TRU dated 10/07/2014 where it has been clarified that

*"At present all services provided by educational institutions (providing education services specified in the negative List) to their students, faculty and staff are exempted [Section 66D(I) of the Finance Act, 1994]; this will continue. However, in respect of services received by such educational institutions, presently, exemption is being operated through the concept of 'auxiliary educational services' [Sl. No. 9]. Doubts have been raised and clarifications have been swought regarding the scope of meaning of 'auxiliary educational services'. To bring clarity, it is proposed to omit the concept of 'auxiliary educational services' and specify in the notification, the services which will be exempt when received by the eligible educational institutions. Accordingly, the following services received by eligible educational institutions are exempted from service tax; (i) transportation of students, faculty and staff of the eligible educational institution; (ii) catering service including any mid-day meals scheme sponsored by the Government; (iii) security or cleaning or house-keeping services in such educational institution; (iv) services relating to admission to such institution or conduct of examination. Further, for the purposes of the exemption, 'educational institution' is being defined in the exemption notification 25/2012-ST, as institutions providing educational services specified in the negative list.*

*It may be noted that the scope of exemption remains the same as earlier in the case of services provided by eligible educational institutions; in the case of services received by the eligible educational institutions, exemption will be available only in respect of the services specified as above. Further as a rationalization measure, the exemption hitherto available to services provided by way of renting of immovable property to educational institutions stands withdrawn with immediate effect."*

So from the above it is clear that now Government wants to restrict the exemption to the above four listed service only, describing the complete and exhaustive list of service. So prior to the amendment of exemption Notification, appellant has been eligible for exemption of payment of Service Tax upto 09/07/2014.

- ii. The SCN covering the period of 01/07/2012 to 10/07/2014 that was issued on 20/03/2017 even though facts were in the knowledge of the department since 2012 onwards, is time barred. The penalty imposed under Section 78 of the Finance Act, 1994 is not sustainable as the SCN gives no reason whatsoever or any evidence / fact which can establish that appellant had suppressed anything from the department. There was no fraud, suppression of facts, willful mis-statement etc. and hence penalty under Section 78 cannot be imposed. The appellant relies on the order of Hon'ble High Court of Gujarat in the case of Steel Case Ltd. – 2011 (21) STR 500 (Guj.). The appellant submits that even if there was any contravention of provisions, the same was solely on account of its *bona fide* belief and hence penalty cannot be imposed under Section 77 of Finance Act, 1994. The appellant relies on the case laws Pushpam Pharmaceuticals Company vs CCE – 1995 (78) ELT 401 (SC) and CCE vs Chemphar Drugs and Liniments – 1989 (40) ELT 276 (SC). The issue involved in the present case is of interpretation of statutory provisions and hence penalties cannot be imposed as held in Bharat Wagon & Engg. Co. Ltd. vs CCE, Patna – 1995 (146) ELT 118 (Tri. – Kolkata); Goenka Woollen Mills Ltd., vs CCE, Shillong – 2001 (136) ELT 873 (Tri.-Kolkata) and Bhilwara Spinners Ltd., vs CCE, Jaipur – 2001 (129) ELT 458 (Tri.-Del.)



4. Personal hearing in the appeal was held on 15/03/2018 attended by Shri Vipul Khandhar, Chartered Accountant. The learned C.A. reiterated the grounds of appeal and submitted a copy of earlier O.I.A.

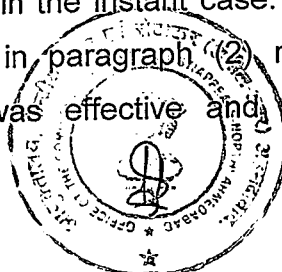
5. I have carefully gone through the facts of the case on records and submissions made by the appellant in the grounds of appeals. The issue as to whether exemption of Service Tax is admissible under Exemption Notification No.25/2012-ST dated 20/06/2012 in respect of educational institutions has been decided by me in O.I.A No: AHM-SVTAX-000-APP-159-16-17 dated 28/11/2016 in an earlier appeal filed by M/s Yogeshwar Education Foundation, Ahmedabad, where I had ordered that the procurement of services for creating infrastructure facilities and ancillary services to create facilities for education was exempt under Notification 25/2012-ST dated 20/06/2012. In the instant appeal, I take up the facts for discussion in relation to the Notification 25/2012-ST dated 20/06/2012 and the clarification issued by C.B.E.C., in the following paragraph.

6. The impugned exemption in the instant case has been availed by the appellant for the period from **01/07/2012 upto 10/07/2014** under **Sr.No.9 of Notification No.25/2012-ST** dated 20/06/2012, which reads as follows:

"9. Services provided to or by an educational institution in respect of education exempted from service tax, by way of,-

- (a) auxiliary educational services; or
- (b) renting of immovable property;"

The appellant has availed the exemption benefit treating construction under work contract service as falling under the ambit of '**auxiliary education services**'. However, the adjudicating authority in paragraph 7 of the impugned order has held that construction activity under Works Contract service for construction of medical college does not appear to fall under the definition of '**auxiliary education services**'. Further, in paragraph 7.1, the adjudicating authority has referred to the amendment *vide* Notification No. 6/2014 dated 11/07/2014, whereby the exemption was limited to only four categories specified in sub-clause (i) to (iv) of sub-clause (b) of Sr. No.9 and held that this indicates that even in respect of Notification No.25/2012-ST dated 20/06/2012, the legislative intent was to limit the exemption to only four categories of services. This finding is not sustainable in law because the amending Notification No. 6/2014 dated 11/07/2014 does not have any retrospective implication and does not cover the period of 01/07/2012 upto 10/07/2014 impugned in the instant case. Prior to the amendment i.e. prior to omission of the clause (f) in paragraph (2) relating to definitions in Notification No.25/2012-ST, the same was effective and relevant for the period



impugned in the instant case. Paragraph 2(f) of Notification No.25/2012-ST dated 20/06/2012, reads as follows:

(f) "auxiliary educational services" means any services relating to imparting any skill, knowledge, education or development of course content or any other knowledge – enhancement activity, whether for the students or the faculty, or any other services which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, including services relating to admission to such institution, conduct of examination, catering for the students under any mid-day meals scheme sponsored by Government, or transportation of students, faculty or staff of such institution;

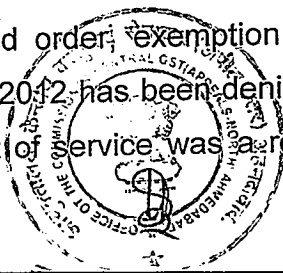
From the definition of 'auxiliary education services' above, it is clear that the list of services is illustrative in nature and it cannot be construed that the exemption was admissible exclusively to such services that find mention in this definition. Therefore, it is not correct to hold that as construction services do not find specific mention in the illustrations, the same cannot be treated as 'auxiliary education services'. The said fact that the services mentioned are illustrative in nature is further evident from the clarification issued vide C.B.E.C. Circular No.172/7/2013-ST dated 19/09/2013 as follows:

"3. By virtue of the entry in the *negative list* and by virtue of the portion of the *exemption notification*, it will be clear that all services relating to education are exempt from service tax. There are many services provided to an educational institution. These have been described as "auxiliary educational services" and they have been defined in the exemption notification. Such services provided to an educational institution are exempt from Service Tax. For example, if a school hires a bus from a transport operator in order to ferry students to and from school, the transport services provided by the transport operator to the school are exempt by virtue of the exemption notification.

4. In addition to the services mentioned in the definition of "auxiliary educational services", other examples would be hostels, housekeeping, security services, canteen, etc.

5. Thus the apprehensions conveyed in the representations submitted by certain educational institutions and organizations have no basis whatsoever. These institutions and organizations are requested not to give credence to rumours or mischievous suggestions. If there is any doubt they are requested to approach the Chief Commissioner concerned."

From the above it is clear that the services mentioned in the definition of 'auxiliary education services' are examples and not exhaustive. The C.B.E.C. clarification thus nullifies the finding with regards to the legislative intent of keeping construction service out of the ambit of 'auxiliary education services' as espoused in the impugned order. Further, in paragraph 8 of the impugned order, exemption under Sr. No. 12 of the Notification No. 25/2012-ST dated 20/06/2012 has been denied on the ground that M/s Gujarat Cancer Society i.e. the recipient of service was a registered Charitable Trust



and not a Government organization. However, the claim of exemption in the present case is not under Sr. No.12 of Notification No. 25/2012-ST dated 20/06/2012 but the same is under Sr. No. 9 covering 'educational institution' and there is no dispute that the services were provided in respect of a Medical College, which is an educational institution. In view of the above, I find that the exemption availed by the appellant is legitimate and sustainable in law. Therefore, the confirmation of the demand for Service Tax along with interest as well as the imposition of penalties is unwarranted and the impugned order is set aside. As the appeal succeeds on merit, I do not find it necessary to discuss the issues relating to limitation. The appeal is allowed.

9. अपीलका निपटारा उपरोक्त तरीकेसे किया जाता हैं।  
The appeal stands disposed of in the above terms.

*उमा शंकर*

(उमा शंकर)

आयुक्त (अपील्स-१)

Date: 22 / 03 / 2018

Attested

*(K. P. Jacob)*

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

By R.P.A.D.

To  
M/s PSP Projects Ltd.,  
PSP House, Opposite: Celesta Courtyard,  
Iscon – Ambli Road, Ambli,  
Ahmedabad – 380 058.

Copy to:

1. The Chief Commissioner of Central Excise, Ahmedabad.
2. The Commissioner of Central Excise, Ahmedabad North.
3. The Additional Commissioner, Central Excise (System), Ahmedabad North.
4. The Deputy Commissioner, Central Excise Division: III, Ahmedabad.
5. Guard File.
- ✓ 6. P.A.

