



सत्यमेव जयते

आयुक्त का कार्यालय, (अपीलस)
Office of the Commissioner,

केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय

Central GST, Appeal Commissionerate- Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

☎: 079-26305065

टैलेफैक्स : 079 - 26305136



क फाइल संख्या : File No : V2(ST)234 /North/Appeals/2018-19 / 11009 to 11013

ख अपील आदेश संख्या : Order-In-Appeal No. AHM-EXCUS-002-APP-242-19-20

दिनांक Date : 29/03/2019 जारी करने की तारीख Date of Issue 04/06/2019

श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित

Passed by Shri Uma Shanker Commissioner (Appeals)

ग Arising out of Order-in-Original No. CGST/A'bad-North/Div-VII/S.Tax-AC-06-18-19 Dated 30/01/2019 Issued by Assistant Commissioner , Central GST , Div-VII , Ahmedabad North.

घ अपीलकर्ता का नाम एवं पता
Name & Address of The Appellants

M/s N J Devani Builders Pvt. Ltd

इस अपील आदेश से असंतुष्ट कोई भी व्यक्ति उचित प्राधिकारी को अपील निम्नलिखित प्रकार से कर सकता है:-

Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way :-

सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण को अपील:-
Appeal To Customs Central Excise And Service Tax Appellate Tribunal :-

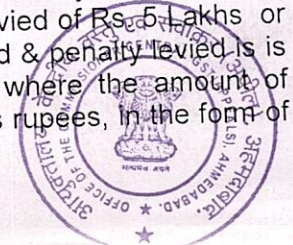
वित्तीय अधिनियम, 1994 की धारा 86 के अंतर्गत अपील को निम्न के पास की जा सकती:-
Under Section 86 of the Finance Act 1994 an appeal lies to :-

पश्चिम क्षेत्रीय पीठ सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण ओ. 20, न्यू मैन्टल हास्पिटल कम्पाउण्ड, मेघानी नगर, अहमदाबाद-380016

The West Regional Bench of Customs, Excise, Service Tax Appellate Tribunal (CESTAT) at O-20, New Mental Hospital Compound, Meghani Nagar, Ahmedabad - 380 016.

(ii) अपीलीय न्यायाधिकरण को वित्तीय अधिनियम, 1994 की धारा 86 (1) के अंतर्गत अपील सेवाकर नियमावली, 1994 के नियम 9 (1) के अंतर्गत निर्धारित फार्म एस.टी.- 5 में चार प्रतियों में की जा सकेगी एवं उसके साथ जिस आदेश के विरुद्ध अपील की गई हो उसकी प्रतियाँ भेजी जानी चाहिए (उनमें से एक प्रमाणित प्रति होगी) और साथ में जिस स्थान में न्यायाधिकरण का न्यायपीठ स्थित है, वहाँ के नामित सार्वजनिक क्षेत्र बैंक के न्यायपीठ के सहायक रजिस्ट्रार के नाम से रेखांकित बैंक ड्राफ्ट के रूप में जहाँ सेवाकर की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहाँ रूपए 1000/- फीस भेजनी होगी। जहाँ सेवाकर की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/- फीस भेजनी होगी। जहाँ सेवाकर की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहाँ रूपए 10000/- फीस भेजनी होगी।

(ii) The appeal under sub section (1) of Section 86 of the Finance Act 1994 to the Appellate Tribunal Shall be filed in quadruplicate in Form S.T.5 as prescribed under Rule 9(1) of the Service Tax Rules 1994 and Shall be accompany ed by a copy of the order appealed against (one of which shall be certified copy) and should be accompanied by a fees of Rs. 1000/- where the amount of service tax & interest demanded & penalty levied of Rs. 5 Lakhs or less, Rs.5000/- where the amount of service tax & interest demanded & penalty levied is more than five lakhs but not exceeding Rs. Fifty Lakhs, Rs.10,000/- where the amount of service tax & interest demanded & penalty levied is more than fifty Lakhs rupees, in the form of



crossed bank draft in favour of the Assistant Registrar of the bench of nominated Public Sector Bank of the place where the bench of Tribunal is situated.

(iii) वित्तीय अधिनियम, 1994 की धारा 86 की उप-धाराओं एवं (2ए) के अंतर्गत अपील सेवाकर नियमावली, 1994 के नियम 9 (2ए) के अंतर्गत निर्धारित फार्म एस.टी.-7 में की जा सकेगी एवं उसके साथ आयुक्त, केन्द्रीय उत्पाद शुल्क (अपील) के आदेश की प्रतियाँ (OIA) (उसमें से प्रमाणित प्रति होगी) और अपर आयुक्त, सहायक / उप आयुक्त अथवा अधीक्षक केन्द्रीय उत्पाद शुल्क, अपीलीय न्यायाधिकरण को आवेदन करने के निदेश देते हुए आदेश (OIO) की प्रति भेजनी होगी।

(iii) The appeal under sub section (2A) of the section 86 the Finance Act 1994, shall be filed in Form ST-7 as prescribed under Rule 9 (2A) of the Service Tax Rules, 1994 and shall be accompanied by a copy of order of Commissioner Central Excise (Appeals)(OIA)(one of which shall be a certified copy) and copy of the order passed by the Addl. / Joint or Dy. / Asstt. Commissioner or Superintendent of Central Excise & Service Tax (OIO) to apply to the Appellate Tribunal.

2. यथासंशोधित न्यायालय शुल्क अधिनियम, 1975 की शर्तों पर अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार मूल आदेश एवं स्थगन प्राधिकारी के आदेश की प्रति पर रु 6.50/- पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

2. One copy of application or O.I.O. as the case may be, and the order of the adjudication authority shall bear a court fee stamp of Rs.6.50 paise as prescribed under Schedule-I in terms of the Court Fee Act, 1975, as amended.

3. सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्यविधि) नियमावली, 1982 में चर्चित एवं अन्य संबंधित मामलों को सम्मिलित करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है।

3. Attention is also invited to the rules covering these and other related matters contained in the Customs, Excise and Service Appellate Tribunal (Procedure) Rules, 1982.

4. सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय प्राधिकरण (सीस्तेत) के प्रति अपीलों के मामलों में केन्द्रीय उत्पाद शुल्क अधिनियम, 1984 की धारा 34फ के अंतर्गत वित्तीय(संख्या-2) अधिनियम 2014(2014 की संख्या 29) दिनांक: 06.08.2014 जो की वित्तीय अधिनियम, 1984 की धारा 23 के अंतर्गत सेवाकर को भी लागू की गई है, द्वारा निश्चित की गई पूर्व-राशि जमा करना अनिवार्य है, बशर्ते कि इस धारा के अंतर्गत जमा की जाने वाली अपेक्षित देय राशि दस करोड़ रूपए से अधिक न हो

केन्द्रीय उत्पाद शुल्क एवं सेवाकर के अंतर्गत "माँग किए गए शुल्क" में निम्न शामिल है -

- (i) धारा 11 डी के अंतर्गत निर्धारित रकम
- (ii) सेनवैट जमा की ली गई गलत राशि
- (iii) सेनवैट जमा नियमावली के नियम 6 के अंतर्गत देय रकम

⇒ आगे बशर्ते यह कि इस धारा के प्रावधान वित्तीय (सं. 2) अधिनियम, 2014 के आरम्भ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विचाराधीन स्थगन अर्ज़ी एवं अपील को लागू नहीं होगा।

4. For an appeal to be filed before the CESTAT, it is mandatory to pre-deposit an amount specified under the Finance (No. 2) Act, 2014 (No. 25 of 2014) dated 06.08.2014, under section 35F of the Central Excise Act, 1944 which is also made applicable to Service Tax under section 83 of the Finance Act, 1994 provided the amount of pre-deposit payable would be subject to ceiling of Rs. Ten Crores,

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.

⇒ Provided further that the provisions of this Section shall not apply to the stay application and appeals pending before any appellate authority prior to the commencement of the Finance (No.2) Act, 2014.

4(1) इस संदर्भ 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।

4(1) 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.

रजिस्टर्ड डाक ए.डी. द्वारा



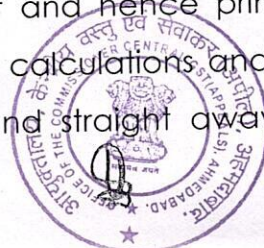
दूरभाष : 26305065

ORDER-IN-APPEAL

M/s. N.J. Devani Builders, Navrangpura, Ahmedabad (henceforth "appellant") has filed the present appeal against the Order-in-original No.CGST/A'bad-/Div-VII.S.Tax-AC-06-18-19 dated 30.01.2019 (henceforth, "impugned order") issued by the Assistant Commissioner, CGST Division-VII, Ahmedabad-North (henceforth, "adjudicating authority").

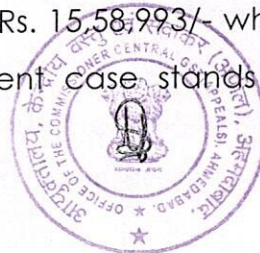
2. The facts of the case, in brief, the appellant, a service tax registrant during July 2012 to March 2013 undertaken services of electrical installation from various sub-contractors i.e. M/s Patel Electricals, Ahmedabad, Mahalaxmi Electricals, Jamnagar, Aditya Innovator etc for completing the contract entered into by the appellant with M/s.PDPU, Gandhinagar, GPERF-Mehsana and SRFDCL-Ahmedabad and paid service tax on 40 % value of the same under Reverse Charge Mechanism under rule 2A (II) (A) of Service tax (determination of value) Rules, 2006 in respect of the service services received. It was noticed during audit of record maintained by the appellant that the appellant was required to pay service tax on 60% of the value under sub rule (C) of Rule 2A (II) of Service tax (determination of value) Rules, 2006 and hence a demand notice for Rs.15,58,993/- was issued which was confirmed alongwith interest and penalty vide Order-In-Original dated 24.01.2017 appropriating Rs.10,37,750/- paid during audit. Appeal preferred against said Order in Original dated 24.01.2017 was decided vide Order-In-Appeal No.AHM-EXCUS-002-APP-216-17-18 dated 18.12.2017 wherein the matter was remanded back to the original adjudicating authority for deciding a fresh as to whether the service received by the appellant were for 'original work' or not based on documentary evidence to be provided by the appellant. Acting on the direction under above OIA dated 18.12.2017, the impugned order dated 30.01.2019 was passed wherein it has been held that service tax on installation of electrical fitting and aluminum section work attended by said sub-contractors is required to be paid on 60% of the total amount charged.

3. Aggrieved with the impugned order dated 30.01.2019, the appellant preferred this appeal contesting *inter alia*, that no reason has been given under the impugned order for not accepting the submissions and explanations put forth by the appellant and hence principle of natural justice has not been followed; that only calculations and legal provisions are narrated in the impugned order and straight away arrived at the



conclusion of tax liability under sub rule (c) of Rule 2A (II) of service tax Rules and confirmed the demand; that in term of the directions by Commissioner(Appeal), the adjudicating authority was required to look into documentary evidence and determine whether the services received by the appellant were 'original work' or not, that in pursuance of such directions, the appellant had produced documentary evidence to substantiate the contention that work done were original work which attract service tax under sub rule 2(A) of Rule 2A(II) of service Tax (Determination of Value)Rules,2006; that the work carried out by the contractors namely M/s Patel Electricals, Mahalaxmi Electricals & Aditya Innovator were pursuant to appellant's contract for M/s. PDP, Gandhinagar, GPERF-Mehsana and SRFDCL-Ahmedabad all the work were original work from foundation to finish and are undertaken for new constructions; that copies of invoices raised by service providers and copies of tender contract documents were provided to the adjudicating authority to understand the fact that appellant had undertaken original work; that the adjudicating authority failed to appreciate the evidence produced; that the requirement of giving reasons for not accepting submissions avoid the unreasonableness and arbitrariness in decision making; that all three cases for which dispute is raised by Revenue were in nature of original works and therefore, service tax was payable on 40%; that the works were for new construction and hence were work contract for new construction service and therefore rightly covered under rule 2A(II) (A) of valuation Rules.

3.1 They further pleaded that the electrical work executed by the appellant through said three sub-contractor were not an independent work but such electrical work was also a part and parcel of construction of new building and new civil structure and therefore such electrical work was also covered under the definition of 'original work'; that major part of electrical work was actually construction activity; that As per rule 2A(II) of valuation Rules 'Installation of electrical fitting of an immovable property' covered under clause © of this Rule in respect of independent work contract for such electrical fittings and hence value of such work had to be determined under clause (A) of this Rule ; that the appellant had admittedly deposited Rs. 10,37,750/- before SCN, therefore any demand was to be made that could be for Rs. 5,21,243/- but demand and confirmed service tax liability was for Rs. 15,58,923/- which was illegal from beginning ; that tax liability in present case stands discharged, panel



provisions cannot be attracted; that when bonafied error on part of the appellant was pointed out by the audit, immediately service tax was paid without any delay with appropriate interest along with penalty; that there is no doubt or dispute that such services were used by the appellant for providing works contract services provided to M/s.PDPU,Gandhinagar, GPERF-Mehsana and SRFDCL-Ahmedabad and hence it is clear that such services were in the nature of input services and whatever service tax was paid on such services was automatically available to the appellant as cenvat credit. By bonafied error the appellant did not discharge service tax liability under RCM but such failure was not on account of deliberate mala-fide attempt to evade service tax liability as identical amount of service tax paid would have been available as cenvat credit and hence it was Revenue neutral exercise; that in view of revenue neutrality entire proceedings is unjustified. The cited case law in respect of Narmada Chematur Pharmaceuticals Ltd. Reported in 2005 (179)ELT 276 (S.C.) and CCE, Pune V/s Coca-Cola India Pvt. Ltd. reported in 2007 (213)ELT 490 (S.C.) and also by the Appellate Tribunal in cases like SRF Ltd. 2007 (81)RLT 479, PTC Industries Ltd. 2003 (159)ELT 1046 and Reliance Industries Ltd. 2009 (249)ELT 253.

3.2 It was further contested that services in question (1,2 & 3 of table OIO) was undoubtedly used by the appellants client M/s.PDPU,Gandhinagar, GPERF-Mehsana and SRFDCL-Ahmedabad and in nature of "original work". This being the fact appellant had correctly classified as original work under rule 2(A)(ii) of valuation rules; that when auditor pointed out entire service tax was deposited, suppression of fact cannot be justified; that submission for not imposing penalty was not considered by the adjudicating authority; that the period under dispute for the year 2012-13 and the department invoked extended period on a ground that the appellant suppressed the material fact. The assistant commissioner has not provided any evidence in support of this conclusion, hence extended period is clearly without any legal sanctity; that penalty under section 77 and 78 is also without jurisdiction because no one could be penalized under different section for same alleged offence.

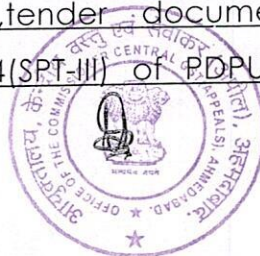
4. In the Personal hearing held on 27.03.2019 Smt. Shilpa P Dave, Advocate stated that they are claiming the work as 'original work' hence 40% of value is to be considered, letter of appellant to jurisdictional Assistant Commissioner dated 17.10.2018 and contract dated 27.09.2011



and tender document for MDP-PGP(Phase-II) & for academic Building-4(SPT-III) of PDPU,Gandhinagar, tender document for Engineering College of GPERF etc which was submitted to the Asstt.Commr but were not considered. She also stated that invoice which already mentions the name of work which can be cross checked with the contract and submits that Asstt Commissioner has not considered any submissions despite clear direction in the remand order. She submits citation M/s John Energy limited (A/12620/2018 dated 26.11.2018) of CESTAT,WZB, Ahmedabad which states that the case is revenue neutral and extended period not invocable.

5. I have carefully gone through the appeal memorandum, written submissions filed by the appellant and the submission made during personal hearing. The issue which requires determination in the case is in respect of the service received from sub-contractors whether the service tax paid by the appellant under Reverse Charge Mechanism under rule 2A (II) (A) were proper or it needs to be discharged under sub rule (C) of Rule 2A (II) of Service tax (Determination of value) Rules,2006. The issue was already dealt with by me under OIA No.AHM-EXCUS-002—APP-2016-17 dated 18.12.2017 and remanded back to the original adjudicating authority with a direction to look into documentary evidence and determine whether the services received by the appellant were 'original work' or not. However, I find that original adjudicating authority has ignored my directions and without application of mind passed the order. Such attitude is highly deplorable and the quality of the work is pathetic.

6. Acting on directions under said OIA dated 18.12.2017, the impugned order has been passed on perusal of which it can be seen that only show cause notice and rules has been reproduced by the adjudicating authority under majority part of the finding portion and straightway arrived at the conclusion that services related to electrical and aluminum section work provided by sub-contractor to the appellant attracts service tax on sixty per cent. No observations on reasons for accepting or not the submissions of the appellant are found in the impugned order. The appellant on the other side has mainly pleaded in written submission that reasons for not accepting their submissions has not been given in the impugned order. In the personal hearing also it was pointed out that the letter of appellant to jurisdictional Assistant Commissioner dated 17.10.2018, contract dated 27.09.2011,tender document for MDP-PGP(Phase-II) & for academic Building-4(SPT-III) of PDPU,Gandhinagar,



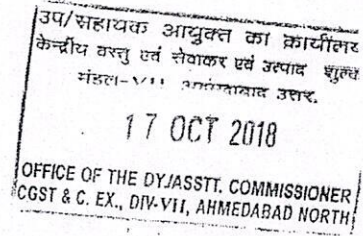
Engineering College of GPERF etc and invoice which mentions the name of work for cross checking were submitted to the Assistant Commissioner but the none of said documents/submissions has been considered by lower authority despite clear direction in the remand order. Necessary evidence/documents on the issue were provided by the appellant for consideration on the issue under letter dated 17.10.2018 as under:

Handwritten signature

17th October, 2018

To,

The Assistant Commissioner,
GST Division-VII, Ahmedabad-North,
4th Floor, Sahjanand Arcade,
Near Helmet Circle,
Memnagar,
Ahmedabad-52.



Dear Sir,

Sub: SCN No. ST/15-47/C-IV/AP-XIII/FAR-257/RP-01/15-16 dated 15.10.2015.

Ref: F.No. STC/4-38/O&A/ADC/Audit(D-II)/15-16 dated 18.09.2018

This has reference to the subject show cause notice issued to our clients M/s. N J Devani Builder Pvt Ltd. The show cause notice came to be issued subsequent to the Audit conducted by the central excise Officers. In the show cause notice, demand of service tax alongwith interest on the services received in the nature of civil work, electrical work and aluminium panelling work and the works contract services is made, and further proposal of penalties under various provisions of the Finance Act,1994 is also levelled. The Adjudicating Authority, after considering the submissions made by our clients confirmed the demands proposed in the show cause notice. Being aggrieved and dissatisfied by the order passed by the Adjudicating Authority, our clients filed an appeal before the Commissioner (Appeals) who has vide OIA No. AHM-EXCUS-002-APP-216-17-18 dated 18.12.2017 remanded the matter back to decide the issue afresh. The Commissioner (Appeals) has observed that our clients are required to provide documentary evidence to substantiate that the work carried

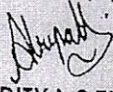


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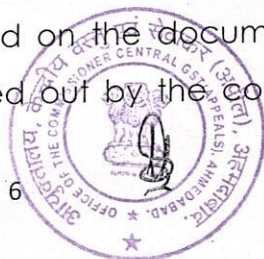
out by them was in the nature of 'original works'. Subsequent to the order passed by the Commissioner (Appeals), we have attended the personal hearing on behalf of our clients on 05.10.2018, and explained the facts of the case. We further requested you to grant some time for submitting necessary documents i.e. (i) copy of the original reply to the show cause notice dated 23.12.2015, (ii) copy of the invoices raised by the service providers to our clients, and (iii) copy of tender/contract document issued and allotted to our client by different Institutions.

- 2) We hereby enclose the above mentioned documents, and request you to be kind enough to inform us if any further documents or information or clarification is required from our end.

Sincerely yours,


 ADITYA S TRIPATHI
 ADVOCATE
 FOR PARESH M DAVE
 ADVOCATE.

As I stated above, observations in these regard are not available in the impugned order and hence such argument of the appellant is rightly made and needs to be considered to meet with the principle of natural justice. Since the evidence provided by the appellant was insufficient, the matter was remitted back to the lower authority for consideration of the documents to be provided by the appellant. However, I observe that said directions have not been followed by the lower authority and impugned order has been passed without application of mind. No care has been taken even to scrutinize the evidence/documents provided by the appellant and to put any finding on it. Such finding of the adjudicating authority wherein he simply reproduces the statute/rules and straightway arrives at the conclusion without taking any cognizance of evidences put forth is definitely against the accepted and established adjudicating process for quasi-judicial nature and cannot be allowed to let it run. Such act of overlooking the evidence and not giving finding on it in spite of clear directions from higher authority is nothing but judicial indiscipline. Coming to merit of the case based on the documentary evidence put forth I observe that the work carried out by the contractors namely M/s



Patel Electricals, Mahalaxmi Electricals & Aditya Innovator were in persuent to appealant's contract for M/s. PDPU, Gandhinagar, GPERF-Mehsana and SRFDCL-Ahmedabad which all work were original work from foundation to finish and has been undertaken for new constructions. Copies of invoices raised by service providers and copies of tender contract documents reveals that said works were original work. Images of few invoices raised by said sub-contractors and contracts documents are shown below for ease of referance:

Scanned with CamScanner

TIN No.24100300422 Dt. 14-9-2005
CST No.24600300422 Dt. 20-12-2006

ME

॥ श्री गणेश ॥

(M) : 98796 16447
(M) : 99240 32044

MAHALAXMI ELECTRICALS

Govt.Approved Building Wiring & Electric Contractor
Electric Material Suppliers & OFC Cable
H.T. Connection Works, H.T. Cabling

First Floor, Rajavir Complex,
S.T.Road,Jamnagar - 361 005
E-Mail : mlaxmi.elect@gmail.com

TAX INVOICE

To,
N.J. Devani Builders Pvt. Ltd.
Ahmedabad
Site :- PDPU Raisan, Gandhinagar (PGP Hostel Building)

Invoice No:- T-04/2012-13
Invoice Date:-25/06/2012
RA Bill:- 02

Description : Electrification Work

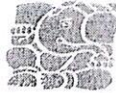
Sr.No.	Item No	Item Description	UOM	Qty	Unit Rate	Amount
1	7.1.2	Supplying, erecting, testing and commissioning of TPN D.B.	No.	4	5700.00	22,800.00
2	7.1.3	Supplying, erecting, testing and commissioning of TPN D.B.	No.	12	4300.00	51,600.00
3	7.2.2	Supplying, erecting, testing and commissioning of SPN D.B.	No.	76	1230.00	93,480.00
4	7.4.1	6 to 32 A SP MCB	No.	848	140.00	118,720.00
5	7.4.5	16 A/ 25 A DP ELMCB(ELCB+MCB) (30mA)	No.	8	1800.00	14,400.00
6	7.4.7	32 A DP ELMCB(ELCB+MCB) (30mA)	No.	48	2000.00	96,000.00
7	7.4.8	32 A DP ELMCB(ELCB+MCB) (100mA)	No.	68	2200.00	149,600.00
8	7.4.16	16-32 A FP MCB	No.	8	950.00	7,600.00
9	7.4.17	40 A FP MCB	No.	8	1450.00	11,600.00
10		Floor Panel Board	No.	8	74500.00	596,000.00
11	12.1.1	One light point controlled by one single way 6 A switch.	Nos	383	600.00	229,800.00
12	12.1.2	Loop light point to be controlled from same switch.	Nos	110	400.00	44,000.00
13	12.1.3	One light point controlled by two, two way 6 A switch	Nos	78	1100.00	85,800.00
14	12.1.4	One ceiling fan outlet point controlled by one 6 A switch and hum free electronic type step regulator.	Nos	57	900.00	51,300.00
15	12.1.5	One 6 A x 5 pin 250 Volt socket outlet point controlled by one 6 A switch located on switch board.	Nos	123	275.00	33,825.00

Page 1 of 3



TIN No.24100300422 Dt. 14-9-2005
CST No.24600300422 Dt. 20-12-2006

11 88 88 88

(M) : 98796 16447
(M) : 99240 32044**MAHALAXMI
ELECTRICALS**First Floor, Rajavir Complex,
S.T.Road, Jamnagar - 361 005
E-Mail : mlaxmi.elect@gmail.com

- Govt. Approved Building Wiring & Electric Contractor
- Electric Material Suppliers & OFC Cable
- H.T. Connection Works, H.T. Cabling

16	12.1.6	6 A x 5 pin 250 Volt switched socket outlet point at convenient location.	Nos	70	600.00	42,000.00
17	12.1.7	6/16 A x 250 V switch socket point on one switch box with 2.5 sqmm flexible wires and phase and neutral and 1.5 sq mm flexible Cu. wire as earth wire.	Nos	111	950.00	105,450.00
18	12.1.10	Exhaust fan outlet point with 6A 5 pin socket controlled by one 5 single way switch located at different location.	Nos	34	650.00	22,100.00
19	12.1.18	Bell point controlled by Bell push switch with bell of approved make.	No.	34	1,150.00	39,100.00
20	12.1.19	SITC computer power supply point with 2 nos of 6 amp 5 pin plugs with 1 no. of 16 Amp. Plug with 1 no 16 A Switch with indicator & wiring of computer point.	Nos	121	2800.00	338,800.00
21	12.2.6	Supplying and Providing mains with 2 nos. of 6 sq mm Cu. wire and 1 nos 4.0 sqmm Cu. wires to be drawn in 25 mm diameter rigid PVC conduit.	Rmt	1020	150.00	153,000.00
22	12.2.7	Supplying and Providing mains with 3 nos. of 4 sq mm Cu. wire and to be drawn in 25 mm diameter rigid PVC conduit.	Rmt	476	130.00	61,880.00
23	12.2.8	Supplying and Providing mains with 3 nos. of 2.5 sq mm Cu. and to be drawn in 25 mm diameter rigid PVC conduit.	Rmt	4471	100.00	447,100.00
24	13.1.1	Any kind of light fixture with lamp.	No.	770	3100.00	2,387,000.00
25	13.2.2	48" Dia Sweep Ceiling Fan with Fan Hook as per approved colour & equivalent to crompton make.	No.	99	1650.00	163,350.00
26	13.3.1	Light duty 225/305 mm. diameter propeller exhaust fans single phase 1400 RPM.	No.	68	1350.00	91,800.00
27	15.4.1	Supply and laying of 0.5mm dia annealed copper conductor 5 pair PVC telephone cable.	Rmt	2500	25.00	62,500.00

TIN No.24100300422 Dt. 14-9-2005
CST No.24600300422 Dt. 20-12-2006

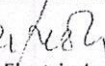
11 88 88 88

(M) : 98796 16447
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28	15.4.2	Supply and laying of specified make UTP CAT6 cable in pre-laid PVC conduits.	Rmt.	7200	32.00	230,400.00
29	15.5.1	Supplying, installing, testing and commissioning of telephone outlet socket as CAT6 RJ-45 I/O of specified make, including faceplate and backbox assembly.	No.	152	300.00	45,600.00
30	15.5.2	Supply and Installation of Single UTP CAT6 RJ-45 I/O of specified make including faceplate and MS backbox assembly.	No.	220	450.00	99,000.00
31	16.1.1	Heavy gauge pipe in Open / Concealed manner minimum 25 mm dia.	Rmtr	4500	38.00	171,000.00
32		Key Tag	No.	68	950.00	64,600.00
33	18.2.1	Supplying and Laying of RG 6 TV cable in pre-laid conduit	Rmtr	2300	25.00	57,500.00
34	18.4.1	Supplying, installing, testing and commissioning of one television point to be done with television outlet socket and box of the APPROVED make.	No.	74	300.00	22,200.00
						6,210,905.00

In Word :- Sixty Two Lacs Ten Thousand Nine Hundred and Five Only.

For, 
Mahalaxmi ElectricalsCompany's VAT TIN :- 24100300422
Company's CST No :- 24600300422
Buyer's TIN/Sales Tax No :- 24073403247

156

SABARMATI RIVER FRONT DEVELOPMENT CORPORATION LIMITED
(SRFDCL)

Reg. Office : Bal Bhavan, Opp. Vidyanagar High School, Nr. NABARD House, Usmanpura, Ahmedabad-380 013.
Admn. Office : West Zone Office, AMC, Dr. Ramnarayan Patel Bhavan, Usmanpura, Ahmedabad-380 013.
Phone No. : 079-32949817 Fax : 079-27551246

E-mail : sabarmati@sgovtarn.com

Website : www.sabarmatiriverfront.com

To,
M/s N. J. devani Builders Pvt. Ltd.,
B/h Ishwar Bhuvan,
Near Kailash Flats,
Navrangpura,
Ahmedabad-380 009.

March 08, 2011

Subject: Civil & electrical works for development of public garden between Subhash Bridge and Dudheshwar Bridge on the east bank of Sabarmati River for Sabarmati riverfront development corporation ltd. (SRFDCL) (Part-2 Subhash Bridge to D/s of Dudheshwar French well)

Dear Sir,

Kindly refer to your bid dated 29-01-2011 and further process of finalization of Financial Bid for execution of the work of Civil & electrical works for development of public garden between Subhash Bridge and Dudheshwar Bridge on the east bank of Sabarmati River for Sabarmati riverfront development corporation ltd. (SRFDCL) (Part-2 Subhash Bridge to D/s of Dudheshwar French well)

It may be noted that the contract Price as per the enclosed BOQ and drawing as per your quoted rates after your negotiated financial offer vide your letter No. Nil dated 28-02-2011 received on 01-03-2011, at an amount of Rs. 7, 90, 47, 648=18 (Rs. Seven Crores Ninety Lakhs Forty Seven Thousand Six Hundred and Forty Eight and Paise Eighteen only) is hereby accepted by Sabarmati River Front Development Corporation Limited (SRFDCL) for the above referred work. The remaining scope will be released within 45 days of development of public gardens based on your revised financial offer vide your letter No. Nil dated 28-02-2011 received on 01-03-2011 within the SRFD project area. Time duration for the same will be decided proportionately based on the quantum of the work.

We note that as per the Bid you do not intend to subcontract any component of the work assigned to you.

You are now required to:

1. Furnish performance security in the form as per details in Para 31.1 of ITB, within 21 days of the receipt of this letter of acceptance for amount of Rs. 39, 52,383=00 (Rs. Thirty Nine Lakhs Fifty Two Thousand Three Hundred and Eighty Three only) valid up to 28 days from the date of expiry of defect liability period.
2. Sign the contract, failing to which action as stated in Para 31.3 of ITB will be taken.
3. It may be noted that we have received the Construction Methodology submitted by you along with the bid in response to ITB Clause 4.3 and it needs to be clarified and revised in detail.
4. Kindly submit detailed program with construction planning, deployment of equipments with calculations to complete the work in time and including Environmental Management Plan, Quality Assurance / Quality Control Plan and CVs of Project manager and other Engineers to be appointed exclusively for this work as per ITB clause 4.3 & 4.5 within 14 days from receipt of this letter.

You may start mobilization with immediate effect.

Kindly return a duplicate copy of this letter, duly signed, as a token of your acceptance of this Letter.

Thanking you,

Yours sincerely,

(Capt. Dilip Mahajan)
EXECUTIVE DIRECTOR
SRFDCL

work start - June - 1/6/11
date of completion - July - 31/10/12
Phase I & Phase II

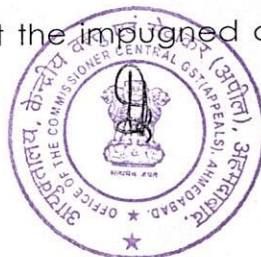
7. Above invoices raised in respect of supplying, erecting, testing and commissioning of TPN DB (electrification work) and civil electric work for development of garden etc, are undertaken for new constructions and hence certainly original work from foundation and therefore service tax was payable on 40% of the total amount charged for such work contract. Said evidence produced by the appellant has not at all appreciated by the adjudicating authority. The term 'original work' is defined to mean all new construction, all types of additions and alterations to abandoned or damaged structure on land that are required to make them workable; and erection, commissioning or installation of plant, machinery or equipment or structure, whether pre-fabricated or otherwise. Thus, the scope and coverage of this valuation provision is very wide in as much as it covers all work contracts for all new construction and also all types of additions and alterations in respect of abandoned or damaged structure as well as erection, commissioning or installation of structures. In view of this, the services provided by said sub-contractors were in respect of work

contract for execution of original work. In other word, these work were for new construction and hence were work contract for new construction services and therefore, covered under Rule 2A (ii)(A) of the Valuation Rules. The electrical work so executed by the appellant through said three sub-contractors was not an independent , but such electrical work was part and parcel of construction of new building and new civil structure and covered under the definition of 'original work' under above Valuation Rules.

8. I further observe that said work provided by said three sub-contractor were not an independent work but such electrical work as well as work of aluminum section was also a part and parcel of construction of new building and new civil structure and therefore covered under the definition of 'original work'. Further, as provided under explanation 1 to rule 2A (C) of Service tax (Determination of value) Rules,2006, the definition of 'original work' also covers erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise and hence aluminum section work and electrical work provided by said sub-contractor are covered under said definition of 'original work'.

9. The appellant has also contested that by bonafied error the appellant did not discharge service tax liability under RCM but such failure was not on account of deliberate mala-fide attempt to evade service tax liability as identical amount of service tax paid would have been available as cenvat credit and hence it was revenue neutral exercise; that in view of revenue neutrality entire proceedings is unjustified. They cited Order No. A/12620/2018 dated 26.11.2018 passed by Hon'ble CESTAT, WZB, Ahmedabad in case of Messers John Energy Limited v/s CCE & ST Ahmedabad wherein it is held that majority amount of service tax was paid by M/s. John Energy Limited in cash and small portion of tax was paid from Cenvat credit account. I observe that facts of the case in hand are similar to said case of M/s. John Energy Limited and hence are squarely applicable on revenue neutrality aspect too.

10. In view of the above, I reject the impugned order and accept the appeal filed by the appellant.



11. अपीलकर्ता 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.

उमा शंकर
(उमा शंकर)

प्रधान आयुक्त (अपील्स)

Date:

Attested

(D.A.Parmar)
(D.A.Parmar)
Superintendent
Central Tax (Appeals)
Ahmedabad



By R.P.A.D.

To,

M/s. N.J. Devani Builders Pvt Ltd,

Behind- Ishwar Bhuvan, Navrangpura, Ahmedabad.

Copy to:

1. The Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner of Central Tax, Ahmedabad -North.
3. The Additional Commissioner, Central Tax (System), Ahmedabad-North.
4. The Asstt./Deputy Commissioner, CGST Division-VIII, Ahmedabad - North.
5. Guard File.
6. P.A. File

~~12/12/11~~
~~12/12/11~~