



# 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

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क फाइल संख्या : File No : **V2(ST)20 /North/Appeals/2018-19**

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ख अपील आदेश संख्या : Order-In-Appeal No.. **AHM-EXCUS-002-APP-33-18-19**

दिनांक Date : **29-Jun-18** जारी करने की तारीख Date of Issue **8/8/2018**

**श्री उमा शंकर**, आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No **08/ADC/2018/RMG** Dated **12-Mar-18** Issued by **Additional Commissioner** , Central GST , Div-North , Ahmedabad North.

ध अपीलकर्ता का नाम एवं पता  
**Name & Address of The Appellants**

## M/s PC Snehal Construction Co.

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:-

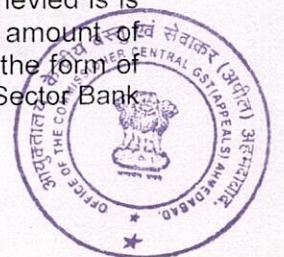
Under Section 86 of the Finance Act 1994 an appeal lies to :-

पश्चिम क्षेत्रीय पीठ सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण ओ. 20, न्यू मैन्टल हास्पिटल कम्पाउण्ड, मेघाणी 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 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 (सीस्टेट) के प्रति अपीलों के मामलों में केन्द्रीय उत्पाद शुल्क अधिनियम, 1994 की धारा 39फ के अंतर्गत वित्तीय(संख्या-2) अधिनियम 2014(2014 की संख्या 29) दिनांक: 06.08.2014 जो की वित्तीय अधिनियम, 1994 की धारा 13 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



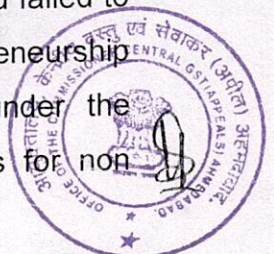


## ORDER-IN-APPEAL

**M/s P. C. Snehal Construction Company**, having registered office at 9<sup>th</sup> Floor, City Centre, Near Swastik Cross roads, Navrangpura, Ahmedabad (hereinafter referred to as the appellant), was engaged in providing service falling under the categories of (i) works contract Services, (ii) Construction Services other than residential Complex including Commercial / Industrial Building or Civil Structure since 20/01/2005 and was receiving services related to (i) Transport of Goods by Road / Goods Transport Agency, (ii) Legal Consultancy services etc. During the course of audit it was noticed that the appellant had not paid Service Tax on 'Works Contract service provided to various organizations and not paid Service Tax on reverse charge mechanism during the period 2010-11 to 2013-14 on receipt of services relating to Goods Transport Agency and Legal Consultancy. Further inquiry was undertaken by the Preventive section of Service Tax Commissionerate, Ahmedabad. From the ST-3 return for up to March-2016, it was revealed that the appellant had claimed exemption under Sr. No. 12(a), 12(c) & 13(a) of Notification No. 25/2012-S.T.dated 20/06/2012 and Sr. No.9 of Notification No. 30/2012-ST. It was also revealed that the appellant had provided Works Contract services to:

- i. M/s Odhav Estate Infrastructure Development Ltd. (M/s OEIDL) for upgradation of water supply scheme from 2.8 MLD to 9 MLD at G.I.D.C., Odhav under CIP Scheme Project-3 claiming exemption under Sr. No. 13(d) of Notification No. 25/2012-S.T. dated 20/06/2012 that grants exemption to service provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of "a pollution control or effluent treatment plant, except located as a part of a factory or a structure meant for funeral, burial or cremation of deceased" and to
- ii. M/s Entrepreneurship Development Institute of India, Bhat, Gandhinagar, constructing two lecture halls and claiming exemption under Sr. No.12 (c) of Notification No. 25/2012-S.T.dated 20/06/2012 that exempts services provided to the Government, a local authority by way of construction, erection commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of a structure meant predominantly for use as (i) an educational (ii) a clinical, or (iii) an art or cultural establishment.

During the course of investigations, it was revealed that the services rendered by the appellant in the capacity of a sub-contractor was not covered under Sr. No. 29 (h) of Notification No.25/2012-ST dated 26/06/2012 that exempts *sub-contractor providing services by way of works contract to another contractor providing works contracts services which are exempt* because the services were not exempt in as much as (i) the Works Contract Services to M/s Odhav Estate Infrastructure Development Ltd. was for up gradation of water supply whereas exemption under Sr. No. 13(d) of Notification No. 25/2012-S.T.dated 20/06/2012 was applicable to only "a pollution control or effluent treatment plant, except located as a part of a factory" and (ii) the appellant had failed to produce any documents to prove that the projects undertaken by M/s Entrepreneurship Development Institute of India, Gandhinagar, which was not covered under the definition of Government, Local Authority or a Government Authority, was for non





commercial purpose, the services rendered to the said Institution was not eligible for exemption under Sr. No. 12(c) of Notification No. 25/2012-S.T.dated 20/06/2012. Thus it appeared that the appellant had not paid Service Tax amounting to Rs.87,42,335/- during the period from 01/04/2011 to 31/03/2016 on 'Works Contract service', which included Service Tax amount of Rs.44,64,736/- on an amount of Rs.8,81,63,297/- shown in the books of account under the head 'Other Income' received from M/s P.C. Snehal Engineers Pvt. Ltd. & M/s M.S Khurana Engineering Pvt. Ltd. treating other income as taxable income. Further, it also appeared that the appellant had failed to pay Service Tax on Reverse Charge Mechanism amounting to Rs.3,78,718/- in respect of Legal Consultancy service Rs.5,66,349/- in respect of 'Goods Transport Agency' service. Therefore, a Show Cause Notice F.No.STC/4-07/O&A/P.C/2017-18 dated 17/05/2017 (hereinafter referred to as 'the SCN') was issued to the appellant demanding the said Service Tax amounts invoking extended period under Section 73(1) read with section 68 of the Finance Act, 1994 along with interest under Section 75 of the Finance Act, 1994 and proposing to impose penalty on the appellant under Section 77 and Section 78 of the Finance Act, 1994. The SCN was adjudicated *vide* Order-in-original No. 08/ADC/2018/RMG dated 08/03/2018 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner, Central G.S.T. & Central Excise, Ahmedabad North (hereinafter referred to as 'the adjudicating authority')

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

- 1) The SCNs are issued from periods ranging between more than 24 months and more than 59 months. There was no fraud, collusion, willful misstatement or suppression of facts involved with intention to evade payment of tax and hence the SCNs were required to be issued within 18 months from the filing of ST-3 returns. The SCNs are time barred as extended period of five years from relevant date under Section 73 (1) of the Finance Act, 1994 is not applicable. The work done by the appellant is exempted under Mega Notification No. 25/2012-ST dated 20/06/2012. The appellant had provided Works Contract services to G.I.D.C. situated at Odhav which is a 100% State Government authority set up under Section 3 of Gujarat Industrial Development Act, 1962, which also notifies area under Gujarat Municipalities Act under section 16 of Gujarat Industrial Development Act, 1962. The powers, authority and responsibility of Municipalities are defined under Article 243W in the Constitution of India, 1949. The Legislature of a State may, by law, endow the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule and under Sr. No. (5) of the Twelfth Schedule it is stated that "*Water supply for domestic, industrial and commercial purposes*". Entry 12(e) of the Mega Notification No. 25/2012-ST dated 20/06/2012 covers services provided to the Government, a local authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of (e) *pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal*. Further, entry 13(d) of Mega Notification No. 25/2012-ST dated 20/06/2012 covers service provided by way of erection, construction, commissioning, installation, completion, fitting out, maintenance, repair, renovation or alteration of (d) *pollution control or effluent treatment plant, except located as a part of a factory*. One of the functions entrusted to a municipality under Twelfth Schedule to article 243W of the Constitution is water supply for domestic, industrial and commercial purpose. Hence it is very much clear that work done by appellant for M/s Odhav Estate Infrastructure Development Ltd. is covered under Entry 12(e) of Mega Exemption notification No. 25/2012-ST dated 20/06/2012 and not liable for Service Tax. Moreover, the appellant has installed commission 2.9 to 9 MLD effluent treatment plant as per Entry 13(d) of Notification No.





25/2012-ST dated 20/06/2012 whereby activity for pollution control or effluent treatment plant, except located as a part of a factory is exempt from Service Tax.

- 2) Leviability of Service Tax depends upon whether civil structures are primarily used or are to be used for commerce or industry or not. M/s Entrepreneurship Development Institute of India (M/s EDI) is non-profit institute and hence Service Tax is not leviable on Works Contract services provided by the appellant to M/s EDI. The definition of the term 'Commercial or Industrial Construction' excludes the services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams. By Circular No.B-2/8/2004-TRU dated 10/09/2004, the Government of India had clarified that construction for the use of organizations or institutions being established solely for educational, religious, charitable, health, sanitation or philanthropic purposes and not for the purposes of profit were not taxable, being non-commercial in nature. M/s EDI is a Government body and service of construction to M/s EDI qualifies for exemption from Service Tax under Entry No. 12(c) of Mega Notification No. 25/2012-ST dated 20/06/2012. The services provided by M/s P.C. Snehal Construction Co. are exempted from Service Tax and hence the sub-contractors are also exempt from Service Tax. A sub-contractor providing services by way of works contract to the main contractor, providing exempt works contract service has been exempt from Service Tax under Entry No. 29(h) of the mega exemption Notification if the main contractor is engaged in providing exempt services of work contracts.
- 3) M.S. Khurana had paid the disputed amount to the appellant on 20/11/2011 and 31/03/2012 as non compete fees for not filing tender, which was fees for not competing with M.S. Khurana as part of an agreement in any specified products, services or geography. Prior to 01/07/2012, activities which were not being classified under a specific category were not liable to Service Tax and compete agreements were one such category that was not classified. As regards the payment of Service Tax on reverse charge mechanism for Transport of Goods by road services and Legal services, the appellant had paid Service Tax along with interest before issuance of SCN and hence there was no need to impose penalty. The appellant pleads that as the tax was not paid by reason of fraud or collusion or willful misstatement or suppression of facts with intent to evade payment of tax, extended period of five years is not applicable and the appellant was not liable to penalty. The appellant relies on continental Foundation Jt. Venture vs CCE, Chandigarh -I - 2007 (216) E.L.T. 177 (S.C.); Pahwa Chemicals Pvt. Ltd. - 2005 (189) ELT 257 (SC); Mysore Kirloskar Ltd. - 2008 (226) ELT 161 (SC); Cosmic Dye Chemical - 1995 (75) ELT 721 (SC).

3. Personal hearing in the case was held on 04/06/2018 attended by Shri Bishen Shah, C.A. The learned C.A. submitted that Sr. no. 13(d) and 12 (e) of Notification No. 25/2012 exempts services of M/s Odhav Estate Infrastructure Development Ltd. M/s Entrepreneurship Development Institute of India is a Government of Gujarat Trust and the construction is exempted under Sr.No. 12(c) of Notification No. 25/2012. Sr.No. Under Sr.No.29(h) of this Notification when main contractor is exempted, sub-contractor (P.C. Snehal Engg.) is exempted. Non Compete fees from M/s Khurana (28/11/2011 to 31/03/2012) is out of negative list. The learned C.A. reiterated the grounds of appeal and submitted that Service Tax on RCM basis on G.T.A and Legal services was paid in full before SCN.

4. I have carefully gone through the impugned order and the grounds of appeal. I firstly take up the dispute regarding exemption claimed by the appellant and denied by the adjudicating authority in respect of Works Contract services rendered by the appellant to M/s Odhav Estate Infrastructure Development Ltd. as well as M/s Entrepreneurship Development Institute of India.

5. On examining the Works contract service provided by the appellant to M/s Odhav Estate Infrastructure Development Ltd., it is seen that the adjudicating authority has





clearly brought out in paragraph 16.1 that M/s Odhav Estate Infrastructure Development Ltd. is a Public Ltd. Company, which identifies locations suitable for industrial development and creates industrial estates with infrastructure such a roads, drainage, electricity, water supply, street lights and ready-to-occupy factory sheds on behalf of G.I.D.C. There is no dispute that M/s G.I.D.C. is a 100% Gujarat State Government owned entity. In the instant case, in the course of providing the said services to M/s G.I.D.C., M/s Odhav Estate Infrastructure Development Ltd. had floated tenders to carry out the up gradation of water supply scheme from 2.8 MLD to 9 MLD at G.I.D.C., Odhav under CIP Scheme Project-3 including construction & commissioning water supply scheme at G.I.D.C., Odhav, which was awarded to the appellant. Thus it is apparent that the Works Contract service provided by the appellant to M/s Odhav Estate Infrastructure Development Ltd. was part of the development undertaken by M/s Odhav Estate Infrastructure Development Ltd. for G.I.D.C., which is a State Government undertaking. The adjudicating authority has not discussed or considered this ground raised by the appellant for claiming exemption but has summarily rejected the claim stating that the terms and conditions of the contract clearly establishes that the Works Contract service was rendered by the appellant to M/s Odhav Estate Infrastructure Development Ltd. and not directly to M/s G.I.D.C. There is no discussion showing as to how it was incumbent on the appellant, under the exemption Notification or under any other provisions of law to provide service directly to M/s G.I.D.C. or in other words the impugned order does not establish as to how the service provided by the appellant did not qualify for exemption just because the appellant did not deal directly with M/s G.I.D.C. It is pertinent to note that the claim of the appellant that it was liable to the exemption as the service was provided eventually by M/s Odhav Estate Infrastructure Development Ltd. to M/s G.I.D.C. that was exempt by virtue of Entry No. 12(e) of Notification No.25/2012-ST dated 20/06/2012 being service rendered in relation to water supply to State Government undertaking has not been refuted or approved in the impugned order. Further, in the subsequent paragraphs 18 and 19 of the impugned order, the adjudicating authority concludes that the services rendered by the appellant was not to a Government or local authority but to M/s Odhav Estate Infrastructure Development Ltd., which is only a Public Limited Company and hence exemption cannot be granted. Thus it is clear that the aspect of the services provided by M/s Odhav Estate Infrastructure Development Ltd. to M/s G.I.D.C. and that the services provided by the appellant formed part of the service to M/s G.I.D.C. has not been refuted or negated while rejecting the exemption claim. Therefore, the claim of exemption under Sr. No. 12(e) of notification no. 25/2012-ST is required to be re-examined on the basis of facts at the jurisdictional field level and hence the case is remanded for this purpose. Further, the claim of exemption under Entry No. 13(d) of Notification No. 25/2012-ST dated 20/06/2012 has been rejected in paragraph 17 of the impugned order holding that the appellant is not constructing or altering a pollution control or effluent treatment plant but is upgrading a water supply scheme. However, the appellant has claimed in the grounds of appeal (page12) that it had installed 2.9 to 9





MLD effluent treatment plant and hence as per entry 13(d) of notification No. 25/2012-ST dated 20/06/2012, it was liable to exemption. This plea is also required to be re-examined at the field level on the basis of facts and evidences.

6. The claim of exemption for Works contract service rendered to M/s Entrepreneurship Development Institute of India, Gandhinagar by the appellant has been rejected in paragraph 20 and 20.1 of the impugned order on the ground that the said institution was not governed by a Government body and hence it cannot be treated as a Government, local authority or a government authority. On the other hand the appellant has claimed that as per the clarification in Circular no. B-2/8/2004-TRU dated 10/09/2004, the Government of India has clarified that construction for the use of organizations or institutions being established solely for education, religious, charitable, health, sanitation or philanthropic purposes and not for purposes of profit were not taxable being non-commercial in nature. This aspect of exemption to service to non-commercial organization is required to be examined and discussed at the field level. Further, if the appellant has any evidence that M/s Entrepreneurship Development Institute of India, Gandhinagar is a Government organization, then the same needs to be produced before the adjudicating authority and accordingly the case is remanded back to the original authority.

7. As regards the non-payment of Service Tax on the income against the Work Contract service rendered to M/s Khurana Engineering Pvt. Ltd. and M/s P.C. Snehal Engineers Pvt. Ltd., it is seen in paragraphs 21 to 23 that the exemption claim has been rejected on the ground that the appellant had not produced any documentary evidence. Thus it is clear that the rejection of exemption claim has not been confirmed on the basis of evidence, which is not proper or sustainable. The claim of the appellant for exemption under Sr. No. 29(h) of Notification no. 25/2012-ST as they had acted in the capacity of sub-contractors in providing exempted services to Municipalities / government agencies is to be examined on the basis of evidence. The claim of the appellant with regards to the non compete clause with M/s Khurana is also required to be verified and discussed afresh. The case is remanded to the original authority to grant the appellant the opportunity to produce requisite evidence and then decide the exemption claim on the basis of such evidence.

8. On considering the confirmation of demand on the service of Transport of Goods by Road and Legal Consultancy, there is no dispute that the appellant was liable to pay Service Tax under Reverse Charge Mechanism. In paragraph 27 of the impugned order, the adjudicating authority has stated that the appellant had provided challans evidencing payment of Rs.4,94,421/- towards G.T.A. but no proof was submitted for payment of Rs.72,111/-. However, the appellant claims in the grounds of appeal that it had paid up the entire amount of Rs.5,66,532/-. The payment details are required to be verified at the field level and hence the matter is remanded with directions to the appellant to produce the evidence for verification as called for by the department.





9. As regards invoking of extended period and penalty, the same are required to be confirmed or dropped on the basis of the findings with regards to eligibility of exemption decided or the taxability as decided in the de novo proceedings. The appeal is allowed by way of remand.

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

*उमा शंकर*

(उमा शंकर)

आयुक्त

केन्द्रीय कर (अपील्स)

Date: 29 / 06 / 2018

Attested

*(K.P. Jacob)*  
Superintendent,  
Central Tax (Appeals),  
Ahmedabad.

By R.P.A.D.

To

M/s P C Snehal Construction Co,  
9<sup>th</sup> Floor, City Center, Near Swastik Cross Road,  
Navrangpura, Ahmedabad – 380 009

Copy to:

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

