



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

☎: 079 - 26305136



Post Speed By द्वारा

क फाइल संख्या (File No.): **V2(39)72/North/Appeals/ 2019-20/13600 To 13604**
 ख अपील आदेश संख्या (Order-In-Appeal No.): **AHM-EXCUS-002-APP-112-19-20**
 दिनांक (Date): **16-01-2020** जारी करने की तारीख (Date of issue): **22/01/2020**
 , आयुक्त (अपील) द्वारा पारित
Passed by Shri Akhilesh Kumar , Commissioner (Appeals)

ग _____ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-IV), अहमदाबाद उत्तर, आयुक्तालय द्वारा जारी
 मूल आदेश सं _____ दिनांक _____ से सृजित
 Arising out of Order-In-Original No **01/DC/D/2019/AKJ** Dated: **12/04/2019**
 issued by: **Deputy Commissioner-Central Excise (Div-IV), Ahmedabad North,**

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

M/s Parikh Packaging Pvt. 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 है।



Cont....2

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(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) 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, मेघानी नगर, अहमदाबाद-380016

(a) 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.

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 को मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील' दाखिल करने के लिए पूर्व शर्त बना दिया गया है.

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस 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।

6(l) 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."

II. **Any person aggrieved by an Order-In-Appeal issued under the Central Goods and Services Tax Act,2017/Integrated Goods and Services Tax Act,2017/ Goods and Services Tax(Compensation to states) Act,2017, may file an appeal before the appropriate authority.**



ORDER-IN-APPEAL

This appeal has been filed by M/s Parikh Packaging Pvt Ltd, Survey No.423/P, Opp Rotomac Pens, Moraiya, Sarkhej-Bavla Highway, Changodar, Ahmedabad (Gujarat) [hereinafter referred to as "appellant"] against Order-in-Original No.01/DC/D/2019/AKJ dated 12.04.2019 [hereinafter referred to as "impugned order"] passed by the Assistant Commissioner of CGST & CE, Division IV, Ahmedabad North Commissionerate [hereinafter referred to as "adjudicating authority"]

2. Facts of the case, in brief, are that the officers of Central Excise and Service Tax Audit, Ahmedabad had conducted audit of appellant for period February 2015 to March 2016 and issued FAR No.737/2017-18 dated 15.01.2018. Based on the said Audit Report, a Show Cause Notice dated 30.05.2018 was issued to the appellant for recovery of Cenvat credit/Central Excise duty/short payment of Service Tax along with interest and imposition of penalty. The issue wise details covered in the said show cause notice are as under:-

Issue No.1 : During the period from 2013 to 2016, the appellant had written-off the value of raw material, amounting to Rs.1,08,45,769/-, however, they failed to reverse Cenvat credit amounting to Rs.13,51,968/- involved on such raw materials, as per provisions of Rule 3(5B) of Cenvat Credit Rules, 2004 (for short-CCR).

Issue No.2 : During the period from 2013 to 2016, the appellant had written-off the value of finished/semi-finished goods, amounting to Rs.85,62,415/-, however, they failed to pay the Central Excise duty amounting to Rs.10,67,985/- involved on such finished/semi-finished goods, as per provisions of Rule 3(5C) of CCR.

Issue No.3 : The appellant had recovered Rs.4,56,700/- from their employees towards transport facility which falls under the definition of service as defined under Section 65 B (44) of the Finance Act, 1994 (for short-FA) and failed to pay Service Tax. They had paid the service tax amounting to Rs.62,783/- alongwith interest on being pointed out the same at the time of audit, however, not paid the penalty under Section 78 of the FA.

Issue No.4 : The appellant has received taxable service viz., Supply of Manpower and Recruitment service on the taxable value amounting to Rs.1,18,769/- under Reverse Charge Mechanism in light of Section 68(2) of FA, however, they failed to pay Service Tax. They had paid the service tax amounting to Rs.16,628/- alongwith interest on pointed



out the same at the time of audit, however, not paid the penalty under Section 78 of the FA.

Issue No.5 : During reconciliation of expenses towards IT Service, it was observed that an amount of Rs.15,243/- was incurred in Foreign Exchange with their related concern M/s Constantia Shared Services Austria GmbH towards import of IT Service which is taxable under Reverse Charge Mechanism. However, there was short payment of Service Tax amounting to Rs.2,286/- which was required to be paid alongwith interest and penalty.

Issue No.6 : During reconciliation expenses incurred by the appellant in Foreign Exchange with their related concern M./s Constantia Colmr LLC, it was observed that an amount of Rs.4,93,561/- was incurred towards Audit Fees and Professional Fees which is liable to Service Tax under Reverse Charge Mechanism. However, no Service Tax amounting to Rs.74,034/- was not paid. It was required to be recovered alongwith interest and penalty.

Issue No.7 : During verification of expense incurred by the appellant in Foreign Exchange with their related concern M/s Constantia Flexible Group/International GmbH, it was observed that they had reimbursed an amount of Rs.7,31,025/- towards Insurance Service which is taxable under Reverse Charge Mechanism. However, Service Tax amounting to Rs.1,09,653/- was not paid. It was required to be recovered alongwith interest and penalty.

The adjudicating authority, vide impugned order, has confirmed all the recovery proceedings along with interest and also imposed 50% of the Central Excise duty/Service Tax determined as penalty under Section 11AC(1)(c) of the Central Excise Act, 1944/Section 78(1) of the FA.

3. Aggrieved with the impugned order, the appellant has filed the instant appeal on the grounds that:

- As per written policy of the company, the appellant have to write of certain value of such inputs as per their age; that they neither disposed of such inputs nor they destroyed and they make use of such inputs in manufacture of finished goods which are cleared on payment of appropriate duty.
- As per Board's circular No.645/36/2002-CX dated 16.07.2002, in case where the value of inputs is partially written off/reduced in the accounts of the company, but the inputs are still capable of and available for use, there would be no question of payment of Cenvat credit availed; that as per circular No.907/27/2009 dated 07.12.2009 also, no amount of Cenvat credit



is required to reverse on the value of inputs written off/reduced and no amount of duty is required to pay on the value of finished goods.

- The Circular dated 07.12.2009 also clarifies that no amount of Cenvat Credit is required to be reversed on the value of inputs/value of finished goods written off/reduced as the value of inputs partially written off/reduced were used in the manufacture of finished goods and subsequently cleared on payment of duty.
- There is no short payment of service tax in respect of expenses incurred in foreign exchange with their related concern M/s Constantia Colmar LLC towards import of taxable service and no concrete figures have pointed out the implication of such transaction. Hence, the demand is not sustainable.
- The penalty imposed by the adjudicating authority is not correct as the appellant never suppressed any information from the department; that every details/transaction had been recorded in their periodical returns/books of accounts.

4. Personal hearing in the matter was held on 18.12.2019. Shri K.J.Kinariwala, Consultant represented on behalf of the appellant and reiterated the submissions made in the Appeal Memorandum. He further relied upon case law in case of Solvay Specialities India Pvt Ltd reported in 2018 (12)GSTL 82 (Tri-Ahmd).

5. I have gone through the facts of the case and submissions made by the appellant in the Appeal Memorandum as well as made at the time of personal hearing. The issue to be decided in the instant case is as to whether the demands confirmed by the adjudicating authority in respect of issues mentioned at para 2 above is correct or not.

6. First, I take the issue No.1 and 2 mentioned at Para 2 above regarding non-reversal of Cenvat credit on the value of inputs written off and non-payment of Central Excise duty on the value of finished/semi-finished goods written-off.

6.1 It is observed that the adjudicating authority has confirmed the demands and ordered to reverse the Cenvat credit and payment of Central Excise duty in respect of value of inputs and final goods written off in their books and accounts, as per provisions of Rule 3(5B) and 3(5C) of Cenvat Credit Rules, 2004 (for short-CCR). Rule 3(5B) and 3(5C) of CCR stipulates as under:

Rule 3 (5B)- *If the value of any,*

- (i) *input, or*
- (ii) *capital goods before being put to use,*

on which CENVAT credit has been taken is written off fully or partially or where any provision to write off fully or partially has been made in the books of account then the manufacturer or service provider, as the case may be, shall pay an amount



equivalent to the CENVAT credit taken in respect of the said input or capital goods:

Provided that if the said input or capital goods is subsequently used in the manufacture of final products or the provision of output services, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules.

Rule 3 (5C)- *Where on any goods manufactured or produced by an assessee, the payment of duty is ordered to be remitted under rule 21 of the Central Excise Rules, 2002, the CENVAT credit taken on the inputs used in the manufacture or production of said goods and the CENVAT credit taken on input services used in or in relation to the manufacture or production of said goods shall be reversed.*

6.2 It is apparent from the Rule 35(B) of CCR supra that in case the value of any input or capital goods before being put to use on which Cenvat credit has been availed are written off fully or partially or any provision has been made to write off fully or partially than the manufacturer or service provider are required to reverse/pay Cenvat credit availed on such inputs or capital goods. Therefore, on the basis of such statutory provisions, it is open for the Department to insist on reversal of Cenvat credit when the appellant had written off the value of inputs in the books of account. In these circumstances, there is no merit or scope in the argument of the appellant that they had written off the value as per the policy of the company and not required any reversal of Cenvt credit taken on the value of raw materials written off. Therefore, they are liable to reverse the Cenvat credit involved on such written off value of raw materials, unless there is something in the language of the statute indicating the need of non-reversal.

6.3 Further, the appellant has relied on the decision of Hon'ble Tribunal, Ahmedabad in case of M/ Solvay Specialties India Pvt Ltd [2018 (12)GSTL 85], wherein it has been held that in such circumstances, reversal of Cenvat credit is not required when raw materials are not removed from factory. The said decision is distinguishable since the issue discussed in the case is relating to writing down of value of raw materials and not written off as is the case of present appeal. The appellant has also referred CBEC's Circular No. 645/36/2002-CX dated 16.07.2002, wherein it was clarified that in case where the value of inputs is partially written off/reduced in the accounts of the company, but the inputs are still capable of and available for use, there would be no question of payment of Cenvat credit availed. However, the said circular cannot be made applicable to the instant case in view of Rule 3(5B) supra made effective from 07.07.2009 vide Notification No.16/2009-CE (NT).

6.3 As regards Central Excise duty demand towards on the value of final goods written-off, it is observed that as per Rule 3(5C) of CCR supra, if the value of finished goods has been written off the manufacturer shall be liable to pay Excise



duty on such finished goods/semi finished goods or he shall be required to reverse the Cenvt credit on the inputs used, if the duty has been remitted on finished goods. In the instant case, it is a fact on records that the appellant had written off the value of Rs.85,62,416/- in respect of finished goods /semi finished goods and not followed the procedures of remission of duty under Rule 21 of Central Excise Rules, 2002. Therefore, in this regard also, they are liable to pay the Central Excise duty involved on the value of such finished/semi finished goods.

6.4 It is further observed that the CBEC has clarified the above issues, vide circular No. 907/27/2009-CX., dated 7-12-2009, wherein, it has been clarified that:

"Rule 3(5B) of the CENVAT Credit Rules, 2004, provides that if the value of any input on which cenvat credit has been taken is written off fully in the books of accounts, then the manufacturer is required to reverse the credit taken on the said input. As far as finished goods are concerned, it is stated that excise duty is chargeable on the activity of manufacture or production. Even though liability for payment of tax has been postponed to the time of removal of goods for the factory, but still the legal liability to pay the excise duty has been fastened on the goods, when it has been manufactured or produced. Therefore, normally all goods manufactured suffer excise duty at the time of removal, but if the manufactured goods are destroyed due to natural causes etc., Rule 21 of Central Excise Rules, 2002, provides for remission of duty. Further, Rule 3(5C) of CENVAT Credit Rules, 2004, also requires reversal of credit on the inputs when the duty is ordered to be remitted under the said Rule 21. Therefore, if the goods have been manufactured, in that case, a manufacturer is

liable to pay excise duty unless duty is remitted under Rule 21. Therefore, if the value of finished goods is written off, the manufacturer would be liable to pay excise duty or he would be required to reverse the credit on the inputs used, if duty has been remitted on finished goods."

6.5 In view of above discussion, I do not find any merit in the argument of the appellant and accordingly, I uphold the impugned order in respect of issue mentioned at 1 and 2 above.

7. In respect of non-payment of Service Tax on the amount recovered from employees towards transport facility and non-payment of Service Tax under Supply of Manpower and Recruitment Service, mentioned at issue No.3 and 4 above, I find that the appellant has paid the disputed Service Tax amount with applicable interest at the time of Audit. They have also not disputed further in this regard in the Appeal Memorandum which indicates the facts that they have accepted their default in payment of service tax. This indicates that the appellant themselves has accepted their fault in non-payment of Service Tax as observed by the departmental officer. Therefore, the adjudicating authority has correctly confirmed the demands with interest and accordingly, I uphold the same.

8. Lastly, the issue of no-payment of service tax mentioned at Issue No.5 to 7 above. I find that the adjudicating authority has confirmed the demands on the grounds that the appellant had incurred foreign exchange towards import of IT



Service, Audit/Professional fee and Insurance service and failed to pay service tax under Reverse Charge Mechanism, prescribed under Notification No.30/2012-ST dated 20.06.2012 as amended. The appellant has contended that there is no short payment of service tax in respect of expenses incurred in foreign exchange with their related concern M/s Constantia Colmar LLC towards import of taxable service and the department has not pointed out any concrete figures which implicate such transaction. The observation raised in this regard by the departmental officer at the time of audit of records of the appellant is adequately discussed in the impugned order at para 36 and 37. Further, the expense incurred and by the appellant in this regard and the Service Tax liability thereof has also been discussed in the Audit as well as in Show Cause Notice dated 30.05.2018. As per details discussed therein, it is observed that the appellant have incurred expenses in foreign exchange towards import of service mentioned supra and no Service Tax was paid by them under Reverse Charge Mechanism as required under notification No.32/2012-ST. In the circumstances, the contention of the appellant that the department has not pointed out any concrete figures which implicate such transaction is not sustainable and does not have any merit. Since the appellant has not disputed the issue in any other count, the demands along with interest confirmed by the adjudicating authority are correct.

9. As regards imposition of penalty on the appellant, it is observed that the adjudicating authority has imposed penalty of Rs.12,09,977/- under Section 11 AC(1) (c) of Central Excise Act, 1944 and Rs.1,32,692/- under Section 78(1) of the Finance Act, 1994 i.e 50% of the Central Excise duty/Service Tax confirmed. It is observed that only on account of the audit conducted by the department on the records of appellant that non-reversal of Cenvat credit/non-payment of duty/tax come to light. It is not the case that appellant had sought any clarification from the department on whether the manner in which they adopted while writing-off the value of inputs/finished goods in their books and accounts and intend to discharge tax liability on the services in dispute was correct as per law. Further, it is observed that though the departmental officers had made aware of the facts relating to non-reversal of Cenvat credit/non-payment of Central Excise duty and non-payment of Service Tax at the time of audit, the appellant did not turn up for payment of duty/tax and to close their liability. The non-payment of Service Tax/reversal of Central Excise duty adopted by the appellant clearly attracts the provisions of Section 11 AC of the CEA. This being so, invocation of extended period of limitation for demand of duty /tax liability is very much in order and by consequence, there can be no escape for the appellant from imposition of penalty. Therefore, the penalty imposed by the adjudicating authority in the impugned order is correct and acceptable. In these circumstances, the imposition of penalty is upheld.



10. In view of above discussion, the appeal filed by the appellant is rejected. The appeal stands disposed of accordingly.

(Signature)
 (Akhilesh Kumar)
 16th January 2020
 Commissioner (Appeals)
 /01/2020

ATTESTED

(Mohan V.V)
 Superintendent
 CGST (Appeals) Ahmedabad

By R.P.A.D/Speed Post.

To,
 M/s Parikh Packaging Pvt Ltd,
 Survey No.423/P, Opp Rotomac Pens, Moraiya,
 Sarkhej-Bavla Highway, Changodar,
 Ahmedabad (Gujarat)

Copy to:

- 1) The Principal Chief Commissioner, CGST , Ahmedabad Zone.
- 2) The Commissioner, CGST, Ahmedabad North.
- 3) The Dy./Asst. Commissioner, CGST, Div-IV, Ahmedabad North
- 4) The Asst. Commissioner (System), CGST, Ahmedabad North.
- 5) Guard File.
- 6) P. A. File.





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

☎ : 079 - 26305136



Post Speed By द्वारा

क फाइल संख्या (File No.): **V2(ST)88/North/Appeals/ 2019-20/13595 to 13598**

ख अपील आदेश संख्या (Order-In-Appeal No.): **AHM-EXCUS-002-APP-111-19-20**

दिनांक (Date): **14-01-2020** जारी करने की तारीख (Date of issue): **22/01/2020**

, आयुक्त (अपील) द्वारा पारित

Passed by **Shri Akhilesh Kumar , Commissioner (Appeals)**

ग _____ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-VI), अहमदाबाद उत्तर, आयुक्तालय द्वारा जारी

मूल आदेश सं _____ दिनांक _____ से सृजित

Arising out of Order-In-Original No **GST/Div-VI/O&A/07/Techno9/AC/AMP/19-20** Dated: **23/07/2019**

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

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

M/s Techno9 Industrial Engineering Pvt. Ltd

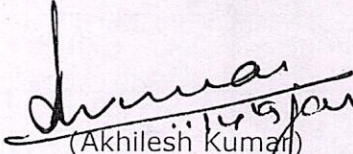


ORDER-IN-APPEAL

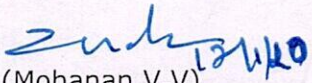
M/s Techno9 Industrial Engineering Pvt. Ltd, 407,Elite, Opp. Shapath Hexa, Nr. High Court, S.G. Highway, Ahmedabad [hereinafter referred to as "the appellant"] has filed an appeal against the Order-in-Original GST/Div-VI/)&A/Techno9/AC/AMP/19-20 dated 23.07.2019 passed by the Assistant Commissioner of CGST. Division-VI, Ahmedabad North.

2. The appellant vide their application dated 08.01.2020/13.01.2019 has now informed that they have opted for "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 [for short-SVLDRS] for the issue under appeals and in terms of CBEC's Circular No.1072/05/2019-CX dated 25.09.2019 and 1073/06/2019-CX dated 29.10.2019 they withdraw the appeal mentioned above.

3. In view of appellant's request, the appeal under consideration is to be considered as withdrawn. Accordingly, I dismiss the appeal as withdrawn.


(Akhilesh Kumar)
Commissioner (Appeals)
Date : /01/2020

Attested


(Mohanan V.V)
Superintendent (Appeals)
Central GST, Ahmedabad

R.P.A.D/Speed Post

To
M/s Techno9 Industrial Engineering Pvt. Ltd,
407, Elite, Opp. Shapath Hexa, Nr. High Court,
S.G.Highway, Ahmedabad

Copy to:-

1. The Principal Chief Commissioner, CGST, Ahmedabad Zone
2. The Commissioner, CGST, Ahmedabad North
3. The Addl./Joint Commissioner, (Systems), CGST, Ahmedabad North
4. The Dy. / Asstt. Commissioner, CGST, Divison-VI, Ahmedabad North
5. ✓ Guard file.
6. P.A.