



आयुक्त का कार्यालय),अपीलस(  
**Office of the Commissioner,**  
 केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय  
**Central GST, Appeal Commissionerate-**  
**Ahmedabad**



जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.  
 CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad-380015  
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**DIN-20210164SW000000CFEF**

**स्पीड पोस्ट**

क फाइल संख्या : File No : File No : V2(ST)129/North/Appeals/19-20  
 Ref:- GAPPL/COM/STP/216/2020-Appeal

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-002-APP-045/2020-21**  
 दिनांक Date : **29.12.2020** जारी करने की तारीख Date of Issue : **15.01.2021**

आयुक्त (अपील) द्वारा पारित  
 Passed by **Shri Akhilesh Kumar, Commissioner (Appeals)**

ग Arising out of Order-in-Original No. **13/ADC/2019-20/MLM dated 10.01.2020**, passed by  
 Additional Commissioner, Central GST & Central Excise, Ahmedabad-North

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

**Appellant-** - M/s Laxmi Security Services, 158/3, Omkar Nagar, Near Jaiguru Temple,  
 B/H Laxminagar Society, Meghaninagar, Ahmedabad.

**Respondent-** Additional Commissioner, Central GST & Central Excise, Ahmedabad-North

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 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) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को  
 उप-धारा के प्रथम परन्तुक 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।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit  
 Ministry of Finance, Department of Revenue, 4<sup>th</sup> Floor, Jeevan Deep Building, Parliament Street, New  
 Delhi - 110 001 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 ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या  
 किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी  
 कारखाने में या किसी भण्डागार में हो माल की प्रकिया के दौरान हुई हो।

(ii) 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.



(क) 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 मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(A) 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.

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

(B) 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।

(c) 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 2<sup>nd</sup> माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद -380004

(a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2<sup>nd</sup> floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad : 380004. 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 के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

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

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

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

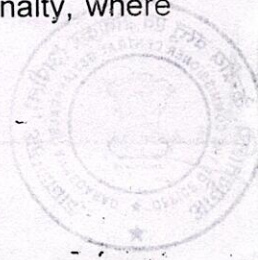
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (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।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



**ORDER IN APPEAL**

This appeal has been filed by M/s. Laxmi Security Services, 158/3, Omkar Nagar, Near Jaiguru Temple, B/H Laxminagar Society, Meghaninagar, Ahmedabad (here-in-after referred to as the “appellant”) against the Order-in-Original No. 13/ADC/2019-20/MLM dated 10.01.2020 (here-in-after referred to as the “impugned order”) issued by the Additional Commissioner, CGST & C.Ex, Ahmedabad North (here-in-after referred to as the “adjudicating authority”).

2. The facts of the case, in brief, are that the appellant, are engaged in providing taxable services viz. Security/Detective Agency Service, Cleaning services, Manpower Recruitment or Supply Agency services and registered with the erstwhile Service Tax Commissionerate, Ahmedabad and having Service Tax Registration No. AGVPB9866ASD001. They are not registered under GST regime. Acting on intelligence, the officers of Directorate General of Goods & Service Tax Intelligence, Ahmedabad Zonal Unit (*hereinafter referred to as DGGI*) initiated inquiry against the appellant and found that they short paid service tax on the taxable services viz Security/Detective Agency Service, Cleaning services, Manpower Recruitment or Supply Agency service provided by them to various clients during the period from FY 2014-15 to FY 2017-18 ( upto June, 2017) amounting to Rs. 1,34,21,535/- by way of suppressing the actual turnover in the periodical ST-3 returns filed by them during the period from FY 2014-15 to FY 2017-18 (upto June, 2017). Accordingly, a show cause notice was issued to them vide F.No. DGGI/AZU/Gr.A/12 (4)122/2019-20 dated 18.10.2019 for recovery of service tax amounting to Rs. 1,34,21,535/- under Section 73 (1) of Finance Act,1944 by invoking extended period of limitation which was kept in force in the GST regime vide Section 142 and 174 of the Central Goods and Service Tax Act, 2017 along with Interest under Section 75 of Finance Act,1944 which was kept in force in the GST regime vide Section 142 and 174 of the Central Goods and Service Tax Act, 2017 besides proposing imposition of penalty under Section 77(1)(b), (e), Section 76 and Section 78 of Finance Act,1944 which was kept in force in the GST regime vide Section 142 and 174 of the Central Goods and Service Tax Act, 2017.

2.1. The said show cause notice was adjudicated by the adjudicating authority vide Order-in-Original No. 13/ADC/2019-20/MLM dated 10.01.2020 by confirming the demand of service tax of Rs. 1,34,21,535/- and ordered for recovery of Interest. The



adjudicating authority also imposed penalty under Section 77(1)(b), (e), Section 76 and Section 78 of Finance Act, 1944 which was kept in force in the GST regime vide Section 142 and 174 of the Central Goods and Service Tax Act, 2017.

3. Being aggrieved by the impugned order dated 10.01.2020, the appellant have filed the instant appeals on the grounds that:

- That they provided taxable as well as exempted Security/Detective Agency Services during the relevant period under consideration but the DGGI did not consider the same and raised demand on entire amount;
- That when security or cleaning or housekeeping services are provided to an educational institution, the said services will be exempt and service tax will not be payable;
- That they have not shown the exempted service in their ST-3 returns, however, the details of exempted as well as taxable services alongwith works order will be submitted at the time of personal hearing.

4.1 Personal hearing in the matter was held on 17.12.2020 through virtual mode. Shri Pratik Shah/ Shri Meet Jadawal, both CA appeared on behalf of the appellant for hearing. They stated that they had provided certain exempted services, the proof of which could not be submitted before adjudicating authority. They have accepted their tax liability based on calculation given in additional written submission.

4.2. The appellant also submitted further written submission vide letter dated 17.12.2020 wherein they stated that they are eligible to claim exemption under Entry No. 9(b)(iii) of Notification No. 25/2012 dated 20.06.2012 and have submitted copy of work orders, party ledgers and sample invoices and yearwise summary of total exempted income earned by them. They have also submitted declaration cum undertaking in respect of change of name in the work orders issued to appellant. They further stated that, the turnover for the period April-2017 to June-2017 as derived by the adjudicating authority from the Form 26AS is totally incorrect on the ground that the counter parties who had deducted and deposited the TDS for them has eventually revised their own TDS returns and submitted copy of Form 26AS for the relevant period. They have submitted summary for the period from 2014-15 to June-2017 of tax payable by them which worked out as Rs. 53,61,060/-. They also stated that they have paid Rs. 10,06,615/- as pre-deposit and Rs. 15,00,000/- vide DRC-3 and accepted the said liability and assure to pay balance amount alongwith interest and penalty.



5. I have carefully gone through the facts of the case and submissions made by the appellant in the Appeal Memorandum as well as additional submission made at the time of personal hearing. It is observed that the issue to be decided in the case is whether the appellant is liable to pay service tax amounting to Rs. 1,34,21,535/- in respect of Security/Detective Agency Service, Cleaning services, Manpower Recruitment or Supply Agency services alongwith interest and penalty as confirmed in the impugned order. The demand pertains to period F.Y. 2014-15 to F.Y. 2017-18 (upto June-2017).

6. It is observed from the case records that the appellant was providing services viz. Security/Detective Agency Service, Cleaning services, Manpower Recruitment or Supply Agency services and had allegedly short paid service tax amount in question by suppressing the taxable value in their ST-3 returns filed and hence, the officers of Directorate General of Goods & Service Tax Intelligence, Ahmedabad Zonal Unit initiated investigation and raised demand for nonpayment of service tax. It is further observed that the appellant had during adjudication proceeding waived off personal hearing as they intended to opt for SVLDRA Scheme as per Board's Circular No. 1074/07/2019-CX dated 12.12.2019. The adjudicating authority has accordingly passed the order confirming the proposal made in SCN.

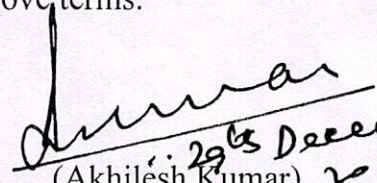
7. It is further observed that the appellant in their appeal memorandum and in their written submission have admitted the facts that they had supplied the services in question and received considerations and consequently they were liable to discharge service tax liability as alleged in SCN. However, they have contested only the quantification of demand by contending that they had provided the services i.e security or cleaning or house-keeping services, to an educational institutions also for which they were eligible for exemption under Entry No. 9(b)(iii) of Notification No. 25/2012 dated 20.06.2012. They have also submitted copies of related works orders, year wise summary, party wise break up/ledger, sample invoices in respect of exempted services provided and have accepted the liability amounting to Rs.53,61,060/- out of total demand confirmed amounting to Rs. 1,34,21,535/-. However, it is observed from the show cause notice and adjudication order that the appellant had neither shown the details of all services provided in their ST-3 returns filed nor defended and submitted any evidence before the investigating agencies/authority and have also not submitted details and supporting documents before the adjudicating authority in support of their



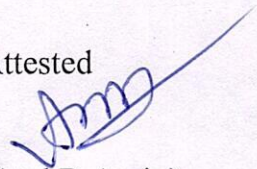
claim of quantification of demand ascertained by them based on there documents. Thus, it would be in the interest of justice that the contention made by the appellant for re-quantification of demand based on documents submitted before the appellate authority should be examined by the adjudicating authority. Therefore, I have no option but to remand the case to adjudicating authority to decide afresh after examination of the documents. The appellant is directed to produce all the documents provided with the appeal papers as well as in their written submission and other supporting documents to the adjudicating authority for causing necessary verification in the matter.

8. In view of above discussion, I remand the case back to the original adjudicating authority and order afresh giving the opportunity of natural justice to the appellant.

9. The appeals filed by the appellant stands disposed of in above terms.

  
 (Akhilesh Kumar)  
 Commissioner (Appeals)  
 Ahmedabad  
 / /2020

Attested

  
 (Atul B Amin)  
 Superintendent (Appeals)  
 CGST, Ahmedabad

By R.P.A.D

To

M/s. Laxmi Security Services,  
 158, Omkar Nagar, Near Jaiguru Temple,  
 B/H Laxminagar Society,  
 Meghaninagar, Ahmedabad

Copy to:

1. The Principal Chief Commissioner, Central Excise, Ahmedabad Zone.
2. The Commissioner, CGST, Ahmedabad North.
3. The Additional Commissioner, CGST & C.Ex, Ahmedabad North.
4. The Assistant Commissioner, System-CGST, Ahmedabad North.
5. Guard File.
6. P.A. File.





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