



सत्यमेव जयते

आयुक्त (अपील) का कार्यालय,
Office of the Commissioner (Appeal),
 केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद
 Central GST, Appeal Commissionerate, Ahmedabad
 जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
 CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
 ☎ 07926305065- टेलीफैक्स 07926305136



DIN:20230464SW000000F2E8

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/1836/2022-APPEAL / 755 - 57
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-002-APP-013/2023-24
 दिनांक Date : 25-04-2023 जारी करने की तारीख Date of Issue 26.04.2023
 आयुक्त (अपील) द्वारा पारित
 Passed by Shri Akhilesh Kumar, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. 8/ADC/GB/2022-23 दिनांक: 09.05.2022, issued by
 Additional Commissioner, CGST, Ahmedabad-North
- घ अपीलकर्ता का नाम एवं पता Name & Address

1. Appellant

M/s. Avichal Reality Private Limited,
 19-20-21, 3rd Floor, Narayan Chambers,
 Ashram Road, Ahmedabad-380009

2. Respondent

The Additional/Joint Commissioner, CGST, Ahmedabad North, Custom
 House, 1st Floor, Navrangpura, Ahmedabad - 380009

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 :

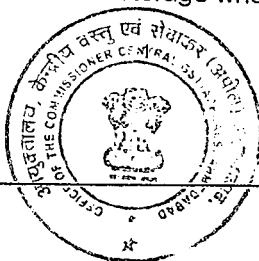
भारत सरकार का पुनरीक्षण आवेदन :
Revision application to Government of India :

(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, 4th 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 प्रक्रिया 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 ईए-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 ई. 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) उपरलिखित 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 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद -380004

(a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd 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 अनुसूचि-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.

- (7) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपीलो 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 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

The present appeal has been filed by M/s. Avichal Reality Private Limited, 19-20-21, 3rd Floor, Narayan Chambers, Ashram Road, Ahmedabad – 380009 (hereinafter referred to as “the appellant”) against Order-in-Original No. 8/ADC/GB/2022-23 dated 09.05.2022 (hereinafter referred to as “the impugned order”) passed by the Additional Commissioner, Central GST & Central Excise, Ahmedabad North (hereinafter referred to as “the adjudicating authority”).

2. Briefly stated, the facts of the case are that the appellant is holding PAN No. AAFCAL444E. On scrutiny of the data received from the Central Board of Direct Taxes (CBDT) for the Financial Year 2015-16, it was noticed that the appellant had earned an income of Rs. 10,10,68,251/- during the FY 2015-16, which was reflected under the heads “Sales / Gross Receipts from Services (Value from ITR)” or “Total amount paid / credited under Section 194C, 194I, 194H, 194J (Value from Form 26AS)” filed with the Income Tax department. Accordingly, it appeared that the appellant had earned the said substantial income by way of providing taxable services but has neither obtained Service Tax registration nor paid the applicable service tax thereon. The appellant was called upon to submit copies of Balance Sheet, Profit & Loss accounts, Income Tax Returns, Form 26AS, for the said period. However, the appellant had not responded to the letters issued by the department.

2.1 Subsequently, the appellant was issued a Show Cause Notice No. STC/15-221/OA/2020 dated 30.03.2021 demanding Service Tax amounting to Rs. 1,46,54,896/- for the period FY 2015-16, under proviso to Sub-Section (1) of Section 73 of the Finance Act, 1994. The SCN also proposed recovery of interest under Section 75 of the Finance Act, 1994; and imposition of penalties under Section 77(1)(a), Section 77(1)(c), Section 77(2) & Section 78 of the Finance Act, 1994. The SCN also proposed recovery of un-quantified amount of Service Tax for the period FY 2016-17 & FY 2017-18 (up to Jun-17).

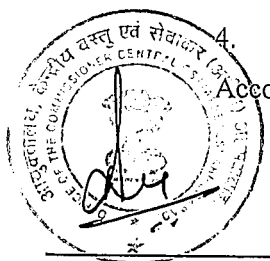
2.2 The Show Cause Notice was adjudicated vide the impugned order by the adjudicating authority wherein the demand of Service Tax amounting to Rs. 1,46,54,896/- was confirmed under provision of Section 73(1) of the Finance Act, 1994 along with Interest under Section 75 of the Finance Act, 1994 for the period from FY 2015-16. Further (i) Penalty of Rs. 1,46,54,896/- was also imposed on the appellant under Section 78 of the Finance Act, 1994; (ii) Penalty of Rs. 10,000/- was imposed on the appellant under Section 77(1)(a) of the Finance Act, 1994; (iii) Penalty of Rs. 10,000/- was imposed on the appellant under Section 77(1)(c) of the Finance Act, 1994 and (iv) Penalty of Rs. 10,000/- was imposed on the appellant under Section 77(2) of the Finance Act, 1994.

3. Being aggrieved with the impugned order, the appellant has preferred the present appeal on the following grounds:



- The appellant purchased and sold Bonds called Power Grid Corporation of India Limited in FY 2015-16. However, the transactions are wrongly classified as sales of service in the Audit Report of the company. The said purchase and sale of Bonds were executed through National Securities Clearing Corporation Limited. Thus, the said transaction is nothing but investment and trading in bond and is not subject to service tax as the same falling under negative list as listed in Section 66D(e) of the Finance Act, 1994.
- Without prejudice to the above, the appellant submitted that they have not charged service tax from the service receivers as the appellant was under a bonafide belief that no service tax is payable, the appellant is eligible for the cum-tax benefit as per Section 67(2) of the Finance Act, 1994.
- The appellant submitted that filing of Income tax return under wrong head does not tantamount to the suppression of facts.
- The demand is confirmed based on account of mere assumptions and presumptions. The department did not make effort to understand the nature of transaction and specially when the amount is huge. It can be seen from the SCN that department has not produced any evidence to prove that such transaction is other than sale of bonds. Therefore, in absence of concrete evidence on record, the service tax cannot be demanded on the basis of assumption and presumption.
- The adjudicating authority has failed to understand the fact that the appellant has discharged its liability on the Sale of Bond.
- The appellant submitted that an extended period of limitation can be invoked only in a case where service tax has not been paid on account of fraud, collusion and wilful misstatement, suppression of facts with an intention to evade tax. In the present case, all the data was available at various authorities and the appellant himself filed service tax returns and therefore it can be said that they have not suppressed the facts with intent to evade the payment of Service Tax and extended period of limitation can not be invoked in present case.
- As service tax is not required to be paid, no interest can be demanded from the appellant and no penalty can be imposed on the appellant.
- On the basis of above grounds, the appellants requested that the impugned order confirming demand of service tax, interest thereon and imposing penalties be quashed and set aside.

Personal hearing in the case was held on 16.03.2023. Shri Bishan R. Shah, Chartered Accountant, appeared on behalf of the appellant for personal hearing. He reiterated submission



made in appeal memorandum. He stated that he would submit statement of DEMAT Account for the period in support of contention that the amount was received from sale of securities.

4.1 Subsequently, the appellant has submitted statement of DEMAT Account for the period from 01.04.2015 to 31.06.2016 issued by M/s. Amrapali Capital and Finance Services Ltd. (NSDL), Ahmedabad.

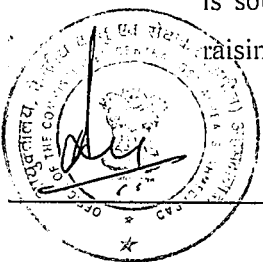
5. I have carefully gone through the facts of the case, grounds of appeal, submissions made in the Appeal Memorandum and documents available on record. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority, confirming the demand against the appellant along with interest and penalty, in the facts and circumstance of the case is legal and proper or otherwise. The demand pertains to the period FY 2015-16.

6. I find that in the SCN in question, the demand has been raised for the period FY 2015-16 based on the Income Tax Returns filed by the appellant. Except for the value of "Sales of Services under Sales / Gross Receipts from Services" provided by the Income Tax Department, no other cogent reason or justification is forthcoming from the SCN for raising the demand against the appellant. It is also not specified as to under which category of service the non-levy of service tax is alleged against the appellant. Merely because the appellant had reported receipts from services, the same cannot form the basis for arriving at the conclusion that the respondent was liable to pay service tax, which was not paid by them. In this regard, I find that CBEC had, vide Instruction dated 26.10.2021, directed that:

"It was further reiterated that demand notices may not be issued indiscriminately based on the difference between the ITR-TDS taxable value and the taxable value in Service Tax Returns.

3. It is once again reiterated that instructions of the Board to issue show cause notices based on the difference in ITR-TDS data and service tax returns only after proper verification of facts, may be followed diligently. Pr. Chief Commissioner /Chief Commissioner (s) may devise a suitable mechanism to monitor and prevent issue of indiscriminate show cause notices. Needless to mention that in all such cases where the notices have already been issued, adjudicating authorities are expected to pass a judicious order after proper appreciation of facts and submission of the noticee."

6.1 In the present case, I find that letters were issued to the appellant seeking details and documents, which were allegedly not submitted by them. However, without any further inquiry or investigation, the SCN has been issued only on the basis of details received from the Income Tax department, without even specifying the category of service in respect of which service tax is sought to be levied and collected. This, in my considered view, is not a valid ground for raising of demand of service tax.



7. I also find that main contention of the appellant is that they have purchase and sold Bonds called Power Grid Corporation of India Limited in FY 2015-16, and the transactions are wrongly classified as sales of service in the Audit Report of the company. The said purchase and sale of Bonds were executed through National Securities Clearing Corporation Limited. Thus, the said transaction is nothing but investment and trading in bond and is not subject to service tax as the same falling under negative list as listed in Section 66D(e) of the Finance Act, 1994.

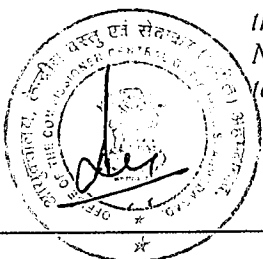
8. I find that the adjudicating authority, while confirming the demand, held / discussed as under:

"19. On perusal of the reply to the SCN and other documents submitted by the assessee, I find that the assessee claimed that they are engaged in the business of trading of Bonds of Power Grid Corporation of India Limited. In the FY 2015-16, the company entered into financial transactions regarding purchase and sale of Bonds of Power Grid Corporation of India Limited. However, such transactions are wrongly classified as sales of services in the Audit Report of the company. Purchase and sale of Bonds are executed through NSCCL known as National Security Clearing Corporation Limited and such transactions are out of the purview of service tax.

20. In this connection, I have gone through the "Notes on accounts" annexed to Audit Report for the Accounting year 2015-16. On perusal of the Note 1, i.e. company information, I find that the objective of the incorporation of the company is to undertake "construction of housing and commercial projects in India". However, on perusal of their audit report or any other financial records submitted by the assessee, the only revenue from operation was Rs. 10,10,68,251/- which was further explained in the note 2.9 of the particulars as income from sale of services.

21. Further on perusal of statement of profit and loss for the year ended 03.03.2016, it was mentioned that the revenue from operation as Rs. 10,10,68,251/- which was further explained in the note 2.9 that the particulars as income from sale of services. In both the notes the same income is shown as income from services. Nowhere in the audited report the income of Rs. 10,10,68,251/- is mentioned as income from trading of Bonds or any financial transaction. The assessee in their written reply submitted that their income is earned from trading of Bonds of Power Grid Corporation of India. However they could not furnish any substantial evidence to prove that their income is derived from the sale of such Bond or otherwise. In the absence of any supporting evidences, I am not in a position to verify that the claim of the assessee is correct or not.

22. Further, I have gone through the various documents and reply to SCN submitted by the assessee. In their reply to SCN they claimed that in the FY 2015-16 they have entered into financial transactions regarding purchase and sale of bonds of Power Grid Corporation of India Limited. However such transactions are wrongly classified as sales of services in their Audit Report of the company. In this connection, I find that financial account of the assessee was audited by CA firm M/s. Mehul Thakker & Co, and accordingly Audit Report was also issued by them. However any documents / records / certificate have been submitted by the assessee issued by any CA that the transactions are wrongly classified as sale of service as claimed by the assessee. Further, it is also pertinent to mention here that neither in their reply to SCN nor in their personal hearing, they claimed any exemption or abatement under any of the Notification issued under Service Tax, hence it is presumed that they are not entitled to any exemption Notification for exemption from payment of service tax. In the absence of any supporting documents or evidence to prove that the said income is derived from the sale of Bonds, I am not in a position to accept the contention of the assessee that income of Rs. 10,10,68,251/- is derived from trading of Bond issued by the Power Grid Corporation of India Ltd. and accordingly I treat the same amount as taxable under the Service Tax and accordingly they are liable to pay service tax on this differential value as proposed in the Show Cause Notice. From the records available I find that the assessee is failed to discharge service tax on the differential amount of Rs. 10,10,68,251/- for the year 2015-16 and therefore I



confirm the service tax demand of Rs. 87,59,946/- on the differential value of Rs. 1,46,54,896/- along with interest and penalty."

8.1 It is observed that the adjudicating authority, while confirming the demand in the present case, inter alia, observed that *"in the absence of any supporting documents or evidence to prove that the said income is derived from the sale of bonds"*. However, the adjudicating authority has ignored the documents submitted by the appellant viz. copy of statement of transactions of demat account from their broker M/s. Amrapali Capital & Finance Services Limited; copy of ledger account of Bond purchase and Bond sales for the FY 2015-16; Invoice copy of Bond purchase and Bond sales, which were already discussed by her in Para 15 of the impugned order. Thus, I find that the adjudicating authority has grossly erred in confirming the demand and that too without specifying any service category.

9. On perusal of the Deal Confirmation letter dated 05.01.2016 issued by M/s. Tip Sons Financial Services Pvt. Ltd., it is observed that the appellant have purchased the Bonds of Power Grid Corporation of India Limited for Rs. 9,95,45,519=13. Similarly, on perusal of the Deal Confirmation letter dated 06.01.2016 issued by M/s. Fincred Investments Limited, it is observed that the appellant have sold the Bonds of Power Grid Corporation of India Limited for Rs. 10,10,68,251=23. On perusal of the Profit and Loss Account for the FY 2015-16 and ledger account of Bond purchase and Bond sales for the FY 2015-16, I find that both the aforesaid amount are shown in the Profit and Loss Account as well as ledger account of Bond purchase and Bond sales. Thus, in view of the aforesaid documents submitted by the appellant, I find that Rs. 10,10,68,251/-, shown as income in Profit & Loss Account for the FY 2015-16, is earned by the appellant through sale of Bonds of Power Grid Corporation of India Limited and such transaction is termed as trading and falls under Negative List of services as provided under Section 66D(e) of the Finance Act, 1994 and not liable to service tax at all. The relevant provision of Section 66D(e) of the Finance Act, 1994 and definition of "goods" as defined under Section 65B(25) of the Finance Act, 1994, reads as under:

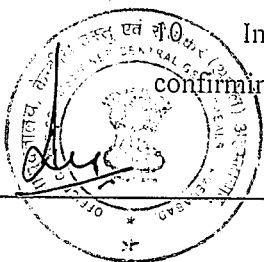
"SECTION 66D. Negative list of services.—

The negative list shall comprise of the following services, namely :-

(e) trading of goods;"

"SECTION 66 B(25) "goods" means every kind of movable property other than actionable claim and money; and includes securities, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale"

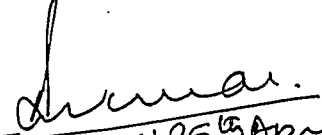
In view of above, I hold that the impugned order passed by the adjudicating authority confirming demand of Service Tax in respect of income received by the appellant during the FY



2015-16, is not legal and proper and deserve to be set aside. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.


11. अपील कर्ता 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.


(Akhilesh Kumar)
Commissioner (Appeals)

Attested

Date : 25.04.2023


(R. C. Maniyar)
Superintendent(Appeals),
CGST, Ahmedabad



By RPAD / SPEED POST

To,

M/s. Avichal Reality Private Limited,
19-20-21, 3rd Floor, Narayan Chambers,
Ashram Road, Ahmedabad – 380009

Appellant

The Additional Commissioner,
CGST& C. Excise,
Ahmedabad North

Respondent

Copy to :

- 1) The Principal Chief Commissioner, Central GST, Ahmedabad Zone
- 2) The Commissioner, CGST, Ahmedabad North
- 3) The Additional Commissioner, CGST& C. Excise, Ahmedabad North
- 4) The Assistant Commissioner (HQ System), CGST, Ahmedabad North

(for uploading the OIA)

5) Guard File

6) PA file



