



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- टेलिफैक्स 07926305136



DIN:20230464SW0000009E6D

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/1811/2022-APPEAL / 785-90
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-002-APP-015/2023-24
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. 02/ADC/GB/2022-2023 दिनांक: 27.04.2022, issued by Additional Commissioner, CGST, Ahmedabad-North
- ध अपीलकर्ता का नाम एवं पता Name & Address

1. Appellant

M/s. Fasttrips,
B-203, Akansha Savvy Swaraj Phase-I,
Opp. Savvy Swaraj Club, Jagatpur,
Ahmedabad-382470

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 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 हों।

(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) 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 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 Appellate 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.

- (7) 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.

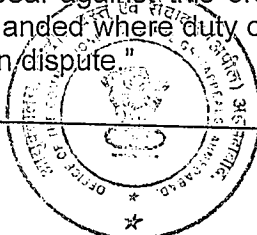
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (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 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 the M/s. Fasttrips, B-203, Akansha Savvy Swaraj Phase-1, Opp. Savvy Swaraj Club, Jagatpur, Ahmedabad-382470 (hereinafter referred to as "the appellant") against Order-in-Original No. 02/ADC/GB/2022-2023 dated 27.04.2022 (hereinafter referred to as "the impugned order") passed by the Additional Commissioner, CGST, Ahmedabad North (hereinafter referred to as the "adjudicating authority"). The appellant are engaged in providing taxable services and are holding Service Tax Registration No. DUGPS5907DSD001.

2. On the basis of the data received from the CBDT, for the F.Y. 2015-16 & F.Y. 2016-17, it was noticed that the value declared in Income Tax Return (ITR)/Form-26AS filed by the appellant were more than the taxable value declared in their Service Tax Return (ST-3) for the said period. Letters were issued to the appellant seeking clarification for such difference. However, no detail or data was provided justifying the same. Thus, considering the value which was less declared in the ST-3 return compared to the ITR, the short-payment of service tax amounting to Rs. 51,21,805/- was ascertained.

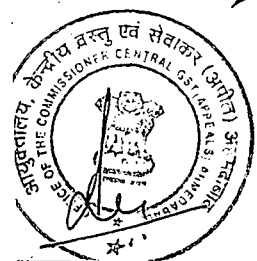
2.1. A Show Cause Notice (SCN) No. STC/15-188/OA/2020 dated 09.12.2020 was issued to the appellant proposing service tax demand of Rs. 51,21,805/- alongwith interest under Section 73(1) and Section 75 of the Finance Act, 1994. Imposition of penalties under Section 77 (1), 77(2) and 78 of the Finance Act, 1994 were also proposed.

3. The said SCN was adjudicated vide the impugned order, wherein the service tax demand amounting to Rs. 51,21,805/- for the F.Y. 2015-16 and F.Y. 2016-17 was confirmed alongwith interest under the proviso to Section 73(1) and Section 75 of the F.A., 1994, respectively. Penalty of Rs. 10,000/- each was imposed under Section 77(1) & 77(2) and penalty of Rs. 51,21,805/- was also imposed by the adjudicating authority.

4. Being aggrieved with impugned order passed by the adjudicating authority, the appellant have preferred the present appeal on the grounds which are elaborated below:-

➤ The appellant were providing Air Travel Agent services and are not registered as an IATA Agent therefore they claim they are liable to pay service tax on margin method basis. As per the margin method basis, the liability shall be Rs. 2,93,925/-, against which they have already deposited amount of Rs. 67,230/- during the impugned period. If they are liable to pay service tax as per the abated rates, then the service tax liability shall be Rs. 6,61,010/- only and considering the payment already made, the proceedings may therefore be stopped.

➤ The department has computed demand based on the income tax return data and without considering the factual details, which is not justified. They placed reliance on various case-laws - Regional Manager Tobacco Board – 2013 (31)



STR 673 (Tri-Bang); Anvil Capital Management- 2010(20) STR 789-(Tri-Mum), Purni Ads Pvt. Ltd- 2010 (19) STR 242 (Tri-Ahmed).

- Appellant filed the ST-3 return and ITR regularly, hence, suppression cannot be alleged. Thus, the demand notice covering period 01.4.2015 to 31.03.2017 issued on 09.12.2020 is hit by limitation.
- Penalty under Section-78 is not imposable as case of suppression or willful mis-statement of facts has not been made out. The appellant was under the bonafide belief that the activities are not taxable. Reliance placed on the decision passed in the case of Steel Cast Ltd. 2011(21) STR 500 (Guj).
- Penalty under Section-77 is also not liable as there is no short payment. Also when there was no intent to evade taxes, the penalty cannot be imposed. Reliance placed on the decision passed in the case of Hindustan Steel Ltd- AIR 1970 (SC) 253, Pushpam Pharmaceuticals Co.- 1995 (78) ELT 401 (SC).
- The issue involved is of interpretation of statutory provisions for that reason also, penalties cannot be imposed. Reliance placed on Goenka Woollen Mills Ltd- 2001(135) ELT 873, Bhilwara Spinners Ltd- 2001(129) ELT 458.

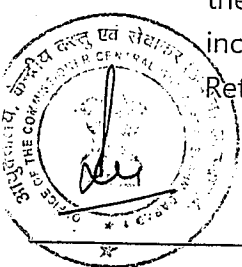
5. Personal hearing in the case was held on 16.03.2023. Shri Vipul Khandhar, Chartered Accountant, appeared on behalf of the appellant. He reiterated the submissions made in the appeal memorandum. He also submitted additional written submission during the hearing wherein he reiterated the contentions made in the appeal memorandum and enclosed copy of Audited Balance Sheet for the F.Y. 2014-15 and FY. 2015-2016.

5.1 Subsequently, another date of personal hearing was granted to the appellant on 18.04.2023, to explain the calculation of margin method arrived by them. Shri Vipul Khandhar, Chartered Accountant, appeared on behalf of the appellant. He submitted sample copies of invoices during the hearing.

6. I have carefully gone through the facts of the case, the impugned order passed by the adjudicating authority, submissions made in the appeal memorandum, the additional written submissions as well as the submissions made at the time of personal hearings. The issue to be decided in the present appeal is whether the service tax demand of Rs. 51,21,805/- alongwith interest and penalties, confirmed in the impugned order passed by the adjudicating authority, in the facts and circumstances of the case, is legal and proper or otherwise?

The demand pertains to the period F.Y. 2015-16 & F.Y. 2016-17.

7. It is observed that the notice has been issued to the appellant on the basis of the data received from Income Tax Department, wherein variation were noticed in the income declared in the ITR/Form-26AS vis-a-vis the income declared in the ST-3 Returns. In their defence reply, the appellant have stated that they are providing Air



Travel Agent services and since they are not registered with IATA, the service tax liability has to be considered on the margin method basis, according to which they claimed that their service tax liability for the disputed period would come to Rs. 2,69,273/-. Against this liability, they claim to have paid Rs. 67,230/- during the impugned period and, therefore, they requested to drop the proceedings.

7.1 The adjudicating authority, on perusal of the reconciliation statement submitted by the appellant, observed that they have showed purchase and sale of Domestic Air Ticket, International Air Ticket, Hotel, Miscellaneous, Package to arrive at the tax liability for the F.Y. 2015-16 and F.Y. 2016-17. Further, it was observed that substantial income under "Miscellaneous" head was reflected for which neither description of service nor method of arriving at the taxable income or service tax liability thereon was provided by the appellant supported by any documentary evidence. The adjudicating authority, therefore, denied the exemption/abatement claimed by the appellant and considered the entire sale of service as taxable income, as was reflected by them in their financial records and ITR. Further, it was also observed that the appellant has not produced any proof evidencing the payment of Rs. 67,230/- nor submit copy of ST-3 Return to establish the same. Therefore, the service tax demand of Rs. 51,21,805/- was confirmed alongwith interest and penalties.

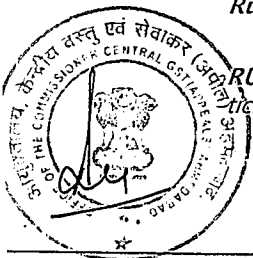
7.2 The appellant, in the present appeal, have contended that they were rendering services of Air Travel Agent and are not registered as IATA Agents. They have admitted their tax liability but claim that the same shall be calculated on the abated rates, which comes to Rs. 6,61,010/-. They also claimed to have deposited Rs. 67,230/- during the impugned period, hence requested to drop the proceedings.

7.3 It is observed that the Air Travel Agents provide service connected with the booking of passage for travel by air. They get commission from airlines for such booking on which they are liable to pay service tax. The GSA/IATA Agents in respect of tickets issued by them directly, on collection of fare, are getting commission from airlines by such booking and collect service tax. The sub-agents are also covered under the definition of Air Travel Agent. All expenditure incurred by the service provider in the course of providing a taxable service shall form integral part of the taxable value, however, the air fare collected by Air Travel Agent in respect of the services provided by them are specifically excluded. Similarly, if the expenses are incurred as a pure agent of the service provider, then all such expenses incurred has to be deducted from the taxable value.

7.4 Nevertheless, in terms of Rule 6(7) of the Service Tax Rules, 1994, the Air Travel Agent shall have the option to pay (0.7) & (1.4) of the basic fare in case of domestic booking & International booking, respectively, instead of paying service tax at the rate specified under section 66B of the F.A., 1994. This option shall be exercised for all booking made during the financial year. Relevant Text is reproduced below;

Rule 6: Payment of service tax

RULE 7: The person liable for paying the service tax in relation to the services [of booking of tickets for travel by air] provided by an air travel agent, shall have the option, to pay an



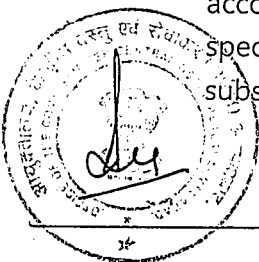
amount calculated at the rate of [0.7] of the basic fare in the case of domestic bookings, and at the rate of [1.4] of the basic fare in the case of international bookings, of passage for travel by air, during any calendar month or quarter, as the case may be, towards the discharge of his service tax liability instead of paying service tax [at the rate of specified in [section 66B] of Chapter V of the Act] and the option, once exercised, shall apply uniformly in respect of all the bookings of passage for travel by air made by him and shall not be changed during a financial year under any circumstances.

Explanation. - For the purposes of this sub-rule, the expression "basic fare" means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

7.5 From the reconciliation data provided by the appellant, it is also observed that other than the purchase and sale of Domestic Air travel Ticket and International Air Ticket, they have shown purchase and sale under head 'Hotel', 'Miscellaneous' and 'Package'. The sample invoices submitted by them as part of their additional submission show Hotel & Resort Booking. Thus, it appears that the appellant, other than providing Air Travel Agent Service were also providing Tour Operator services. In their Profit & Loss Account also, other than sale of tickets, they have shown sale of 'other services' and earned 'other income'. The fact that appellant other than Air Travel Agent Service was also providing Business Auxiliary Service and Tour Operator services has also been recorded by the adjudicating authority at Para-23 of the impugned order. Therefore, the appellant's claim that they were rendering Air Travel Agent service and hence tax liability shall arise only on margin method (i.e. on the differential value of purchase and sale value as reflected at Para-20 of the impugned order) cannot be entertained. As they were also providing services other than Air Travel Agent services and have earned Miscellaneous income, Package income, Hotel booking income, which cannot be considered as Air Travel service. So far the services rendered by the appellant are taxable service and classifiable differently under different categories, I find that the margin method arrived by the appellant for Air Travel Agent Service cannot be considered for ascertaining their tax liability.

7.6 Also, their claim to have deposited service tax amounting to Rs. 67,230/- is not supported by any documentary evidence like ST-3 Returns or challans. In the absence of any supporting documents, I find that the benefit of exclusion/abatement of income from the taxable value of service, as claimed by the appellant under Air Travel Agent service cannot be granted to them. Going by the nature of service rendered by the appellant, I find that they were also providing Tour Operator service. A Tour Operator is engaged in the business of **planning, scheduling, organizing, arranging tours** (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours. The value of taxable service provided by a Tour Operator to a client is the gross amount charged by such operator from the client for services in relation to a tour and includes the charges for any accommodation, food or any other facilities provided in relation to such tour.

7.7 In terms of Notification No. 26/2012-ST dated 20.06.2012, in case the Tour Operator was providing services of package tour then an abatement of 75% was available and if they were providing services of solely of arranging or booking accommodation in relation to tour then 90% abatement. For services other than those specified above, an abatement of 60% was available. This notification was subsequently amended vide Notification No. 04/2017-ST dated 12.01.2017, wherein



the rate of abatement was made to 40%. So, considering this aspect, I find that the abatement claimed by the appellant for Tour Operator service may be available to the appellant.

8. Another contention of the appellant was that the department has computed demand based on the Income Tax Return data, without considering the factual details, which is not justified. It is observed that the appellant were issued notice to explain the difference in taxable income reflected in ITR vis-a-vis the ST-3 Returns, as the appellant in their ST-3 have not shown any taxable income. However, the appellant neither produced copy of their ST-3 Returns to substantiate the payment of Rs. 67,230/- nor did they make any clarification justifying the difference in income either before the adjudicating authority or before me. Though enough opportunity was granted, the appellant did not produce any supporting documents like sale/purchase invoice, ledgers, any other financial records or proper justification to prove that they are not liable to pay service tax on the differential income. The appellant have also admitted their service tax liability before the adjudicating authority and in appeal memorandum. Hence, the contention of the appellant in this regard is rejected.

9. The appellant have also contended that the demand notice covering period 01.04.2015 to 31.03.2017 issued on 09.12.2020 is hit by limitation, as the demand was raised based on the income difference noticed in ST-3 return and ITR which they claim were regularly filed. On going through the impugned order, it is observed that the appellant in their ST-3 return have not shown any income nor did they produce any document to substantiate their claim justifying the non-payment. The appellant were rendering a taxable service and yet failed to disclose the correct taxable income in their ST-3 Returns, which undoubtedly brings out the willful mis-statement and fraud with intent to evade payment of service tax. Thus, I find that the demand is not hit by limitation.

10. In light of above facts, I find that the appellant was not just rendering Air Travel Agent Service but also various other services like Tour Operator service and Business Auxiliary Service. However, neither the adjudicating authority nor the appellant could bifurcate, the taxable income on the basis of the nature of service rendered. As sufficient income under Miscellaneous head and under other income was reflected, I find that it would be prudent to examine first the nature of service rendered and accordingly, ascertain the taxable value and tax liability. I, therefore, find that in the interest of justice it would be proper to remand the case back to the adjudicating authority to decide the matter afresh for examining the nature of service rendered and the abatement, if any, admissible to the appellant under Air Travel Agent Service, Tour Operator Service or Business Auxiliary service.

10.1 The appellant is also directed to submit all the relevant documents like reconciliation statement showing the income received under various services during the disputed period, copy of invoices, Balance Sheet, Profit & Loss Account, ITR, corroborating their above contention, to the adjudicating authority, within 15 days. The adjudicating authority shall decide the case afresh on merits and accordingly pass a reasoned order, following the principles of natural justice.



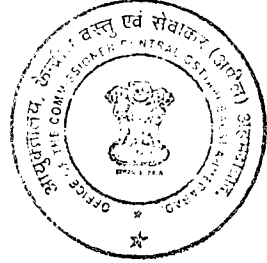
11. In view of above discussion, I set-aside the impugned order confirming the service tax demand of Rs. 51,21,805/- alongwith interest and penalties and allow the appeal of the appellant by way of remand.

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

Aruna
25th April,
(अखिलेश कुमार) 2023 ..
आयुक्त(अपील्स)

Date: 25.04.2023

Attested
Rekha Nair
(Rekha A. Nair)
Superintendent (Appeals)
CGST, Ahmedabad



By RPAD/SPEED POST

To,
Ms/. Fasttrips, B-203,
Akansha Savvy, Swaraj Phase-1,
Opp. Savvy Swaraj Club, Jagatpur,
Ahmedabad-382470

Appellant

The Additional Commissioner,
CGST, Ahmedabad North
Ahmedabad

Respondent

Copy to:

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Ahmedabad North.
3. The Deputy Commissioner, CGST, Division-VII, Ahmedabad North
4. The Assistant Commissioner (H.Q. System), CGST, Ahmedabad North.
(For uploading the OIA)
5. Guard File.

