



आयुक्त का कार्यालय

Office of the Commissioner

केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी, अहमदाबाद-380015

GST Bhavan, Ambawadi, Ahmedabad-380015
Phone: 079-26305065 - Fax: 079-26305136

E-Mail : commrappl1-cexamd@nic.in

Website : www.cgstappealahmedabad.gov.in



By SPEED POST

DIN:- 20240164SW000072247B

(क)	फाइल संख्या / File No.	GAPPL/COM/STP/2244/2023 / 642-46
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-EXCUS-002-APP-170/23-24 and 26.12.2023
(ग)	पारित किया गया / Passed By	श्री ग्यानचंद जैन, आयुक्त (अपील) Shri Gyan Chand Jain, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	04.01.2024
(ङ)	Arising out of Order-In-Original No. 329/AC/Demand/2022-23 dated 22.12.2022 passed by The The Assistant Commissioner, CGST Division-I, Ahmedabad North	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	Pratham Construction A-1101/1102, Sankalp Iconic Tower, Opp. ISRO Colony Near New York Timber, Iskon-Ambli Road Vikramnagar, Ahmedabad - 380058

कोई व्यक्ति इस अपील-आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील अथवा पुनरीक्षण आवेदन प्रस्तुत कर सकता है, जैसा कि ऐसे आदेश के विरुद्ध हो 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:-

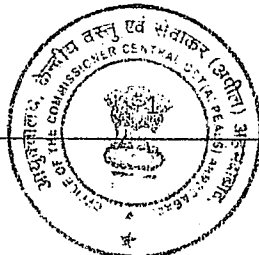
Revision application to Government of India:

(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 :-

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 :-

(क) यदि माल की हानि के मामले में जब ऐसी हानिकार खाने 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।

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

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।

In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

(घ) 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।

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.

(2) 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 मुख्य शीर्ष 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.

(3) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम होतो 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.

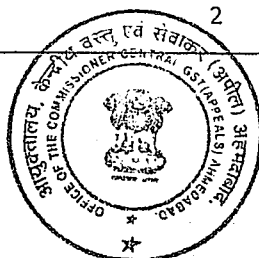
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 :-

(2) उक्तलिखित परिच्छेद 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।

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 above para.

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 मूलआदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रतिपर रू 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 और 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) एके प्रति अपीलो के मामले में कर्तव्यमांग (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 सेवाकर के अंतर्गत, शामिल होगा कर्तव्य की मांग (Duty Demanded)।

- (1) खंड (Section) 11D के तहत निर्धारित राशि;
- (2) लिया गलत सेनवैट क्रेडिट की राशि;
- (3) 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।

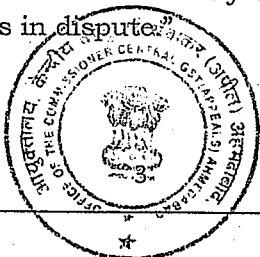
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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

(6) (i) 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

M/s. Pratham Construction, A-1101/1102, Sankalp Iconic Tower, Opp. ISRO Colony, Near New York Tower, Iskon – Ambali Road, Vikramnagar, Ahmedabad-380058 (hereinafter referred to as '*the appellant*') have filed the present appeal against the Order-in-Original No. 329/AC/DEMAND/22-23 dated 22.12.2022, (in short '*impugned order*') passed by the Assistant Commissioner, Central GST, Division-I, Ahmedabad North (hereinafter referred to as '*the adjudicating authority*'). The appellant were engaged in providing taxable service and were holding Service Tax Registration No.AAKFP2969FSD001.

2. The facts of the case, in brief, are that on the basis of the data received from the Central Board of Direct Taxes (CBDT) for the F.Y. 2015-16, it was noticed that the appellant in the ITR/Form-26 AS has earned taxable income on which no service tax was discharged. Letters were, therefore, issued to the appellant to explain the reasons for non-payment of tax and to provide certified documentary evidences for said period. The appellant neither provided any documents nor submitted any reply justifying the non-payment of service tax on such receipts. The detail of the income is as under;

Table-A

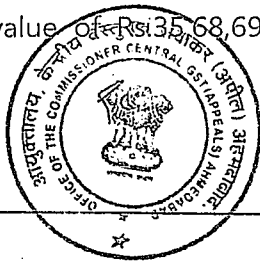
<i>F.Y.</i>	<i>Higher Value difference between value shown in Form-26AS and value as per ITR</i>	<i>Service tax rate</i>	<i>Service Tax liability</i>
2015-16	12,22,702/-	14.5%	1,77,292/-

2.1 A Show Cause Notice (SCN) No. AR-II/Pratham/ST/Reg/15-16 dated 29.12.2020 was therefore issued to the appellant proposing recovery of service tax amount of Rs.1,77,292/- along with interest under Section 73(1) and Section 75 of the Finance Act, 1994, respectively. Imposition of penalties under Section 70, Section 76 and Section 78 of the Finance Act, 1994 were also proposed.

2.2 The said SCN was adjudicated vide the impugned order, wherein the service tax demand of Rs.1,77,292/- was confirmed alongwith interest. Penalty under Section 76 was dropped however penalty of Rs. 1,77,292/- was imposed under Section 78 of the F.A., 1994. Late fee of Rs.20,000/- was also imposed under Section 70.

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

- The adjudicating authority has not considered the return filled by the applicant in ST-3 and the sales booked in the books of account are in consonance. As per ST-3 return in (April to September 2015) the value of Rs. 55,34,448/- and for (October 2015 to March 2016) the value of Rs. 35,68,690/- i.e. total value of



Rs.91,03,138/- was same amount was shown in the Income Tax return & Ledgers also.

- As per the 26AS for the financial year 15-16, the amounts deducted under Section 194C of the Income Tax Act, 1961, amounts to Rs.83,22,932/- which is less than what has been offered by assessee to Income Tax department as well as service tax department. Thus, there is no difference as far as the amount as per Income Tax and amount as per ST-3 returns and that the amount as per 26AS is less than what is shown in ST-3 returns. Thus, in the OIO as well as in the SCN, it is stated that there is a difference, however, looking to the evidence, the assessee could not find the difference as stated by the Ld. Adjudicating authority.
- Appellant has also filled the Service tax return for the financial year 2015-16 showing the same amounts i.e Rs. 91,03,138/- in the column B 1.1 gross amounts of Taxable receipts; the detailed bifurcation is provided as under and the copy of the service tax return is also attached. There is no difference between in the Sales mentioned in the books of accounts and service tax return for the financial year 2015-16.
- Further, as per the 26AS (TDS) the amount of TDS is deducted is Rs. 83,22,932/- however, the amount shown in the Service Tax Return is Rs. 91,03,138/-2, which is far higher than the amount shown in the 26AS for the F.Y. 2015-16.
- As the information/data received from CBDT, shows that the said Noticee had declared the value of Service Tax in their S.T-3 Returns therefore there is no reason of- (a) fraud; or (b) collusion; or (c) wilful mis-statement; or (d) suppression of facts; or (e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax, Therefore, it is not correct to say that there can be suppression or misstatement of fact, which is not willful and yet constitutes a permissible ground for invoking the proviso to section 11A- *Sarabhai M Chemicals.v CCE 2005 179 ELT 3 (SC 3 member bench)*. 19. In the OIO, no specific charge has been made for invoking extended period of limitation and on this ground the SCN is time barred.
- In the present case, the SCN as well as OIO is factually incorrect that there is a difference in the value stated as per service tax and as per Income Tax Returns or Form 26AS, as a reason, the SCN and OIO is factually incorrect and is vague; therefore, the SCN deserves to be set aside on the ground that the same is not clear and factually incorrect. The SCN does not specify the activity under which the charge has been framed. Therefore, the order is not a speaking order.
- As there is no levy of the Service Tax on the business activity of the appellant, no interest shall be payable under Section 75 of the Act.
- Penalty under section 78 is not imposable when invocation of extended period is not sustainable. This principle was followed



- Smt. Shirisht Dhawan v Shaw Brothers - 1992 (1) SCC 534
- Apex Electricals (P.) Ltd v UOI (1992) 61 ELT 413 (Hon' Gujarat High Court)
- Balsara Extrusions v CCE (2001) 131 ELT 586 (CEGAT)
- Ranka Wires v CCE (2005) 187 ELT 374 (CESTAT)
- Pioneer Electronics v CCE (2005) 189 ELT 71 (CESTAT)
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5. Personal hearing in the matter was held on 12.12.2023. Shri Rohan Thakkar, Chartered Accountant appeared for personal hearing on behalf of the appellant and reiterated the submissions made in the appeal. He stated that they have submitted additional submissions via e-mail today at 3:07 pm. He reiterated the contents of the written submission and requested to allow the appeal.

5.1 In the additional submission, they submitted Ledgers of PHED-Falna(Rajasthan), GVPR Engineer Ltd, PHED-Jodhpur (Rajasthan) and a reconciliation statement to substantiate their claim that there is no difference in income.

TABLE-A

Total Amount as per 26AS						12589567
Less Amount pertains to earlier years						
3	JDHP02058A	PUBLIC HEALTH ENGINEERING DEPARTMENT	2027454	6/19/2015	20275	2027454
1	HYDG00957F	GVPR ENGINEERS LTD	3000000	4/30/2015	60000	3000000
1	HYDN00212C	NCC LIMITED	174757	4/30/2015	3495	174757
3	JDHO01274A	OFFICE OF THE EXECUTIVE ENGINEER,	947218	6/30/2015	18944	947218
						6149429
Balance Value						6440138
Add: Differential amount of TDS being less value shown in 26AS by deductor						
2	JDHO01274A	OFFICE OF THE EXECUTIVE ENGINEER,	279024	2/28/2016	55840	2513000
Add: value recorded in ST3 and books, but TDS not deducted						
1	JDHP02058A	PUBLIC HEALTH ENGINEERING DEPARTMENT	2374047	12/13/2015	92755	150000
2	JDHP02058A	PUBLIC HEALTH ENGINEERING DEPARTMENT	2500000	9/28/2015	25000	
Total			4874047			
Value recorded in books and ST-3			5024047			
Total of above						9103138
Value shown in ST-3 return						9103138

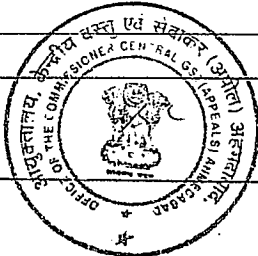
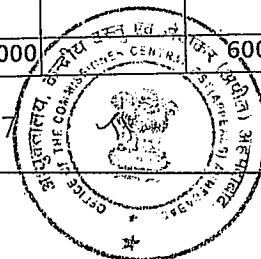


TABLE-B

Sl. No.	Tax Deduction Account Number (TAN) of the Deductor	Name of the Deductor	Amount paid /credited	Date of Payment /Credit	Total tax deducted	Remarks
1.	JDHS01431D	STATE BANK OF INDIA	16295	31/03/2016	1630	Not taxable as it is interest which is exempt
2.	JDHS01431D	STATE BANK OF INDIA	4039	30/09/2015	404	Not taxable as it is interest which is exempt
		Sub-Total (TAN)	20334		2034	
1.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	4424	31/03/2016	443	Not taxable as it is interest which is exempt
2.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	4440	28/02/2016	444	Not taxable as it is interest which is exempt
3.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	122	04/01/2016	12	Not taxable as it is interest which is exempt
4.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	3186	22/12/2015	319	Not taxable as it is interest which is exempt
5.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	4367	28/11/2015	437	Not taxable as it is interest which is exempt
6.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	14013	17/10/2015	1401	Not taxable as it is interest which is exempt
7.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	15862	28/09/2015	1586	Not taxable as it is interest which is exempt
8.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	30998	28/08/2015	3100	Not taxable as it is interest which is exempt
9.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	687	14/06/2015	69	Not taxable as it is interest which is exempt
10.	MUMK01323 A	KOTAK MAHINDRA BANK LIMITED	18282	25/05/2015	1828	Not taxable as it is interest which is exempt
		Sub-Total (TAN)	96381		9639	
		Total (Section)	116715		11673	
1.	HYDG00957F	GVPR ENGINEERS LTD	3000000	30/04/2015	60000	In the Income Tax, the revenue has been booked in FY 2014-15. However, TDS has been deducted in FY 2015-16 by the supplier on payment basis, hence, reflected in 26AS of 2015-16.
		Sub-Total (TAN)	3000000		60000	



1.	HYDN00212C	NCC LIMITED	174757	30/04/2015	3495	In the Income Tax, the revenue has been booked in FY 2014-15. Without prejudice, even otherwise, the income is exempt
		Sub-Total (TAN)	174757		3495	
1.	JDHE00510G	EXECUTIVE ENGINEER P.H.E.D. DISTRICT RURAL DIVISION AJMER	510401	30/09/2015	10208	Reflected in ST-3 return. The activity is exempt
		Sub-Total (TAN)	510401		10208	
1.	JDHO01274A	OFFICE OF THE EXECUTIVE ENGINEER,	776666	31/03/2016	15533	Shown in ST-3 return. Even otherwise, the activity is exempt
2.	JDHO01274A	OFFICE OF THE EXECUTIVE ENGINEER,	279024	28/02/2016	55840	Shown in ST-3 return. Even otherwise, the activity is exempt. The deductor has shown the value of supply as 279024 instead of 2792024.
3.	JDHO01274A	OFFICE OF THE EXECUTIVE ENGINEER,	947218	30/06/2015	18944	Income has been booked in FY 2014-15 and TDS has been booked in FY 2015-16. Even otherwise, the activity is exempt. Refer Ledger PHED-Falna (Rajasthan).
		Sub-Total (TAN)	2002908		90317	
1.	JDHP02058A	PUBLIC HEALTH ENGINEERING DEPARTMENT	2374047	13/12/2015	92755	Shown in ST-3 return. Even otherwise, the activity is exempt
2.	JDHP02058A	PUBLIC HEALTH ENGINEERING DEPARTMENT	2500000	28/09/2015	25000	Shown in ST-3 return. Even otherwise, the activity is exempt
3.	JDHP02058A	PUBLIC HEALTH ENGINEERING DEPARTMENT	2027454	19/06/2015	20275	Income has been booked in FY 2014-15 and TDS has been booked in FY 2015-16. Refer Ledger PHED Jodhpur (Rajasthan).
		Sub-Total (TAN)	6901501		138030	
		Total (Section)	12589567		302050	
		Grand Total	12706282		313723	

5.2 They have claimed that the appellant has executed the agreement with Office of the Executive Engineer, PHED Division, Falna, for work of construction of high reservoir switch room and laying of pipeline etc. in village Ranikala. The copy of the said contract is submitted. Further, they claim that they are also eligible for exemption under clause



12(e) of Notification No.25/2012-ST dated 20.06.2012 as the services were provided to the government and/or the local authority for the Pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal then the same is exempt from the service Tax. The PHED (Public Health Engineering Department) Falna is government department of the Rajasthan state. Hence, the services provided under the said contract are exempt.

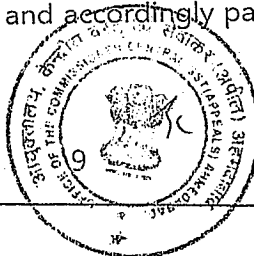
6. I have carefully gone through the facts of the case, the impugned order passed by the adjudicating authority, submissions made by the appellant in the appeal memorandum and in the additional submission as well as those made during personal hearing. The issue to be decided in the present case is whether the service tax demand of **Rs.1,77,292/-** rejected vide the impugned order, in the facts and circumstances of the case, is legal and proper or otherwise. Period of dispute involved is F.Y.2015-16.

6.1 It is observed that the appellant is registered under Works Contract Service and have filed their ST-3 returns. In the ST-3 returns for (April to September, 2015) & (October to March, 2016) they have shown the taxable value of Rs.55,34,448/- & Rs.35,68,690/- respectively, which brings to the total of **Rs. 91,03,138/-**. In the return they have also claimed the benefit of exemption under clause 12(e) notification No.25/2012-ST dated 20.06.2012. Further, the income of Rs. 91,03,138/- is also reflected in their Profit & Loss Account under Works Contract Income. However, in Form-26 AS they have reflected following incomes.

Service Recipient	Income received
GVPR Engineers Ltd.	3000000
NCC Ltd	174757
PHED, Ajmer	510401
Exe Enginner	2002908
Public Health Engineering	4637774
SBI	20334
Kotak	96381
Total	10,44,255/-

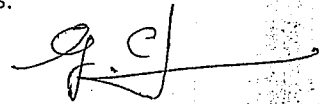
6.2 The appellant in Table-A & Table B have made various claims justifying the difference in the value reflected in ITR, Form-26AS and ST-3 returns and have also claimed that some of the activities are exempted. They claim that some the revenue has been booked in FY 2014-15 but TDS has been deducted in F.Y 2015-16 by the supplier on payment basis, hence, reflected in 26AS of 2015-16.

7. I find that entire demand was decided ex-parte as the appellant neither filed any defence reply nor appeared before the adjudicating authority for personal hearing, hence, their above claims could not be examined. In the interest of justice, I find that it would be proper to remand the matter to the adjudicating authority who shall pass the order after examining the documents and verification of the claim made by the appellant. The appellant is also directed to submit all the relevant documents and details to the adjudicating authority, in support of their contentions. The adjudicating authority shall decide the case afresh on merits and accordingly pass a reasoned order, following the principles of natural justice.



8. In view of my above discussion and findings, I set-aside the impugned order and allow the appeal filed by the appellant by way of remand.

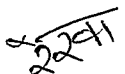
अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
The appeal filed by the appellant stands disposed off in above terms.



(ज्ञानचंद जैन)
आयुक्त(अपील्स)

Date: 26.12.2023

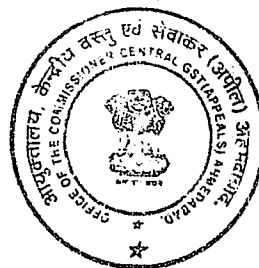
Attested



(रेखा नायर)

अधीक्षक (अपील्स)

केंद्रीय जीटी.एस., अहमदाबाद



By RPAD/SPEED POST

To,

M/s. Pratham Construction,
A-1101/1102, Sankalp Iconic Tower,
Opp. ISRO Colony, Near New York Tower,
Iskon – Ambali Road,
Vikramnagar,
Ahmedabad-380058

Appellant

The Assistant Commissioner
CGST, Division-I,
Ahmedabad North

Respondent

Copy to:

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Ahmedabad North.
3. The Assistant Commissioner (H.Q. System), CGST, Ahmedabad (Appeals).

(For uploading the OIA)

4. Guard File.

