



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:20230464SW000000A24F

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/2221/2022-APPEAL / 5us - 519
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-002-APP-002/2023-24
 दिनांक Date : 18-04-2023 जारी करने की तारीख Date of Issue 20.04.2023
 आयुक्त (अपील) द्वारा पारित
 Passed by Shri Akhilesh Kumar, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. CGST-06/D-VI/O&A/25/Hardik/AM/2022-23 दिनांक:
 26.05.2022, issued by Deputy/Assistant Commissioner, CGST, Division-VI, Ahmedabad-
 North
- घ अपीलकर्ता का नाम एवं पता Name & Address

1. Appellant

M/s Hardik Kiritkumar Vyas,
 C-202, Orange Avenue, Maple Country,
 Nr. Shilaj Railway Crossing,
 Thaltej, Ahmedabad-380059

2. Respondent

The Deputy/ Assistant Commissioner, CGST, Division-VI, Ahmedabad
 North, 7th Floor, B D Patel House, Nr. Sardar Patel Statue, Naranpura,
 Ahmedabad - 380014

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।

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.

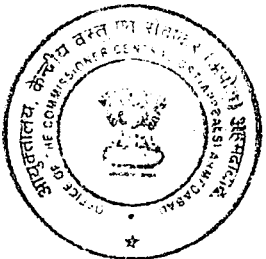
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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) 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 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 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.

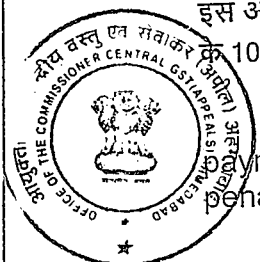
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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



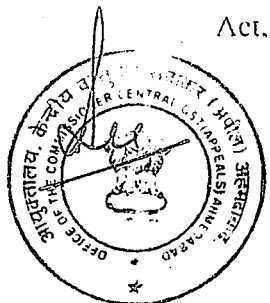
ORDER-IN-APPEAL

The present appeal has been filed by M/s. Hardik Kiritkumar Vyas, C-202, Orange Avenue, Maple County, Nr. Shilaj Railway Crossing, Thaltej, Ahmedabad – 380059 (hereinafter referred to as “the appellant”) against Order-in-Original No. GST-06/D-VI/O&A/25/Hardik/AM/2022-23 dated 26.05.2022 (hereinafter referred to as “the impugned order”) passed by the Assistant Commissioner, Central GST, Division VI, 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. AEJPV9397J. On scrutiny of the data received from the Central Board of Direct Taxes (CBDT) for the Financial Year 2016-17, it was noticed that the appellant had earned an income of Rs. 79,87,982/- during the FY 2016-17, 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 were called upon to submit copies of Balance Sheet, Profit & Loss Account, Income Tax Return, Form 26AS, for the said period. However, the appellant had not responded to the letters issued by the department.

2.1 Subsequently, the appellant were issued Show Cause Notice No. GST-06/04-1387/HARDIK/2021-22/5174 dated 18.10.2021 demanding Service Tax amounting to Rs. 11,98,197/- for the period FY 2016-17, 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; recovery of late fees under Rule 7C of the Service Tax Rules, 1994; and imposition of penalties under Section 77(1) and Section 78 of the Finance Act, 1994.

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. 3,82,391/- was confirmed under proviso to Sub-Section (1) of Section 73 of the Finance Act, 1994 along with Interest under Section 75 of the Finance Act, 1994 for the period from FY 2016-17. The adjudicating authority had dropped the remaining demand of Service Tax on income of Rs. 54,38,714/- considering the said income received from Export of Services. Further (i) Penalty of Rs. 3,82,391/- 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 for failure to taking Service Tax Registration; and (iii) Penalty of Rs. 40,000/- was



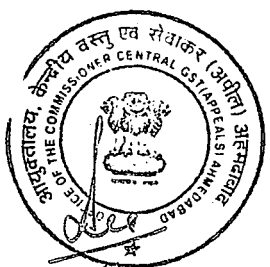
imposed on the appellant under Section 70(1) of the Finance Act, 1994 for not furnishing service tax returns.

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

- The appellant are engaged in providing Web Development Service to customers located in India and outside India. Accordingly, the appellant also provides exports of service to customers located outside India. The turnover for the FY 2016-17 as reported in Profit & Loss Account is as under.

Particulars	Turnover (in Rs.)	Remarks
Local Turnover	5,81,179/-	Service tax not collected and paid as Turnover is below Basic Threshold Limit.
Export Turnover	74,06,803/-	Exempted Export services.
Total	79,87,982/-	

- With regard to turnover of Rs. 19,68,089/- is concerned, it is submitted that the funds received through TRANSFERWISE LTD., UK. The funds were remitted in Bank in INR through their vostro account. There were parties who had made the payment in their origin country in foreign exchange to his banking partner who subsequently given credit in appellant's bank account and issued conversion note that foreign exchange received which is totaling to Rs.19,68,089/-. A list of such foreign exchange received was submitted by the appellant along with appeal memorandum.
- The contention of adjudicating authority that the said remittance received in INR through vostro account from foreign customer cannot be considered as 'export of service' was not correct.
- As per para 2.52 of Foreign Trade Policy 2021-2025, remittance received through vostro account shall be considered as 'amount received in foreign currency' only.
- RBI's Master Circular No. 14/2015-16 dated 01.07.2015, also clearly states that amount realized through vostro account of a non-resident bank shall be considered as foreign remittance for the purpose of claiming exports benefits.
- Circular No. 8/8/2017-GST dated 04.10.2017 was issued for clarifying issues related to furnishing of Bond/Letter of Undertaking for exports, where Para 2(k) pertains to realization of export proceeds in Indian Rupee, which was further amended via Para



3.2 of Circular No.88/07/2019-GST dated 01.02.2019. The said circular also clarified that export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.

- In support of their case, they relied upon the following case laws:
 - a) Novell Software Development India Private Limited Vs. Commr. S.Tax, Bangalore - I reported in 2018 (3) TMI 999 - CESTAT, Bangalore
 - b) BBC World Services India Private Limited Vs. CCE and ST, Delhi reported in 2018 (2) TMI 369 - CESTAT New Delhi
- The appellant also submitted that the remaining local turnover of the appellant was Rs. 5,81,179/-, which is below threshold limit. therefore, whole of the service tax leviable thereon exempted vide Notification No. 33/2012- ST dated 20/06/2012. Thus, the appellant neither require to take registration nor require to pay Service Tax.
- Without prejudice, the appellant submitted that the amount received should be treated as inclusive of Taxes as per Section 67(2) of the Finance Act, 1994.
- The demand itself is not sustainable and hence, the question of imposing interest does not arise.
- There is no suppression, wilful misstatement etc. on the part of the appellant with intent to evade payment of tax therefore, no penalty can be imposed under Section 78 of the Finance Act, 1994 on the appellant.

4. Personal hearing in the case was held on 29.03.2023. Shri Nirav Patel, Chartered Accountant, appeared on behalf of the appellant for personal hearing. He reiterated submissions made in appeal memorandum. He stated that he would submit relevant documents for previous financial year as additional written submission.

4.1 The appellant vide their letter dated 31.03.2023 have submitted copies of IT Return, Balance Sheet, Profit & Loss Account, Form 26AS for the FY 2015-16.

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 of service tax 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 2016-17.

6. It is observed that the adjudicating authority has in the impugned order considered that the appellant had received income of Rs. 54,38,714/- from Export of Service. However, with regard to income of Rs. 19,68,089/-, the adjudicating authority has held that the said income was received in INR and, therefore, denied benefit of export of service for the said amount. The adjudicating authority in the impugned order has held as under:

"31.

On perusal of the conditions laid down in the above discussed rule 6A of service tax rules, I find that assessee had received Income of Rs. 54,38,714/- from Export of Service (Non Taxable as per Rule 4 of Export of Service Rules, 2005) and fulfilling the necessary conditions of rule 6A of the service tax rules, 1994. Further, I find that in respect of sale of service of Rs. 19,68,089/- the assessee has provided confirmation for fund received in INR currency and claiming benefit under Export of service. I find that in respect of sale of service of Rs. 19,68,089/-, they are not fulfilling the necessary conditions no. (e) of rule 6A of the service tax rules, 1994 as payment was not received by the service provider in convertible foreign exchange.

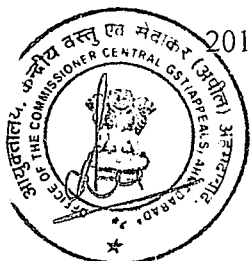
32. *I find that the assessee has not produced Foreign inward remittance certificate issued by the Bank for income of Rs. 19,68,089/- so as to infer that it was from export of service wherein the service receiver was located outside India.*

33. *Further, in order to comprehend the actual nature of service, I would like to take support of the following documents which have been submitted along with their aforementioned defence reply dated 11.11.2021. I would also like to discuss and reproduce the relevant excerpt of the documents.*

31.1. *The assessee has submitted confirmation for fund received in INR currency for the amount Rs. 19,68,089/- through TRANSFERWISE LTD, UNITED KINGDOM, a copy of the said confirmation is reproduced as below:*

On perusal of the above document, I find that the assessee has received confirmation regarding credit in their account. It had been clarified that the said remittance was received in INR currency and executed on basis of remittance request received from TRANSFERWISE LTD, UNITED KINGDOM through their Vostro account held with them. They had received the inward remittance in INR currency from TRANSFERWISE LTD, UNITED KINGDOM and the funds were credited to their account 29505500309 held with ICICI BANK LIMITED."

6.1 It is also observed that the adjudicating authority has denied benefit of exemption notification No. 33/2012-ST dated 20.06.2012, as the appellant had failed to provide any documentary evidence in relation to total taxable supply in previous financial year i.e. FY 2015-16 to show that their income was below 10 Lakh rupees.



7. It is observed that the main contention of the appellant is that funds, received through TRANSFERWISE LTD., UK, were remitted in Bank in INR through their vostro account from foreign customer. Therefore, the service provided by them is required to be considered as 'export of service' as per Para 2.52 of Foreign Trade Policy and as per RBI's Master Circular No. 14/2015-16 dated 01.07.2015.

8. For ease of reference, I reproduce the relevant provision under Para 2.52 of Foreign Trade Policy, 2015-2020 and Master Circular No. 14/2015-16 dated 01.07.2015 issued by the Reserve Bank of India, as under:

"Foreign Trade Policy, 2015-2020

Payments and Receipts on Imports / Exports

2.52 Denomination of Export Contracts

(a) All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.

(b) However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan. Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account. Free foreign exchange remitted by buyer to his nonresident bank (after deducting bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.

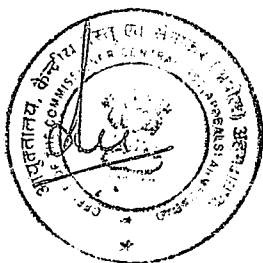
(c) Contracts (for which payments are received through Asian Clearing Union (ACU) shall be denominated in ACU Dollar. Central Government may relax provisions of this paragraph in appropriate cases. Export contracts and invoices can be denominated in Indian rupees against EXIM Bank/Government of India line of credit."

"Master Circular No.14/2015-16 July 01, 2015

PART-1 A. Introduction

(i)

(v) There is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020) - "All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan." Indian Rupee is not a freely convertible currency. as yet."



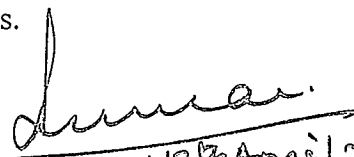
9. In the backdrop of legal provisions above, I find that in the present case the appellant have received an income of Rs. 19,68,089/- through TRANSFERWISE LTD., UK. The funds were remitted in Bank in INR through their vostro account. I also find that the customers had made the payment in their origin country in foreign exchange to their banking partner, who have subsequently given credit in appellant's bank account in INR through their vostro account. Thus, I find that in view of the aforesaid Para 2.52(b) of the Foreign Trade Policy, 2015-2020, the said amount of Rs. 19,68,089/- is also required to be considered as payment received in convertible foreign exchange and benefit of export of service for the said amount is required to be extended to the appellant.

10. As regard the remaining income of Rs. 5,81,179/- for the FY 2016-17, I find that the appellant submitted Profit & Loss Account for the FY 2015-16, under which the income of Rs. 85,175/- shown under the head of "Web Development Charges (Local)" and Rs. 98,68,747/- shown under the head of "Web Development Charges (Export)". I find that the appellant is eligible for benefit of threshold limit of exemption for the FY 2016-17 as per the Notification No. 33/2012-ST dated 20.06.2012, as their total taxable value of service during the Financial Year 2015-16 was Rs. 85,175/-, i.e. below Rs. 10,00,000/- as per the Profit & Loss Account for the FY 2015-16 submitted by the appellant. In view of the above, I hold that the appellant is not liable to Service Tax for the income received by them during the FY 2016-17. Since the demand of service tax is not sustainable on merits, there does not arise any question of charging interest or imposing penalties in the case.


11. In view of above, I hold that the impugned order passed by the adjudicating authority in respect of income received by the appellant during the FY 2016-17, 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.

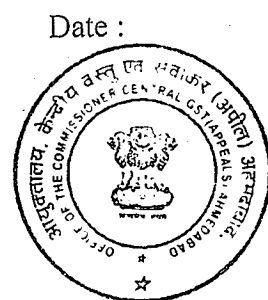
12. अपील कर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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


(Akhilesh Kumar)
Commissioner (Appeals)

Attested


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



By RPAD / SPEED POST

To,

M/s. Hardik Kiritkumar Vyas,
C-202, Orange Avenue,
Maple County, Nr. Shilaj Railway Crossing,
Thaltej, Ahmedabad – 380059

Appellant

The Assistant Commissioner,
CGST, Division-VI,
Ahmedabad North

Respondent

Copy to :

- 1) The Principal Chief Commissioner, Central GST, Ahmedabad Zone
- 2) The Commissioner, CGST, Ahmedabad North
- 3) The Assistant Commissioner, CGST, Division VI, Ahmedabad North
- 4) The Assistant Commissioner (HQ System), CGST, Ahmedabad North

(for uploading the OIA)

- 5) Guard File
- 6) PA file

