



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: 20230564SW000000BCA7

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/103/2023-APPEAL /1390-92
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-002-APP-023/2023-24
 दिनांक Date : 11-05-2023 जारी करने की तारीख Date of Issue 17.05.2023
 आयुक्त (अपील) द्वारा पारित
 Passed by Shri Akhilesh Kumar, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. 86/AC/D/2021-22/KMV दिनांक: 30.03.2022, issued by Deputy/Assistant Commissioner, CGST, Division-IV, Ahmedabad-North
- ध अपीलकर्ता का नाम एवं पता Name & Address

1. Appellant

M/s Radheshyam Prajapati,
 58, Sumanlam Park, Naroda,
 Ahmedabad

2. Respondent

The Deputy/ Assistant Commissioner, CGST, Division-IV, Ahmedabad
 North, 2nd Floor, Gokuldharm Arcade, Sarkhej- Sanand Road, Ahmedabad-382210

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।



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 इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

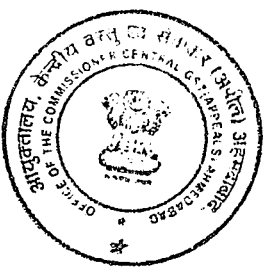
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(क) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में 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 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.

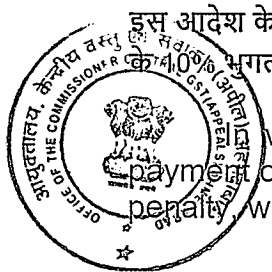
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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



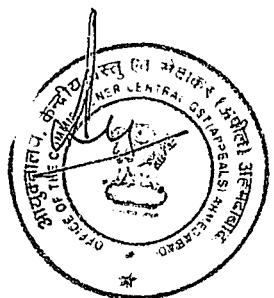
ORDER-IN-APPEAL

The present appeal has been filed by M/s. Radheshyam Prajapati, 58, Sumanlam Park, Naroda, Ahmedabad (hereinafter referred to as "the appellant") against Order-in-Original No. 86/AC/D/2021-22/KMV dated 30.03.2022 issued on 31.03.2022 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner, Central GST, Division IV, Ahmedabad North (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, the facts of the case are that the appellant are holding PAN No. ASTPP8434E. On scrutiny of the data received from the Central Board of Direct Taxes (CBDT) for the Financial Year 2014-15, it was noticed that the appellant had earned an income of Rs. 34,59,195/- during the FY 2014-15, which was reflected under the heads "Sales / Gross Receipts from Services (Value from ITR)" 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 had 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 vide letters dated 20.07.2020 and 19.08.2020. The appellant vide their letter dated 02.09.2020 submitted the documents viz., Balance Sheet, Profit & Loss Account, Income Tax Return, Form 26AS for the FY 2014-15.

2.1 The appellant had shown sales income of Rs. 34,59,195/- under the head Printing Jobwork Income in their Profit & Loss Account for the FY 2014-15. The appellant were thereafter issued Show Cause Notice No. V/27-58/Radheshyam/2020/TPD/UR dated 28.09.2020 demanding Service Tax amounting to Rs. 4,27,557/- for the period FY 2014-15, under proviso to Sub-Section (1) of Section 73 of the Finance Act, 1994 by considering the service provided by the appellant as taxable under the category of "Business Auxiliary Service" defined under Section 65(105)(zzh) 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(2) and Section 78 of the Finance Act, 1994. The SCN also proposed recovery of un-quantified amount of Service Tax for the period FY 2015-16 to FY 2017-18 (up to Jun-17).

2.2 The Show Cause Notice was adjudicated, ex-parte, vide the impugned order by the adjudicating authority wherein the demand of Service Tax amounting to Rs. 4,27,557/- 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 2014-15. Further



(i) Penalty of Rs. 4,27,557/- 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; (ii) Penalty of Rs. 10,000/- was imposed on the appellant under Section 77(2) of the Finance Act, 1994 for failure to assess their correct Service Tax liability and failed to file correct Service Tax Returns as required under Section 70 of the Finance Act, 1994 read with Rule 7C of the Service Tax Rules, 1994.

3. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal, along with an application for condonation of delay, on the following grounds:

- The appellant are engaged in activity of job work under the name and style of M/s. Shraddha Packaging.
- As per Section 66D(f) of the Finance Act, 1994, no service tax is payable on any process amount to manufacture or production of goods. The appellant only doing job work for material supply by the manufacturer and thus they are not liable to pay any service tax.
- The appellant have taken registration of VAT in 2016 and paying the VAT regularly. There was no substantial income in the relevant year.
- The adjudicating authority has requested for the necessary details and the appellant have submitted the documents, after that they have not received any notices for personal hearing as the address mentioned in the notices was wrong. They have also mentioned correct address in the submitted documents. Thus, without giving opportunity of being heard the adjudicating authority has passed the impugned order.
- 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.

4. On going through the appeal memorandum, it is noticed that the impugned order was issued on 31.03.2022 and received by the appellant on 12.10.2022. However, the present appeal, in terms of Section 85 of the Finance Act, 1994 was filed on 26.12.2022, i.e. after a delay of 14 days from the last date of filing of appeal. The appellant have, in the Application for condonation of delay, stated that they have received the impugned order on 12.10.2022, 195 days after issuance of impugned order due to wrong address mentioned in the same.



After receiving the order, the appellant was not able to file appeal within time limit due to festival period.

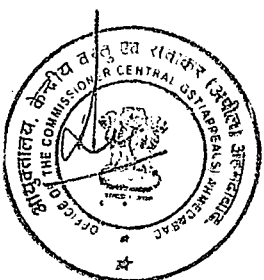
4.1 Personal hearing in the matter of Application for condonation of delay was held on 16.03.2023. Ms. Bhoomi K. Rawal, Advocate, appeared on behalf of the appellant. She reiterated submission made in the application for condonation of delay.

4.2 Before taking up the issue on merits, I proceed to decide the Application filed seeking condonation of delay. As per Section 85 of the Finance Act, 1994, an appeal should be filed within a period of 2 months from the date of receipt of the decision or order passed by the adjudicating authority. Under the proviso appended to sub-section (3A) of Section 85 of the Finance Act, 1994, the Commissioner (Appeals) is empowered to condone the delay or to allow the filing of an appeal within a further period of one month thereafter if, he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period of two months. Considering the appellant is unregistered person and required to obtain temporary service tax registration for payment of mandatory pre-deposit which also takes time, the cause of delay appears genuine. Hence, I condone the delay of 14 days and take up the appeal for decision on merits.

5. Personal hearing in the case was held on 18.04.2023 and 03.05.2023. Ms. Bhoomi Rawal, Advocate, appeared on behalf of the appellant for personal hearing. She submitted a written submission during the hearing on 03.05.2023.

6. The appellant in their additional submission submitted during the course of personal hearing, inter alia, made following submission:

- The appellant are engaged in activity of job work under the name and style of M/s. Shraddha Packaging. The appellant carried out post press manufacturing activity on job work basis against the supplies of printed duplex paper board from various companies and also carried out die punching and pasting process on printed duplex board and converting them into finished boxes of printed duplex paper board. After completion of process the appellant were supplying back finished boxes to various companies which is directly used for packaging for tablets, capsules, syrups and other items.
- The appellant is doing the job work which converts in to new product and which amount to manufacture on new product and fall under Chapter 49 of the Central Excise Tariff Act, 1985. These are excisable goods and boxes which are not exempted



from Central Excise duty. However, threshold exemption limit of Rs. 1.50 crore is available under SSI exemption.

- The appellant is exempted from Service Tax as the activity is covered under Section 66D(f) of the Finance Act, 1994.
- Further, Sr. No. 30 of the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012 grant an exemption to printing process which does not amount to manufacture.

7. I have carefully gone through the facts of the case, grounds of appeal, submissions made in the Appeal Memorandum and in additional written submission 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 2014-15.

8. I find that in the SCN in question, the demand has been raised for the period FY 2014-15 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 CBIC 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."

8.1 In the present case, I find that letters dated 20.07.2020 and 19.08.2020 were issued to the appellant seeking details and documents, which were submitted by the appellant on 09.09.2020. The show cause notice has been issued considering the service provided by the



appellant to be covered under the category of "Supply of Tangible Goods service", defined under Section 65(105)(zzzzj) of the Finance Act, 1994. However, I find that the provisions under Section 65(105) of the Finance Act, 1994 has been replaced by negative list based service tax regime vide Notification No. 20/2012-ST dated 05.06.2012, made applicable w.e.f. 01.07.2012. Hence, the show cause notice was issued proposing the demand of service tax under the legal provisions prevalent before 01.07.2012, which are not in existence for the period of demand pertaining to FY 2014-15. I find that on this count the show cause notice is vague and is not legally sustainable.

9. I find that the main contention of the appellant is that they are engaged in manufacturing of excisable goods, i.e. finished boxes of printed duplex paper board, on job work basis for various manufacturer and their services is not taxable as per Section 66D(f) of the Finance Act, 1994. The appellant have also contended that as per Entry No. 30 of Mega Exemption Notification No. 25/2012-ST dated 20.06.2012, the printing job work, which is not amounting to manufacture is also exempted.

10. For ease of reference, I hereby produce the relevant text of the Negative List as per Section 66(D)(f) of the Finance Act, 1994 and the Notification No. 25/2012-ST dated 20.06.2012, as amended, which reads as under:

Negative List as per Section 66(D)(f) of the Finance Act, 1994

"Section 66(D) Negative list of services.—

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

(a)

(f) services by way of carrying out any process amounting to manufacture or production of goods"

"Notification No. 25/2012-Service Tax dated 20th June, 2012

G.S.R. 467(E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification No. 12/2012- Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 210 (E), dated the 17th March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services from the whole of the service tax leviable thereon under section 66B of the said Act, namely:-

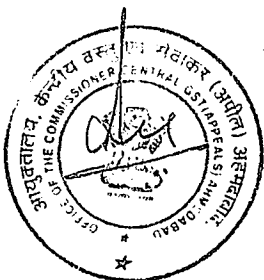
1...

2... ..

30. Carrying out an intermediate production process as job work in relation to -

(a) agriculture, printing or textile processing;

(b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals; falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986);



(c) any goods excluding alcoholic liquors for human consumption, on which appropriate duty is payable by the principal manufacturer; or

(d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year; "

10. The appellant have also submitted a letter dated 19.09.2020 from M/s. Global Medisciences Limited, Ahmedabad stating that the appellant carried out "Post press manufacturing activity on job work basis" against supplies of printed duplex paper board from them. On verification of various documents submitted by the appellant, I find that the appellant has carried out job work of die punching, pasting process on printed duplex board supplied by various companies and mainly for M/s. Global Medisciences Limited, Ahmedabad on job work basis. Thus, the appellant has converting printed duplex board into finish boxes for packaging of various goods. The appellant have received total job work charges of Rs. 34,59,195/- during the FY 2014-15. for the job work which amounting to manufacturing. Thus, process carried out by the appellant in this regard is amount to manufacture and such job work falls under Negative list as per Section 66(D)(f) of the Finance Act, 1994.

11. In view of the above discussion, I am of the considered view that the activity carried out by the appellant falls under Negative list as per Section 66(D)(f) of the Finance Act, 1994 and the appellant is not liable to pay Service Tax during the FY 2014-15. 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.

12. In view of above, I hold that the impugned order passed by the adjudicating authority confirming demand of Service Tax, in respect of job work income received by the appellant during the FY 2014-15, 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.

13. अपीलकर्ता 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
(Akhilesh Kumar)
Commissioner (Appeals)
11 May, 2023.

Attested

Date : 11.05.2023



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

By RPAD / SPEED POST

To.

M/s. Radheshyam Prajapati,
58. Sumanlam Park, Naroda.
Ahmedabad

Appellant

The Assistant Commissioner,
CGST, Division-IV.
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 IV, Ahmedabad North
- 4) The Assistant Commissioner (HQ System), CGST, Ahmedabad North

(for uploading the OIA)

- ✓ 5) Guard File
- 6) PA file

