



सत्यमेव जयते

आयुक्त का कार्यालय  
Office of the Commissioner  
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय  
Central GST, Appeals Ahmedabad Commissionerate  
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**By SPEED POST**

DIN:- 20240364SW00008188E4

(क)	फ़ाइल संख्या / File No.	GAPPL/COM/STP/1172/2024 / 1172 - 81 GAPPL/COM/STP/13/2024
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-EXCUS-002-APP-282 to 283/23-24 dated 18.03.2024
(ग)	पारित किया गया / Passed By	श्री ज्ञानचंद जैन, आयुक्त (अपील) Shri Gyan Chand Jain, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	30.03.2024
(ङ)	Arising out of Order-In-Original No. 129/DC/D/VM/22-23 and 130/DC/D/VM/22-23 both dated 29.02.2023 passed by The Deputy Commissioner, CGST, Division-III, Ahmedabad North	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	Sukhmaa Buildcon Pvt. Ltd. Sukhmaa Buildcon, 418-P, Opposite Badve Near Honda 2 Wheeler, Vithulapur Ahmedabad-382150

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:-

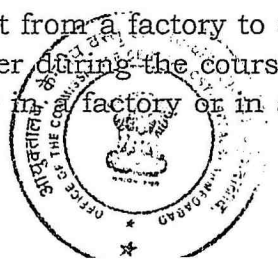
**Revision application to Government of India:**

(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, 4<sup>th</sup> 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 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.



(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 भीतरमूल-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 रूपये या उससे कम होतो रूपये 200/- फीस भुगतान की जाए और जहाँ संलग्नरकम 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.

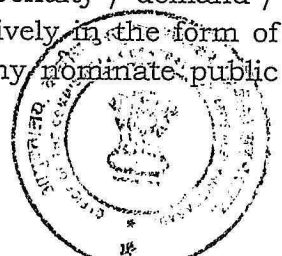
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-  
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 2<sup>nd</sup> माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद-380004।

To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2<sup>nd</sup> 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 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.

(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. Sukhmaa Buildcon Pvt. Ltd, Sukhmaa Buildcon, 418-P, Opposite Badve, Near Honda 2 Wheeler, Vithlapur, Ahmedabad-382130 (hereinafter referred to as '*the appellant*') have filed following appeals against the Order-in-Originals (listed below) passed by the Deputy Commissioner, Central GST, Division-III, Ahmedabad North (hereinafter referred to as '*the adjudicating authority*'). The appellant was holding Service Tax Registration No. AASCS3455LSD001.

**Table-A**

Sr. No.	Appeal No.	SCN No. Date	OIO No.& Date	Period of Dispute	Amount Involved
A	B	C	D	E	F
01	GAPPL/COM/S TP/1172/2024	III/SCN/AC/Sukhmaa Buildcon/172/2021-22 dated 20.10.2021	130/DC/D/VM/2022-2023 dated 29.02.2023  Referred to as Impugned Order -1	2016-17	Rs.5,70,225/-
02	GAPPL/COM/S TP/13/2024	III/SCN/AC/Sukhmaa Buildcon/173/2021-22 dated 20.10.2021	129/DC/D/VM/2022-2023 dated 29.02.2023  Referred to as Impugned Order -2	2016-17	Rs.23,76,900/-

**2.1** The facts of the case, pertaining to the Show Cause Notice (SCN) No. III/SCN/AC/Sukhmaa Buildcon/172/2021-22 dated 20.10.2021 (*listed at Sr.No.-01*), are that on the basis of the data received from the Central Board of Direct Taxes (CBDT) for the F.Y. 2016-17, it was noticed that the appellant has shown less taxable value in ST-3 Return compared to the Gross Receipts shown in the ITR/Form-26AS. A SCN was, therefore, issued to the appellant proposing recovery of service tax amount of Rs. 5,70,225/- along with interest under Section 73(1) and Section 75 of the Finance Act, 1994, respectively. Imposition of penalties under Section 77(1), Section 77(2) & Section 78 of the Finance Act, 1994 were also proposed. The details of the income are furnished below;

**Table-B**

F.Y.	Value as per ITR	Value as per ST-3 Return	Differential Value	Service tax rate	Service Tax liability
2016-17	1,58,45,999/-	1,20,44,500/-	38,01,499/-	15%	5,70,225/-

**2.2** The aforesaid SCN was adjudicated vide impugned Order No-01 wherein the demand Rs. 5,70,225/- was confirmed alongwith interest. Penalty of Rs.10,000/- each was imposed under Section 77(1) & 77(2) and penalty of Rs. 5,70,225/- was also imposed under Section 78.

**2.3** Another SCN bearing No. III/SCN/AC/Sukhmaa Buildcon/173/2021-22 dated 20.10.2021 (*listed at Sr.No.02*), was also issued to the appellant on the basis of the data



received from the Central Board of Direct Taxes (CBDT) for the F.Y. 2016-17. From the third-party data it was noticed that the appellant has shown substantial income in their ITR/Form-26AS, on which no tax was paid and ST-3 return was also not filed. The SCN therefore proposed recovery of service tax amount of Rs. 23,76,900/- along with interest under Section 73(1) and Section 75 of the Finance Act, 1994, respectively. Imposition of penalties under Section 77(1), Section 77(2) & Section 78 of the Finance Act, 1994 were also proposed. The details of the income are furnished below;

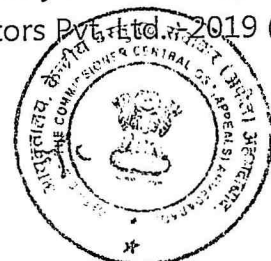
**Table-C**

<i>F.Y.</i>	<i>Value as per ITR</i>	<i>Value as per ST-3</i>	<i>Differential Value</i>	<i>Service tax rate</i>	<i>Service Tax liability</i>
2016-17	1,58,45,999/-	0/-	1,58,45,999/-	15%	23,76,900/-

2.4 The aforesaid SCN was adjudicated vide Impugned Order No. 02 wherein the demand of Rs. 23,76,900/- was confirmed alongwith interest. Penalty of Rs.10,000/- each was imposed under Section 77(1) & 77(2) and penalty of Rs. 23,76,900/- was also imposed under Section 78.

3. Being aggrieved with the impugned orders passed by the adjudicating authority, the appellant have preferred the present appeal alongwith the miscellaneous application seeking condonation of delay in filing appeal, on the grounds elaborated below;

- The impugned orders are bad in law being contrary to various judicial precedents as it does not give any finding on taxable services allegedly provided by the appellant. Further, on the same subject matter, for the same cause and for the same period, simultaneous two proceedings are being carried out against the same appellant, which is bad in law.
- The impugned orders were passed ex-parte and in violation of principles of natural justice as stated herein above and hence is liable to be set aside.
- The demand of Service tax made solely relying on Form 26AS Statements/Income Tax Returns without having established taxability of the said income under the provisions of Finance Act, 1994 is not sustainable. It is settled law that service tax liability cannot be demanded solely on the basis of 26AS statements/Income Tax Returns without having established the provision of taxable service by the appellant in terms of the provisions of Finance Act, 1994. Learned Deputy Commissioner seriously erred in ignoring the following judgment which is directly applicable in the present case. The appellant also relies on the following judgment in their support:
  - 2019 (2) TMI 1563 - CESTAT ALLAHABAD M/s LORD KRISHNA REAL INFRA PRIVATE LTD.
  - Sharma Fabricators Pvt. Ltd. Vs Commissioner of Central Excise, Allahabad [2017 (7) TM] 168 - CESTAT ALLAHABAD Affirmed by Hon 'ble High Court vide Commissioner v. Sharma Fabricators & Erectors Pvt. Ltd. 2019 (22) G.S.T.L. J166 {All.}



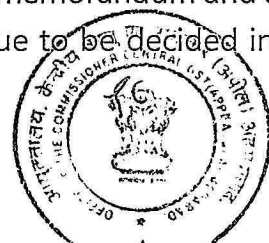
- The demand of service tax is also barred by limitation provided under Section 73 (3) of the Act, hence not sustainable. Demand of service tax is raised based on the available records viz. Income Tax Returns for F.Y 2016-17 and Form 26AS Statements, therefore the larger period of limitation cannot be applied as laid down in the following decisions:
  - Steelcast Ltd v CCE - 2009 (14) STR 129 {upheld in 2011 (21) STR 500}
  - SHRJ BALAJI INDUSTRIAL PRODUCTS LTD. 2019 (370) E.L. T. 280 (Tri. - Del.)
- There is no allegation with evidence showing wilful suppression of facts on the part of the appellant. It is settled law that in absence of any allegation or evidence of wilful suppression of facts in the notice, extended period of limitation is not applicable. Reliance in this behalf is placed on the judgement of Hon'ble Karnataka High Court in the case of Commr. of Service Tax. Bangalore-IV. Karnataka Udyog Mitra - 2020 (35) G.S. T.L. 382 (Kar.).
- Penalty under section 77(1) & Section 77(2) and Section 78 is not imposable when the demand of service tax itself is liable to fail, hence no penalty is sustainable.
- The appellant prays to set aside the impugned Order-in-Original dated 29.02.2023 which is void of merits.

**3.1** On going through the appeal memorandum, it is noticed that the impugned orders were issued on 29.02.2023 and the present appeals, in terms of Section 85 of the Finance Act, 1994, were filed on 14.06.2023 i.e. after a delay of 17 days from the last date of filing appeal. The appellant on 14.06.2023, have filed a Miscellaneous Application seeking condonation of delay stating that the OIOs dated 29.02.2023 were actually received by them on 28.03.2023. Further, as their head office is located in Haryana it took some time to get a local professional who could advise them in filing appeal and making pre-deposit. They, therefore, requested to condone the delay of 17 days, which is within the condonable period.

**4.** Personal hearing in the matter was held on 08.03.2024. Shri Rahul Gujera, Advocate, appeared on behalf of the appellant. He reiterated the submissions made in the appeal memorandum. Further he informed that two SCNs and two OIOs have been issued for the same period which is not proper. One OIO should be straightaway dropped on this ground.

**5.** Before taking up the issue on merits, I will first decide the Miscellaneous 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 Act, 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 cause of delay as genuine, I condone the delay of 17 days and take up the appeal for decision on merits.

**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 and as well as the submissions made at the time of personal hearing. The issue to be decided in the present



case is as to whether; the service tax demands of **Rs.5,70,225/-** and **Rs.23,76,900/-** alongwith interest and penalties, confirmed in the impugned orders 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. 2016-17.

**6.1** From the facts of the case it is observed that both the SCNs were issued for same F.Y. 2016-17. In both the SCNs, demands have been arrived based on same income i.e Rs. 1,58,45,999/-. In the first SCN the demand is for Rs.5,70,225/- and in the subsequent SCN the demand is for Rs.23,76,900/-. When one SCN has been issued, then for the same period and on same issue another SCN cannot be issued. It is settled principle that there cannot be two demands for same period on same issues. Hon'ble High Court of Calcutta in the matter of **Simplex Infrastructures Ltd. Versus Commissioner of Service Tax, Kolkata-2016 (4) TMI 548** –while following the ratio in Avery India Ltd. V/s UOI -(2011) (268 ELT 64) read with Hon'ble Supreme Court in the case of Dankan Industries Ltd. V/s CCE, New Delhi (2006) (201 ELT 517) held that; two show cause notices could not have been issued in relation to the same period. This is not permissible in law as held by the Hon'ble Calcutta High Court in Avery India Ltd. Vs. Union of India. In light of above judicial pronouncements, I find that the demand raised vide the second SCN shall not sustain legally as one cannot be allowed to re-agitate a matter afresh for which already a notice exist. Accordingly, I find that the impugned OIO No.129/DC/D/VM/2022-2023 dated 29.02.2023, adjudicating the second SCN shall be unlawful when the earlier SCN for same period exist. Hence, I set-aside the impugned OIO No.129/DC/D/VM/2022-2023 dated 29.02.2023, being non-maintainable.

**6.2** Coming to the demand raised under first SCN and adjudicated vide OIO No. No.130/DC/D/VM/2022-2023 dated 29.02.2023, it is observed that the entire demand has been raised based on third party data. It is alleged that the appellant has declared an income of Rs.1,58,45,999/- however in their ST-3 Return they have declared taxable value of Rs.1,20,44,500/-, which is less. Hence, service tax demand of Rs.5,70,225/- was raised on the differential value of Rs.38,01,499/-. It is observed that the appellant was granted three personal hearing opportunities by the adjudicating authority however, they did not avail any of these opportunities. They instead requested vide letter dated 16.12.2022 that they would submit point-wise reply to the SCN. However, as mentioned in the impugned order no submission was made before the adjudicating authority, nor any proof submitted denying the above facts. Even in the grounds of appeal, I find the appellant has not put forth any argument justifying non-payment of service tax on differential income nor submitted any documents countering the finding of the adjudicating authority.

**6.3** It is a fact that the appellant was in the business of rendering taxable service of immovable property and were registered with the department. On certain income they have discharged their tax liability. However, they failed to adduce any evidence to establish that they were not liable to pay tax on the differential income. In terms of Section 66B of the Act, service tax will be leviable on all services provided in the taxable territory by a person to another for a consideration other than the services specified in the negative list. The services specified in the negative list therefore go out of the ambit of chargeability of service tax. In the instant case, I find that the appellant has neither claimed that their services are covered under negative list nor claimed any exemption under any notification. In the absence of any claim made and in absence of any documentary evidences, I will concur with the findings of



the adjudicating authority. Accordingly, I uphold the service tax demand of Rs.5,70,225/-, considering the income of Rs.38,01,499/- as taxable income. When the demand sustains there is no escape from the interest liability and the same is also recoverable.

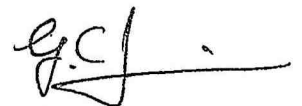
7. The appellant has not declared the correct taxable value/income in the ST-3 return nor did they produce any evidence for such act. These acts thereby led to suppression of the value of taxable service and non-payment of service tax. All these acts undoubtedly bring out the willful mis-statement and fraud with intent to evade payment of service tax. Hence, I find that the extended period of limitation has been rightly invoked. If any of the circumstances referred to in Section 73(1) are established, the person liable to pay tax would also be liable to pay a penalty equal to the tax so determined above. Therefore, the appellant is also liable for equivalent penalty of Rs. 5,70,225/- imposed under Section 78.

8. As regards, the penalty of Rs.10,000/- imposed each under Section 77 (1) and Section 77(2) is concerned; I find the same was imposed as the appellant did not provide the details or information called for the F.Y. 2016-17. Further, they also contravened the provisions of Section 68 and Section 70, hence are liable for penalty under section 77(2) also.

9. In view of the above discussion and findings, I pass following order;

- a) The OIO No. 129/DC/D/VM/2022-2023 dated 29.02.2023 is set-aside being non-maintainable.
- b) The OIO No. 130/DC/D/VM/2022-2023 dated 29.02.2023 is upheld alongwith interest and penalties.

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



(ज्ञानचंद जैन)

आयुक्त(अपील्स)

Date: 18-03-2024



Attested



अधीक्षक (अपील्स)

केंद्रीय जी. एस. टी, अहमदाबाद

By RPAD/SPEED POST

To,

M/s. Sukmaa Buildcon Pvt. Ltd,  
Sukhmaa Buildcon,  
418-P, Opposite Badve,  
Near Honda 2 Wheeler, Vithlapur,  
Ahmedabad-382130

**Appellant**



The Deputy Commissioner  
CGST, Division-III,  
Ahmedabad North

- Respondent

**Copy to:**

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Ahmedabad North.
3. The Assistant Commissioner (System), CGST, Appeals, Ahmedabad.  
(For uploading the OIA)

~~4. Guard File.~~



