



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:- 20240364SW000022002B

(क)	फ़ाइल संख्या / File No.	GAPPL/COM/STP/6183/2023 / 3369 - 73
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-EXCUS-002-APP-292/23-24 dated 22.03.2024
(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. 563/AC/Demand/22-23 dated 27.2.2023 passed by The Assistant Commissioner, CGST Division-I, Ahmedabad North	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	Shivpal Transport Co.a B-302, Shantipath, Nr. S.P. Ring Road Toll Naka Muthiya, Ahmedabad-382330

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:-

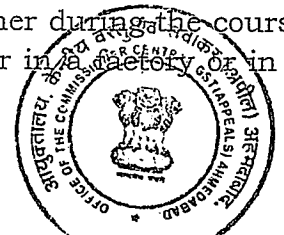
**Revision application to Government of India:**

(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 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 हों।

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 रुपये या उससे कम हों तो रुपये 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.

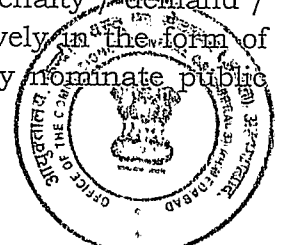
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-  
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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।

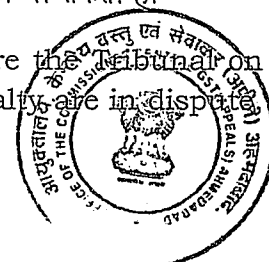
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (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. Shivpal Transport Co., B-302, Shantipath, Nr S.P. Ring Road Toll Naka, Muthiya, Ahmedabad- 382330 (hereinafter referred to as '*the appellant*') have filed the present appeal against the Order-in-Original No. 563/AC/DEMAND/2022-23 dated 27.02.2023 (in short '*impugned order*'), passed by the Assistant Commissioner, Central GST, Division-I, Ahmedabad North, Ahmedabad (hereinafter referred to as '*the adjudicating authority*'). The appellant is holding PAN No. AICPC9664N and were not registered with the department.

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. 2016-17, it was noticed that the appellant in the ITR/Form-26 AS has shown substantial 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. Therefore, the income reflected in the ITR was considered as a taxable income. The detail of the income is as under;

**Table-A**

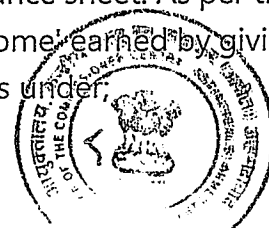
<i>F.Y.</i>	<i>Value as per ITR</i>	<i>Service tax rate</i>	<i>Service Tax liability</i>
2016-17	31,42,056/-	15%	4,71,308/-

2.1 A Show Cause Notice (SCN) No. CGST-Div-1/Unregistered TPV/SCN/2016-17/1219 dated 18.10.2021 was, therefore, issued to the appellant proposing recovery of service tax amount of Rs. 4,71,308/- along with interest under Section 73(1) and Section 75 of the Finance Act, 1994, respectively. Imposition of late fees under Section 70 and penalties under Section 77 (1), 77(2) & Section 78 of the Finance Act, 1994 were also proposed.

3. The said SCN was adjudicated vide the impugned order, wherein the service tax demand of Rs. 4,71,308/- was confirmed alongwith interest. Late fees of Rs.20,000/-under Section 70, Penalty of Rs.10,000/- each under Section 77(1)(a) & 77(1)(c) and penalty of Rs. 4,71,308/- was also imposed under Section 78 of the F.A., 1994. However, penalty under Section 77(2) was not imposed.

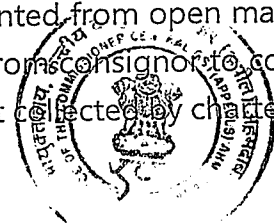
4. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant preferred the present appeal on the grounds elaborated below :-

- The appellant has provided GTA services to another GTA for transportation of goods by providing trucks to GTA service providers and charging freight for the same by issuing Loading Slip. They claim that the said service is exempted vide Sr.No.22 Notification No.25/2012-ST.
- Their customers are mainly GTA service provider. The appellant does not own any trucks as can be seen from the Fixed Assets in the Balance sheet. As per their profit and loss account for the year 2015-16 the 'Freight Income earned by giving Trucks on rent and its freight paid/ operating expenses are as under,



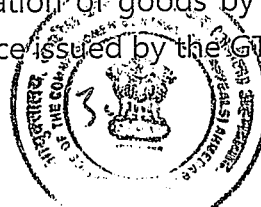
Year	Freight Income	Freight Paid
2016-17	31,42,056	21,12,987

- The appellant could not file the reply to SCN as the SCN and P.H. letters were issued to old address.
- The Appellant has filed Income tax return as per section 44AD under Income Tax Act u/s 44AD for which books are not required to be maintained by person but all the documents such as Invoices/ Loading memo issued are maintained. It contains the details of Nature of Business carried out by the appellant, details of books of accounts maintained by them. The appellant is furnishing Balance sheet and Profit and Loss accounts. The Form 26AS contains the details of TDS under Section 194C) of the Income Tax Act, 1961 by the customers of the appellant. TDS deducted under Section 194C is in relation to Freight service provided by way of renting of Trucks. The names of the customers who have deducted TDS under Section 194C apply- make it clear that they are engaged in the GTA services. Therefore, authenticity of the contention of the appellant that they are providing Trucks on rental basis could be established. Appellant hires trucks from open market at market price and supply to their customer as demanded.
- The meaning of Freight is not defined anywhere in the Finance Act, 1994. Freight is the price or compensation paid for the transportation of goods by a carrier. There are various business models in the transportation of goods business. Some of the business models are described as under;
  - (i) The person owns vehicle and transport goods from consignor to consignee. In this case Consignment notes would be issued by the Transporter.
  - (ii) The person does not own vehicles or is having less vehicles, however his transportation business demands more vehicle, in such scenario such transporter of goods would hire/ charter vehicle from other owning vehicle. This model called Renting model. The customer does not buy a product, but instead rents it. This lowers the capital typically needed to gain access to the product. The company itself benefits from higher profits on each product, as it is paid for the duration of the rental period. Both parties benefit from higher efficiency in product utilization as time of non-usage, which unnecessarily binds capital, is reduced on each product.
  - (iii) Commission Agent. Sometimes a person transports the goods on commission basis. In this case the person does not owns vehicle, however transport goods from consignor to consignee by diverting business to other person in return of certain markup called commission. In this case consignment note would be issued by the person to whom business is diverted by the commission agent.
- The appellant was giving their Trucks and trailer rented from open market on hire basis to the person who actually transport goods from consignor to consignee i.e. second model and to GTA service provider. The rent collected by chartering vehicle



is recognized in the books as Freight Receipt by the appellant in their books of account. Further it was also submitted by the appellant before the learned adjudicating authority that they are giving their Trucks to Transporter of the goods and also trailer to body corporate and firms and charging for such chartering from the person who actually loading the goods from the consignor for consignee. This being the case the appellant submitted that such an activity is specifically covered in Sr.No.22 of Notification No.25/2012-ST and No.30/2012-ST accordingly they are not required to pay service tax. The appellant is engaged in supply of Trucks on rental basis to other GTA service providers. The appellant is recording their Income in relation to Freight by 'Loading Slips' [Specimen copies of Loading Slips are submitted. The details of such Specimen copies of Loading Receipt, date, name of the customers, Freight amount, Movement and Journal voucher number in the Freight Register are also provided. The details of Loading Slips are duly entered in the 'Freight Receipt Ledger' which was produced before the learned adjudicating authority.

- The customers of the appellant are renowned Goods Transport Agencies, who have actually transported the goods for their customers and issues Consignment Notes and collect freight from their customers and their customers are liable to discharge service tax under RCM for the freight amount shown in the Consignment notes issued by the customers of the appellant who actually transport the goods in the Trucks supplied by the Appellant on Rental basis. Therefore, the appellant contend that they are not engaged in transportation of goods but engaged in supply of Trucks on rental basis to GTA service provider.
- Board vide Circular No. 186/5/2015-S.T., dated 5-10-2015 has clarified that the Goods Transport Agency (GTA) has been defined to mean any person who provides service to a person in relation to transport of goods by road and issues consignment note, by whatever name called. The service provided is a composite service which may include various ancillary services such as loading/ unloading, packing/unpacking, transshipment, temporary storage etc., which are provided in the course of transportation of goods by road. These ancillary services may be provided by GTA himself or may be sub-contracted by the GTA. In either case, for the service provided, GTA issues a consignment note and the invoice issued by the GTA for providing the said service includes the value of ancillary services provided in the course of transportation of goods by road. These services are not provided as independent activities but are the means for successful provision of the principal service, namely, the transportation of goods by road. A single composite service need not be broken into its components and considered as constituting separate services, if it is provided as such in the ordinary course of business. Thus, a composite service, even if it consists of more than one service, should be treated as a single service based on the main or principal service. While taking a view, both the form and substance of the transaction are to be taken into account. The guiding principle is to identify the essential features of the transaction. The interpretation of specified descriptions of services in such cases shall be based on the principle of interpretation enumerated in section 66F of the Finance Act, 1994. Thus, if ancillary services are provided in the course of transportation of goods by road and the charges for such services are included in the invoice issued by the GTA, and not by



any other person, such services would form part of GTA service and, therefore, the abatement of 70%, presently applicable to GTA service, would be available on it. It is also clarified that transportation of goods by road by a GTA, in cases where GTA undertakes to reach/deliver the goods at destination within a stipulated time, should be considered as 'services of goods transport agency in relation to transportation of goods' for the purpose of Notification No. 26/2012-S.T., dated 20-6-2012, serial number 7, so long as (a) the entire transportation of goods is by road; and (b) the GTA issues a consignment note, by whatever name called.

- In the case of the appellant, they have not carried out entire transportation of goods by road and not issued consignment note. Instead they are providing the Trucks hired from open market by them on rent to the GTA service provider. The consideration so received is referred by them as freight in their books. In other words, the service of the appellant is the input service for the GTA service provider and is rightly classifiable and exempted vide Sr.No.22 of Notification No.25/2012-ST.
- No liability to pay interest under Section 75, no penalty under section 77 or section 78 of the Finance Act, 1994 is imposable. As service is not liable to service tax being exempted vide Sr.No.22 of Notification No.25/2012-ST, no interest is payable by them under Section 75 of the Finance Act,1994.
- As regard to imposition of penalty of Rs.10,000/- under Section 77 of the Finance Act,. However, it is also submitted by the appellant that they have not committed any offence which attract penalty under section 77 of the Finance Act, 1994.
- As regard to penalty under Section78 imposed, the appellant contend that as submitted in the aforesaid grounds of appeal, they are not liable to pay any service tax as demanded form them, no penalty is imposable upon them.

5. Personal hearing in the appeal matter was held on 15.03.2024. Shri Basant Sharma, Consultant appeared on behalf of the appellant for personal hearing. He stated that the client provides motor vehicles to GTA which is exempt under Sr.No.22 of the exemption Notification No.25/2012-ST.

6. 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 **Rs.4,71,308/-** 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 **2016-2017**.

6.1 The entire demand has been raised on the income of Rs.31,42,056/- reflected in the ITR on which no tax was discharged. The demand was confirmed on the grounds that the appellant has not produced any documents either to substantiate that their services fall under negative list or to prove that their services are exemption. The appellant however claim that they are engaged in supply of trucks on rental basis to other GTA service providers but are not engaged in transportation of goods. The income received was

against the loading slip issued to other GTAs and the same has been recorded as freight in the Books of Account. They claim that hiring of trucks is exempted vide Sr.no.22 of Notification No. 25/2012-ST and have strongly placed reliance on the Advance Ruling of Karnataka passed in the case of Saravan Perumal- 2020(33) GSTL 39 AAR-GST-(Kar) wherein it was held that the services of providing vehicles on hire basis to another GTA is covered under Entry No. 22 of Notification No. 12/2017-CT(Rate) dated 28.06.2017. They claim that both the entries at Sr.No.22 of Notification No. 25/2012-ST and Entry No. 22 of Notification No. 12/2017-CT(Rate) dated 28.06.2017 are identical hence, the said services were exempted prior to introduction of GST and even after introduction of GST. They also relied on Board's Circular No. 186/5/2015-S.T., dated 5-10-2015.

**6.3** It is observed that the appellant in the P&L account has shown the income of Rs.31,42,056/- as 'Freight received' and the ledgers shows that the amounts were received from various Transport Companies or GTAs. They also submitted invoices wherein they have supplied trucks and charged freight. The invoices contain details like Sr.No., name of service recipient (GTA), Truck No., Loading destination from & to and Freight amount. Their invoices specifically mention that they are Transport Contractor and Lorry Supplier.

**6.4** In terms of Section 65B Clause (26) "**goods transport agency**" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called. In terms of Rule 4B of the Service tax Rules, 1994, a GTA shall issue a consignment note against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency. In the instant case the appellant have issued loading receipt wherein the name of GTA / transporter is mentioned alongwith the place of origin & destination, weight and freight. There is no mention of name of consignor and consignee and who shall pay service tax, details of the goods transported etc. The receipt issued by them cannot be considered as a consignment note as all the mandatory details required are not mentioned. If a consignment note is not issued by the transporter, the service provider will not come within the ambit of goods transport agency. In **Nandganj Sihori Sugar Co. v. CCE (2014) 46 GST 570**, it was held that consignment note issued by GTA represents its liability to – (a) transport consignment handed over to it to destination (b) undertake delivery of same to consignee and (c) temporarily store till delivery. Mere bill issued for transportation of goods cannot be treated as a Consignment Note. Service provided by person who does not issue consignment note is not taxable. As the appellant has not issued any consignment note, hence, I find that the services rendered by the appellant is not GTA service.

**6.5** The appellant claim that they were actually providing vehicles on hire basis to other GTAs and was charging certain amount as rent. From the Freight Ledgers, it is observed that the appellant has been receiving income from other GTAs to whom they gave trucks/trailers on hire. The appellant does not own these vehicles but acquired on rent and further rented them to other GTAs. I find that the services by way of giving on hire to a GTA as a means of transportation of goods is exempted vide Entry No. 22 of the Mega





Notification No. 25/2012-ST dated 20.06.2012. Relevant text of the notification is reproduced below;

**22. Services by way of giving on hire –**

(a) to a state transport undertaking, a motor vehicle meant to carry more than Twelve passengers; or

(b) to a goods transport agency, a means of transportation of goods;

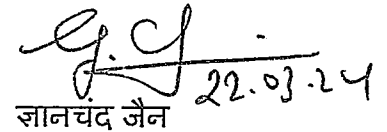
As the services of giving a means of transportation of goods i.e. vehicles to GTA are exempted, the appellant shall also be eligible for said exemption. Accordingly, I find that the recovery of Service tax amount of Rs.4,71,308/- on the hiring income is not legally sustainable.

7. When the demand does not sustain, question of interest and penalty also does not arise. Accordingly, I find that the impugned order is liable to be set aside.

8. In view of the above discussion, I set-aside the impugned order and allow the appeal of the appellant.

9. 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.

  
जानचंद जैन 22.03.24

आयुक्त (अपील्स)

Dated: 22.03.2024

सत्यापित/Attested :

  
अधीक्षक (अपील्स),

सी जी एस टी, अहमदाबाद

**By RPAD/SPEED POST**

To,  
M/s. Shivpal Transport Co.,  
B-302, Shantipath,  
Nr S.P. Ring Road Toll Naka, Muthiya,  
Ahmedabad- 382330

**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 North.  
(For uploading the OIA)
4. Guard File.



