



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- टेलीफैक्स 07926305136



DIN:20230764SW000027532C

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/2700/2022-APPEAL/3446-50
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-002-APP-44/2023-24
दिनांक Date : 30-06-2023 जारी करने की तारीख Date of Issue 20.07.2023
आयुक्त (अपील) द्वारा पारित
Passed by Shri Shiv Pratap Singh, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. 24/AC?demand/22-23 दिनांक: 29.04.2022, issued by Deputy/Assistant Commissioner, CGST, Division-VI, Ahmedabad-North
- घ अपीलकर्ता का नाम एवं पता Name & Address

1. Appellant

M/s Shailesbhai Bhavanbhai Dhanani,
720, Surjit Society, Opp. Satsang School,
India Colony, Ahmedabad-380038

2. Respondent

The Deputy/ Assistant Commissioner, CGST, Division-VI, Ahmedabad
North, Ground Floor, Jivabhai Mansion Building, Aashram Road,
Ahmedabad - 380052

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।

(ii) 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 मामले 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 इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का 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.

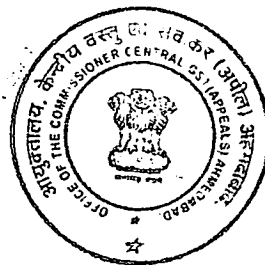
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 पढ़ी 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 अनुसूची-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. Shaileshbhai Bhavanbhai Dhanani, 720, Surjit Society, Opp. Satsang School, India Colony, Ahmedabad – 380038 (hereinafter referred to as “the appellant”) against Order-in-Original No. 24/AC/Demand/22-23 dated 29.04.2022 (issued on 06.05.2022), (hereinafter referred to as “the impugned order”) passed by the Assistant Commissioner, Central GST, Division I, 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. AGAPD4546L. 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. 35,14,882/- during the FY 2014-15, which was reflected under the heads “Sales / Gross Receipts from Services (Value from ITR)” provided by 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 accounts, Income Tax Returns, 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. Div-1/TPD/Unreg/Shailshbhai/2020-21 dated 29.09.2020 demanding Service Tax amounting to Rs. 4,34,439/- for the period FY 2014-15, 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; and imposition of penalties under Section 77(1)(a), Section 77(1)(c), Section 77(2)& Section 78 of the Finance Act, 1994. The Show Cause Notice also proposed demand of unquantified Service Tax for the FY 2015-16 & FY 2017-18 (upto Jun-2017) under proviso to Sub-Section (1) of Section 73 of the Finance Act, 1994.

2.2 The Show Cause Notice was adjudicated vide the impugned order by the adjudicating authority and the demand of Service Tax amounting to Rs. 4,34,439/- 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. 4,34,439/- was also imposed on the appellant under Section 78 of the Finance Act, 1994; and (ii) Penalty of Rs. 10,000/- was imposed on the appellant under Section 77 of the Finance Act, 1994.

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

- The appellant were engaged in providing job work embroidery service in relation to textile processing and also engaged in sale of material and sometime labour services



related to construction activities in certain cases as required by customer during the FY 2014-15. They were availing benefit given under Mega Exemption Notification No. 25/2012-ST dated 20.06.2012 for providing job work services.

- During the FY 2014-15, they have received total income of Rs. 35,14,882/-, which contains the income from job work embroidery service in relation to textile processing; sale of material and some time labour services related to construction activities. The bifurcation of the same is as under:

Sr. No.	Income Head	Amount (in Rs.)
1	Job work embroidery service in relation to textile processing	18,87,982/-
2	Sale of material related to Civil Work	7,78,831/-
3	Labour services related to Civil Work	8,48,069/-
	Total	35,14,882/-

- The appellant claimed the benefit of Sr. No. 30 of the Notification No. 25/2012-ST dated 20.06.2012 for providing job work services. They have submitted copies of sample invoices issued for job work services along with appeal memorandum.
- With regard to remaining service income, the appellant submitted that there is no liability for obtaining service tax registration to the extent of service provided upto ten lakh as per the Notification No. 33/2012-ST dated 20.06.2012. They have submitted copies of Profit & Loss Account and Form 26AS for the FY 2013-14 and FY 2014-15.

3.1 The appellant have vide their letter dated 19.05.2023 submitted copies of tax invoices for embroidery work job work charges the FY 2014-15 as additional documents.

4. On going through the appeal memorandum, it is noticed that the impugned order was issued on 06.05.2022 and received by the appellant on 28.05.2022. However, the present appeal, in terms of Section 85 of the Finance Act, 1994 was filed on 24.08.2022, i.e. after a delay of 27 days from the last date of filing of appeal. The appellant in their Application seeking condonation of delay stated that due to managerial and financial crisis, the authorized signatory to file the appeal was not available. Thus, it resulted in delay of 27 days. They requested to condone the delay as the delay was within the condonable period.

4.1 Personal Hearing in the matter of condonation of dealy application was granted on 31.05.2023. Ms. Aashal Patel, Chartered Accountant, appeared for the hearing on behalf of the appellant. She re-iterated submissions made in application for condonation of delay in filling appeal. She further stated that the firm is not registered and there was financial hardship, which led to delay in filing appeal.



4.2 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 cause of delay as genuine the then Commissioner (Appeals) condoned the delay of 27 days and ordered for taking up the appeal for decision on merits.

5. Personal Hearing in the matter was granted on 23.06.2023. Shri Arjun Akruwala, Chartered Accountant and Ms. Aashal Patel, Chartered Accountant, appeared for personal hearing on behalf of the appellant. They re-iterated the submission made earlier in the appeal and the additional written submission. They submitted that the appellant has earned income from job work relating to textile embroidery, supply of labour and trading of goods. The job work income from textile work is exempted under the mega exemption Notification No. 25/2012-ST. The income from trading of goods is out of purview of service tax. The remaining income from supply of labour is below the threshold limit of Rs. Ten lakh. They undertook to submit copies of invoices relating to trading of goods and supply of labour along with copy of ITR, within a week. They requested to set aside the impugned order.

5.1 Subsequently, the appellant have submitted copies of invoices relating to trading of goods and supply of labour along with copy of ITR for the FY 2014-15 as assured during the course of personal hearing.

6. I have carefully gone through the facts of the case, grounds of appeal, submissions made in the Appeal Memorandum and those during the course of personal hearing 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 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.

7. I find that the main contentions of the appellant are that (i) they are engaged in embroidery job work in relation to textile processing, and the said services provided by them were exempted from service tax as per Sr. No. 30 of Notification No. 25/2012-ST dated 20.06.2012; (ii) their income for FY 2014-15 also sale of goods income; (iii) their remaining income was below Rs. 10 lakh and exempted from service tax as per Notification No. 33/2012-ST dated 20.06.2012.

8. For ease of reference, I hereby produce the relevant text of the Notification No. 25/2012-ST dated 20.06.2012, as amended, which reads as under:

"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;"

9. On scrutiny of the documents submitted by the appellant viz. sample invoices for the embroidery job work, it appears that the appellant is engaged in job work in relation to textile processing, which is not amounting to manufacture or production. Therefore, the job work carried out by the appellant was exempted from service tax as per Sr. No. 30(a) of Notification No. 25/2012-ST dated 20.06.2012 and the appellant is not required to pay service tax on income of Rs. 18,87,982/- related to embroidery job work received during the FY 2014-15.

9.1 On scrutiny of the remaining invoices submitted by the appellant viz. copies invoices for Trading of goods and copies of invoices for labour work carried out for M/s. Miral Infrastructure, Ahmedabad, it appears that the appellant also engaged in trading of goods viz. Cement, Sand, Kapchi, etc. and civil construction labour work for M/s. Miral Infrastructure, Ahmedabad and earned an income of Rs. 7,78,831/- from Trading of goods and Rs. 8,48,069/- from Labour service. I find that the sale of goods / trading of goods falls in Negative List as per Section 66D(e) of the Finance Act, 1994. Hence, the appellant are not liable to pay service tax on the said amount of Rs. 7,78,831/- during the FY 2014-15. Section 66D(e) of the Finance Act, 1994 reads as under:

"SECTION 66D. Negative list of services.—

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

(a)

(e) trading of goods;"



9.2 As regards the leviability of service tax on the remaining income of Rs. 8,48,069/- and that whether the benefit of threshold limit of exemption as per the Notification No. 33/2012-ST dated 20.06.2012 is admissible to the appellant or not, I find that the total value of taxable service provided during the Financial Year 2013-14 was Rs. 7,82,700/- as per the Profit & Loss Account for the FY 2013-14 submitted by the appellant, which is relevant for the value based exemption under Notification No. 33/2012-ST dated 20.06.2012 for the FY 2014-15. I also find that the remaining taxable income received by the appellant was Rs. 8,48,069/- during the Financial Year 2014-15. Therefore, the appellant are eligible for benefit of exemption upto a value of taxable service amounting to Rs. 10,00,000/- during the FY 2014-15 and they are also not liable to pay Service Tax on remaining amount of Rs. 8,48,069/- for the FY 2014-15.

10. I also find that the adjudicating authority had, while confirming the demand of Service Tax, held as under:

"14.2 I find that while going through the written submission dated 27.10.2020 and attached documents, the noticee has stated that their work is related to job work of embroidery and that is exempted vide Notification No. 25/2012 for the period of FY 2014-15 to 2016-17. I find that the party has submitted copy of 26AS whereas it is clear that the Noticee has giving services to M/s. Miral Infrastructure, which is a Construction Partnership Firm, therefore it is related to the construction work and not embroidery job work.

14.3 Further, I find that the noticee has submitted contradictory profit and loss accounts for year 2014-15. While going through their submission dated 27.10.2020, it is noticed that they have shown their income Rs. 35,14,882/- from Embroidery Job Work, on other hand while going through their submission dated 23.03.2022, it is noticed that they have shown their income Rs. 18,87,982/- from Embroidery Job Work and Rs. 16,26,900/- from Labour Work, thus they contradict their submissions and it appears that they have submitted false documents.

15. Further they failed to provide any related documents or contract copies with this infrastructure entity i.e. M/s. Miral Infrastructure to prove their nature of service. They also failed to provide bank statements and copy of challans and invoices to support their submissions.

16. I therefore on the basis of available records / evidences conclude that the said noticee provided the taxable service during the relevant period as discussed and as such applicable service tax is leviable and recoverable on the same. They do not have any documentary evidences in their support and agree with the view taken by the revenue and have no evidence to defend themselves. On the contrary they have submitted two profit and loss accounts for the same financial year and both shown different-different source



of earning, which don't appear original. I therefore conclude that the said noticee provided the Taxable service during the relevant period as discussed and as such applicable service tax is leviable and recoverable along with the interest."

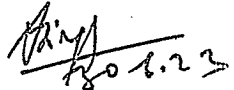
10.1 However, I find that the appellant have not submitted any invoices to the adjudicating authority, whereas, the appellant submitted all the invoices and the other records to this authority to prove their case. On verification of the invoices, I find that the appellant correctly submitted that they have received an income of Rs. 35,14,882/- from Embroidery Job Work; income of Rs. 8,48,069/- from Labour work; and income of Rs. 7,78,831/- from Sale of goods and the same is also matched with the Profit & Loss Account and Form 26AS submitted by the appellant for the said period.

11. In view of above, I hold that the impugned order passed by the adjudicating authority, confirming demand of service tax on the income received by the appellant during the FY 2014-15, is not legal and proper and deserves to be set aside. 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. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.

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

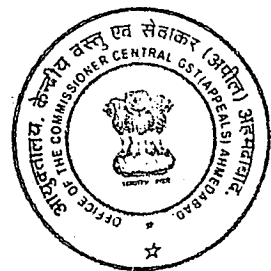
The appeal filed by the appellant stands disposed of in above terms.


(Shiv Pratap Singh)
Commissioner (Appeals)

Attested


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

Date : 30-6-23



By RPAD / SPEED POST

To,
M/s. Shaileshbhai Bhavanbhai Dhanani,
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Opp. Satsang School, India Colony,
Ahmedabad – 380038

Appellant

The Assistant Commissioner,
CGST, Division-I,

Respondent

Ahmedabad North

Copy to :

- 1) The Principal Chief Commissioner, Central GST, Ahmedabad Zone
 - 2) The Commissioner, CGST, Ahmedabad North
 - 3) The Assistant Commissioner, CGST, Division I, Ahmedabad North
 - 4) The Assistant Commissioner (HQ System), CGST, Ahmedabad North
- (for uploading the OIA)

✓ 5) Guard File

6) PA file

