



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:- 20240564SW0000111046

(क)	फ़ाइल संख्या / File No.	GAPPL/COM/STD/503/2023 (4916 - १०)
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-EXCUS-002-APP-03/2024-25 dated 15.04.2024
(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	02.05.2024
(ङ)	Arising out of Order-In-Original No. CGST/WT07/HG/773/2022-23 dated 17.1.2023 passed by The Assistant Commissioner, CGST Division-VII, Ahmedabad North	
(च) (i)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	The Assistant Commissioner, CGST Division-VII, Ahmedabad North
(च) (ii)	अपीलकर्ता का नाम और पता / Name and Address of the Respondent	Anil Kumar Nair D--10/117, Nandanvan Apartment Near Bhavsar Hostel, Nawa Wadaj Ahmedabad

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:-

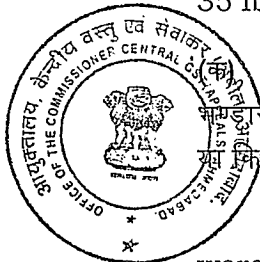
**Revision application to Government of India:**

(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 :-

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 रुपये या उससे कम होतो 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.

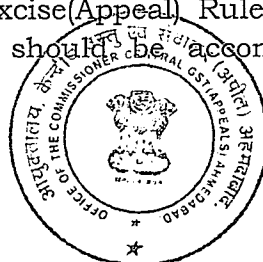
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-  
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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.

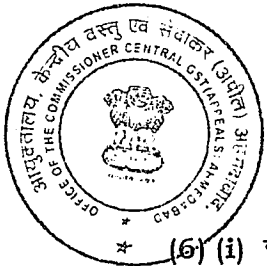
(6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) एके प्रति अपील के मामले में कर्तव्यमांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the 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**

The present appeal has been filed by the Deputy Commissioner, CGST, Division-VII, Ahmedabad North, Ahmedabad (hereinafter referred to as '*the appellant*') in pursuance of Review Order No.01/2023-24 dated 16.05.2023 issued under Section 84(1) of the Finance Act, 1994 by the Commissioner, Central GST, Ahmedabad North, against the Order-in-Original No. CGST/WT07/HG/773/2022-23 dated 17.01.2032 (in short '*impugned order*') passed by the Deputy Commissioner, Central GST, Division-VII, Ahmedabad North (hereinafter referred to as '*the adjudicating authority*') in the case of M/s. Anil Kumar Nair, D-10/117, Nandanvan Apartment, Nr. Bhavsar Hostel, Nava Vadaj, Ahmedabad (hereinafter referred to as '*the respondent*'), holding PAN No.AHDPN8107F.

2. The facts of the case, in brief, are that the respondent is engaged in providing taxable service without taking registration. Based on the income data received from the Central Board of Direct Taxes (CBDT) for the F.Y. 2014-15, it was noticed that the respondent has not discharged the service tax liability on the income reflected under 'Sales/Gross Receipts' from services declared in ITR/Form 26AS. Letters were subsequently issued to the respondent to explain the reasons for non-payment of tax and to provide certified documentary evidences for the F.Y. 2014-15. However, neither any documents nor any reply was submitted by them for non-payment of service tax on such receipts.

F.Y.	Sales/Gross Receipts as per ITR/Form-26AS	Service tax rate	Service Tax payable
2014-15	28,82,204/-	12.36%	3,56,240/-

2.1 A Show Cause Notice (SCN) No. CGST/AR-V/Div-VII/A'bad-North/50/2020-21 dated 27.09.2020 was therefore, issued to the respondent proposing service tax demand of Rs.3,56,240/- on the income received during the F.Y. 2014-15, along with interest under Section 73(1) and Section 75 of the Finance Act, 1994, respectively. Imposition of penalty under Sections 77(1), Section 77(2) and under Section 78 of the Finance Act, 1994 were also proposed.

2.2 The said SCN was adjudicated vide the impugned order, wherein the service tax demand of Rs.3,56,240/- was dropped along with interest and penalties on the grounds that the respondent is not required to discharge any tax liability as the taxable income was earned against the outdoor catering services provided in the factory premises of M/s. Steel Strong Valves (India) Pvt. Ltd and M/s. Shayburg Valves Pvt. Ltd. are exempted vide Sr. No. 19A of Notification No. 25/2012-ST dated 20.06.2012.

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

- The impugned order is not legal, correct and proper as the adjudicating authority has failed to correctly consider the benefit of Sr. 19A of the Notification



No.25/2012-ST dated 20.06.2012 by holding that the said assessee was not liable to pay service tax on the income earned by them by way of catering services in canteen of the factory premises of M/s Steel Strong Valves (India) Pvt. Ltd and M/s Shayburg Valves Pvt. Ltd. The adjudicating authority has failed to infer the matter with aspect to service provided as catering service in the canteens of M/s Steel Strong Valves (India) Pvt. Ltd and M/s Shayburg Valves Pvt. Ltd and wrongly allowed the benefit of exemption under Notification No. 25/2012-ST dated 20.06.2012 (Sr. No.19A) reproduced as under:

*"19A. Service provided in relation to service of food or beverages by a canteen maintained in a factory covered under the factories Act, 1948, having the facility of air conditioning or central. air-heating at any time during the year".*

- On plain reading the wording of Sr. 19 A of the Notification No. 25/2012-ST dated 20.06.2012, inserted vide Notification No. 14/2013-ST dated 22.10.2013, it appears that the exemption from the payment of service tax would be restricted to services provided in relation to serving of food or beverages by a canteen maintained in a factory whereas looking to the invoices produced in the OIO, it appears that the said assessee were charging for supply of lunch/Dinner/Tea on monthly basis hence the service provided by the said assessee would suitably be covered under the category of "Outdoor Catering Service" and attract the service tax liability on the same.

*"Outdoor caterer" means a caterer engaged in providing services in connection with catering at a place other than his own but including a place provided by way of tenancy or otherwise by the person receiving such services. As per Section 65(76a) of Finance Act, 1994, "Caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion; as per Section 65(24) of the Finance Act, 1994."*

- The service of outdoor catering is neither covered under negative list nor under exemption notification from payment of service tax. In view of above grounds, it is felt that the Adjudicating Authority has erred in dropping the entire demand by allowing the benefit of exemption from payment of service tax in terms of Notification No. 25/2012-ST dated 20.06.2012 (Sr. No. 19A). The amount received by respondent and representing, as reimbursable expenses was received towards provision of services and service tax was required to be paid as and when such amount was received by service provider. Thus, the adjudicating authority has erred in allowing deduction of such amount which has resulted in not recovering the short payment of service tax of Rs.3,93,276/- and interest thereon. Reliance is placed on decision passed in the case of CCE Vs Jubilant Enpro Pvt Ltd.- 2016 (41) STR 679 (Tri-Mumbai).
- The adjudicating authority thus erred in dropping the demand, interest and penalty. It is prayed to set-aside the impugned order and pass an order confirming the service tax demand of Rs.3,93,276/- along with interest and penalty.



4. Personal hearing in the matter was held on 14.03.2024. Ms. Gargi Parth Bhatt, Chartered Accountant, appeared on behalf of the respondent. She stated that the O-I-O has correctly dropped the demand. Further, she requested for one week's time to make additional submission. She also stated that even for argument sake if their client has provided outdoor catering services, then they are eligible for the benefit of exemption under Sr. No. 29(h) of Exemption Notification No.25/2012-ST as sub-contractor as the main contractor i.e. the factories are providing canteen services for their employees which are exempt under Sr.No.19A of the Notification No.25/2012-ST. Hence, both ways they are not liable for payment of service tax.

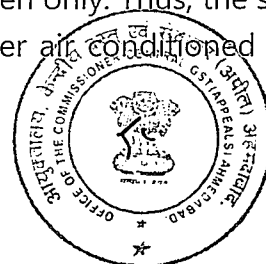
5. The respondent filed the cross-objection on 20.03.2024, contesting the above grounds of appeal, on the argument detailed below:-

- In terms of Notification No.25/2012-ST dated 20.06.2022, as amended vide Notification No. 14/2013-ST, following services are exempted.

*"19. Service provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year."*

*"19A. Service provided in relation to service of food or beverages by a canteen maintained in a factory covered under the factories Act, 1948, having the facility of air conditioning or central air-heating at any time during the year".*

- On plain reading of Entry 19A in the Notification dated 22.10.2013, it is clear that the canteen maintained in a factory has been provided with the exemption from payment of service tax. The said notification nowhere provided that canteen maintained by or run by the factory can only be considered for the benefit of such exemption. Therefore, the findings that services of canteen is provided by the appellant to factory owners and factory owners had provided the same to employees and thus the exemption is available only to main service provider is not sustainable. Irrespective of the person, who maintains the canteen in a factory, the service tax exemption as per Entry No.19A is available to such person and the benefit cannot be restricted to the owner of the factory alone. Also, the words used in the above notification are canteen maintained "in a factory" and not "by the factory".
- The above exemption shall be applicable to both an employer who is maintaining the canteen on its own as well as to those who are getting the services from an outdoor caterer. On combined reading in entry 19 & 19A of the exemption, it appears that the intention of the government was to grant exemption to service provided for serving food and / or beverages by a canteen maintained in a factory which is covered under or governed by Factories Act, 1948, whether or not having the facility of air conditioning or air-heating at any point of time in a year. While Entry no. 19 uses the word eating joint (which is much wider in scope), Entry No. 19A is specific to canteen only. Thus, the services provided by a canteen maintained in a factory, whether air conditioned or not, would be exempt under Entry No. 19A.



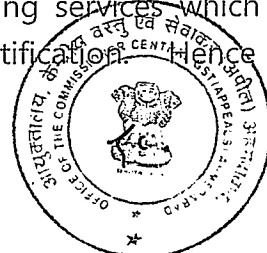
- The service rendered by an outdoor caterer is clearly distinguishable from the service rendered in a restaurant or hotel in as much as, in the case of outdoor catering service, foods/eatable/drinks are the choice of the person who partakes the services. In Outdoor caterers, the person who partakes the services is free to choose the kind, quantum and manner in which the foods is to be served. But in the case of restaurant, the customer's choice of foods is limited to the menu card. In the case of outdoor catering is at liberty to choose the time and place where the food is to be served. The customer negotiates each element of the catering service, including the price to be paid to the caterer. The outdoor catering has the element of personalized service provided to the customer. It cannot be considered as a case of sale of food and drink in restaurant. Reliance is placed on following case laws;
- M/s. Bhimas Hotels Pvt. Ltd- 2017 Tax Corp (ST) 26216 (HC-AP)
  - ICS Foods Pvt Ltd. -2018 Tax Corp (ST) 31933 (CESTAT-Ahmd)
  - Shri Mohanan Nambisan- 2021 Tax Corp (ST) 37371 (CESTAT-Mumbai)
  - Sai Food Services- 2020 Tax Corp (ST) 36682 (HC-AP)
- In view of the above, judgments, it is clear that the appellant has provided catering services to the factories covered under the exemption notification hence exempted from payment of service tax.

6. I have carefully gone through the facts of the case, the impugned order passed by the adjudicating authority, submissions made by the appellant in the appeal memorandum, the submission made by the respondent in the cross-objection as well as those made during personal hearing. The issue to be decided in the present case is as to whether the service tax demand of **Rs.3,56,240/-** dropped along with interest and penalties in the impugned order 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. 2014-15**.

6.1 On examination of the SCN, it is observed that the total service tax liability of Rs.3,56,240/- for the F.Y. 2014-15 was ascertained on the basis of income data shared by CBDT. The adjudicating authority observed that the respondents were providing the outdoor catering services in the canteens of M/s. Steel Strong Valves (India) Pvt. Ltd and M/s. Shayburg Valves Pvt. Ltd. which are exempted vide Sr. No. 19A of Notification No. 25/2012-ST dated 20.06.2012. The demand proposed in the SCN was therefore dropped.

6.2 However, Revenue is in appeal challenging the above findings on the grounds that as per the invoices the respondent have provided tea, coffee and had charged on monthly basis. It is contended that Sr. No. 19A of Notification No. 25/2012-ST dated 20.06.2012 exempts the serving of foods and beverage by a canteen maintained in a factory whereas the respondent was providing foods and beverages and charging on monthly basis. Such services are covered under outdoor catering services which are neither covered under negative list nor under exemption notification. Hence the respondent is liable to pay service tax.



6.3 I have gone through the documents submitted by the respondent. The appellant has raised invoices to M/s. Steel Strong Valves (India) Pvt. Ltd and M/s. Shayburg Valves Pvt. Ltd. for providing Food & Beverages to their employees. These invoices were raised on monthly basis.

6.4 In terms of **Sr.No.No.19** of Notification No. 25/2012-ST dated 20.06.2012, following service was exempted. Relevant text is re-produced below;

*19. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having (i) the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and (ii) a licence to serve alcoholic beverages;*

Thereafter, vide Notification No. 14/2013-ST, a new **Sr. No. 19A** was inserted vide which following service was also provided exemption from 22.10.2013.

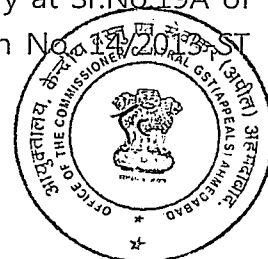
*"19A. Service provided in relation to service of food or beverages by a canteen maintained in a factory covered under the factories Act, 1948 (63 of 1948), having the facility of air conditioning or central air-heating at any time during the year".*

6.5 Thus, in terms of Entry No.19, the service provided in relation to serving of food or beverages by a restaurant / eating joint/mess that does not have the facility of air conditioning or central air-heating in any part of the establishment was exempted. Subsequently, this exemption was extended to canteens which provided service in relation to serving of food or beverages having air conditioning or central air-heating facility at any time during the year, maintained in a factory covered under the Factories Act, 1948.

6.6 A canteen is a statutory requirement under the provisions of Section 46 of the Factories Act, 1948. The facility of air-conditioning or air-heating if available in the part of the year, even then such exemption is available to such factory canteen. Such exemption is applicable to the canteen run in an office.

6.7 On combined reading of Entry No. 19 and 19A of the exemption notification, it is apparent that the intention of the Government is to grant exemption from Service Tax in relation to services provided for serving of food and / or beverages by a canteen maintained in a factory which is covered under or governed to the Factories Act, 1948, whether or not having the facility of air-conditioning or air-heating at any point of time in a year. While entry 19 uses the word eating joint (which is much wider in scope), entry 19A is specific to canteen only. Thus, the services provided by a canteen maintained in a factory, whether air-conditioned or air heating facility is available in any part of the year, would be exempt under entry 19A.

6.8 In the instant case, the respondent was providing service in relation to serving of food or beverages at the canteen of M/s. Steel Strong Valves (India) Pvt. Ltd and M/s. Shayburg Valves Pvt. Ltd. These canteen are not maintained by the appellant but are maintained by the said service recipients. It is observed that the entry at Sr.No.19A of Notification No. 25/2012 dated 20.06.2012 (inserted vide Notification No. 14/2013-ST





dated 22.10.2013), covers the services provided in relation to serving of food or beverages by a canteen maintained in a factory. I find that the service provided by the respondent needs to be re-examined in terms of above clause. Further, it also needs to be examined that the air-conditioned or air heating facility is available in the canteen in any part of the year. So, in the interest of natural justice, the matter needs to be remanded back to the adjudicating authority to verify the claim made by the appellant and pass a fresh order in the matter. The adjudicating authority shall grant a reasonable opportunity of personal hearing to the respondent.

7. In light of above discussion, I set-aside the impugned order and allow the appeal filed by the appellant by way of remand.

8. 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.

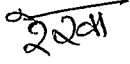


(ज्ञानचंद जैन)

आयुक्त(अपील्स)

Date: 15.04.2024

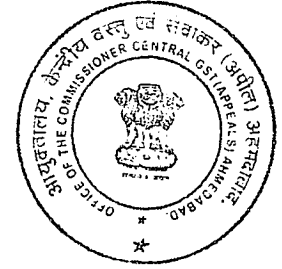
Attested



(रेखा नायर)

अधीक्षक (अपील्स)

केंद्रीय जी. एस. टी, अहमदाबाद



By RPAD/SPEED POST

To,

The Deputy Commissioner,  
CGST, Division-VII,  
Ahmedabad North,

- **Appellant**

M/s. Anil Kumar Nair,  
D-10/117, Nandanvan Appartment,  
Nr. Bhavsar Hostel, Nava Vadaj,  
Ahmedabad

- **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.~~

