केंद्रीय कर आयुक्त (अपील)

O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,

सत्यमेव जयते

केंद्रीय कर भवन,
सातवीं मंजिल, पोलिटेकनिक के पास,
आम्बावाडी, अहमदाबाद-380015

7th Floor, GST Building,
Near Polytechnic,
Ambavadi, Ahmedabad-380015

☎: 079-26305065

टेलेफैक्स : 079 - 26305136

7548 to 7552

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(ST)10/Ahd-South/2018-19
Stay Appl.No. /2018-19

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-001-APP-0100-2018-19**
दिनाँक Date : **14-11-2018** जारी करने की तारीख Date of Issue 7/12/2018

श्री उमा शंकर आयुक्त (अपील) द्वारा पारित
Passed by Shri. Uma Shanker, Commissioner (Appeals)

ग Arising out of Order-in-Original No. **37/CE-I/Ahmd/ADC/MK/2017** दिनाँक: **29.12.2017** issued by Addl. Commissioner, Div-Ahmd South, Central Tax, Ahmedabad-South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

Azure Knowledge Corporation Pvt.Ltd
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 या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person a 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 चाहें 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.

(b) 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।

... 2 ...

(ब) 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 मामलें में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(b) 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।

(c) 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 डयूटी केडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के प्रावधिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) 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 दिनाँक 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 रूपये या उससे कम हों तो रूपये 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 अपीलः–
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35–बी/35–इ के अंतर्गतः–

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

(क) उपरलिखित 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 ओ–20, न्यू मैन्टल हास्पिटल कम्पाउण्ड, मेघाणी नगर, अहमदाबाद–380016

(a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Metal Hospital Compound, Meghani Nagar, Ahmedabad : 380 016. 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. Registar 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 ओदश 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 हैं।

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 not withstanding 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 अनुसूचि–1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर 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) इस 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 in 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), के प्रति अपीलो के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है ।(Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

(i) *(Section)* खंड 11D के तहत निर्धारित राशि;
(ii) लिया गलत सेनवैट क्रेडिट की राशि;
(iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील' दाखिल करने के लिए पूर्व शर्त बना दिया गया है .

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

(i) amount determined under Section 11 D;
(ii) amount of erroneous Cenvat Credit taken;
(iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस 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. Azure Knowledge Corporation Pvt. Ltd., Azure House, Behind Town Hall, Ellisbridge, Ahmedabad-380006 *(hereinafter referred to as 'appellants')* have filed the present appeal against the Order-in-Original number 37/CE-I/Ahmd/ADC/MK/2017 dated 29.12.2017 *(hereinafter referred to as 'impugned order')* passed by the Addl. Commissioner, CGST, Ahmedabad (South) *(hereinafter referred to as 'adjudicating authority')*;

2. The facts of the case, in brief, are that the appellants were engaged in, among other services, Online Information & Database Access And/or Retrieval Services and Information Technology Software services. During the audit of the appellants, it was noticed that the appellants had incurred foreign currency expenditure towards direct project expenses pertaining to market research survey done by the companies abroad on behalf of the appellants which service ultimately was exported to their clients situated in another country. It was a back to back contract awarded by them which was received from their clients situated in another country. In terms of services, it was informed by the appellants that they were doing international market research and market survey on behalf of abroad party and the said work completely pass on to the other abroad party and the other abroad party was directly in contact with their abroad clients and provide services directly to their abroad clients as per their satisfaction and inform them about the progress of work. In their case service provider and the service recipient are located outside taxable territory hence no service tax was leviable. Since the service tax was not paid by the appellants as per Section 68 (2) of the Finance Act, 1994 read with the Notification 30/2012- ST dated 20.06.2012. the appellants claimed that their services received from foreign service provider fall under the definition of Online Information & Database Access And/or Retrieval Services and as per Rule 9 of Place of Provision of Services Rules, 2012, the place of provision of the said service is the location of service provider i.e. abroad hence no tax liability arises. It was observed that their services fell under the Market research services as provided in Section 65 (69)/65 (105) (y) of the Finance Act, 1994 (for brevity 'Act') and had not paid service tax amounting to Rs. 1,49,53,930/-. Accordingly a show cause notice dtd. 17.03.2017 was issued to the appellants demanding service tax amounting to Rs. 1,49,53,930/- with interest and proposed imposition of penalties under various sections of the Act. The adjudicating

authority, vide the impugned order, held the services being imported by the appellants under Market Research Agency services and confirmed the demand and imposed penalties under various Sections of the Act.

3. Being aggrieved with the impugned order, the appellants have preferred this appeal wherein it is contended that;

a) Their service was properly classifiable as "Online Information & Database Access And/or Retrieval Services" and not "market Research Agency Services" and since the same was being provided outside the taxable territory, they were outside the ambit of the charging Section 66B of the Act;

b) The services provided by the appellants to the parties located abroad were not the same as the services received by the appellants from abroad. The services received by them was in the nature of Online Information & Database Access And/or Retrieval Services and the services provided to the parties located abroad were in the nature of market research agency service;

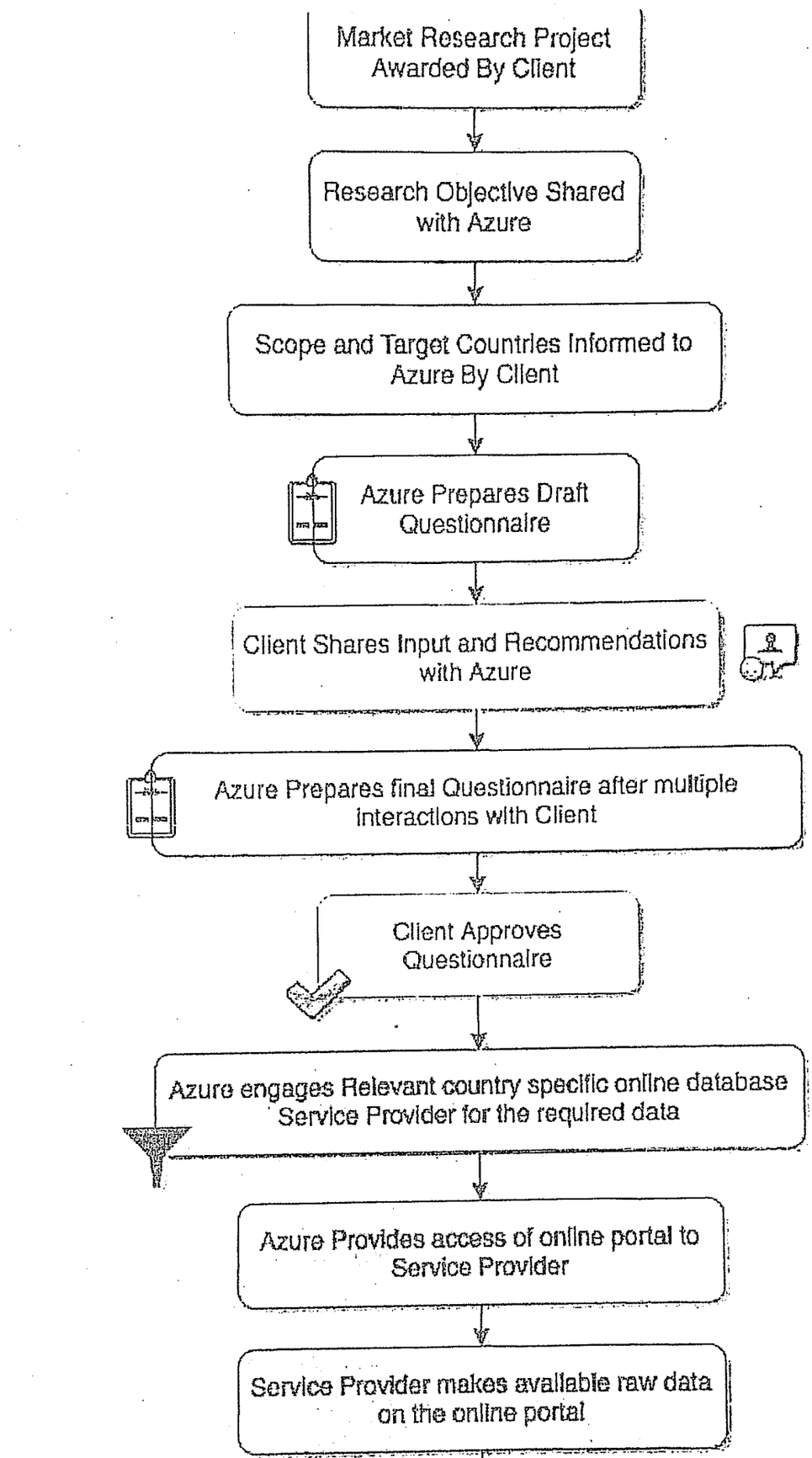
c) The situation was a revenue neutral one as the said services were used by the appellants for export of services and therefore cenvat credit was available to them. They rely on the case of Vikas J. Shah, Director and M/s Shah Yarn Tex (P) Ltd. vs. The commissioner (Appeal), Coimbatore and others – 2016 (334) ELT-491 (Mad.), M/s Oil and Natural Gas Corporation Ltd. vs. The Commissioner of Central Excise & ST, Surat – 2015 (38) STR-867 (Tri.-Ahmd.), M/s AD Vision vs. The Commissioner of ST, Ahmedabad – 2011 (21) STR-455 (Tri.-Ahmd.);

d) They were under a bonafide belief that they were not liable to pay service tax on the services received from abroad and therefore the demand is time barred.

e) The penalty should not have been imposed.

4. Personal hearing in the case was held on 05.11.2018. Shri Parag Shah, CA, appeared before me and reiterated the grounds of appeal. He also submitted an additional written submission in which he stated that the service providers abroad had merely provided raw data in the form of interviews, questionnaires etc. to the appellants and it was nothing but representation of information, knowledge, facts, concepts etc which were being prepared or had been prepared in a formalized manner and it was intended to be processed by the appellant and they were therefore providing

online information and database access or retrieval services (OIDAR); that the service provider abroad has not carried out any systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions for the appellants. The service provider has merely made available certain type of raw data to the appellant and accordingly, the service provider abroad has not carried out any kind of market research for the appellants in any manner; that they seek support from the case law of Photolibrary India Pvt. Ltd. vs. Commissioner of Service Tax, Mumbai – 2015 (39) STR-637 (Tri. Mum.), M/s Givaudan India Pvt. Ltd. vs. Jt. Commissioner (Large Taxpayer Unit), Bangalore – 2011 (24) STR-484 (Tri. Bang.); that as per the provisions of Place of Provision of the Service received by the appellants under rule 3, 9 and 14, since they are engaged in the OIDAR, their service provider's location is abroad hence service tax liability does not arise; that as per Section 65 (105) (y) of the Finance Act, 1944, "market research agency" means any person engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customized and syndicated research services whereas in their case they were merely receiving date from abroad and were not engaged in any market research; that their case is of revenue neutrality and no service tax should be demanded as held in the case laws of Commissioner of Customs & Central Excise vs. Textile Corporation, Marathwada Ltd. – 2008 (231) ELT-195 (S.C.), Motif India Infotech Pvt. Ltd. vs. Commissioner of Service Tax, Ahmedabad – 2015 (4) TMI-576 (Tri. Ahm.), Vikas J Shah, Director and M/s Shah Yarn Tex Pvt. Ltd. vs. Commissioner (Appeal), Coimbatore – 2016 (334) STR-491 (Mad.), M/s Oil & Natural Gas Corporation Ltd. vs. Commissioner of C. Ex. & Service Tax, Surat – 2015 (38) STR-637 (Tri. Ahm.), Commissioner of Service Tax, Ahmedabad-II vs. M/s Reclamation Welding Ltd. – 2014 (308) ELT-542 (Tri. Ahm.), M/s Daman Ganga Board Mills Pvt. Ltd. vs. Commissioner of C. Ex., Daman, Vapi – 2012 (276) ELT-532 (Tri. Ahm.) and some other cases. The appellants also contended that the invocation of extended period is incorrect in view of the facts that they were under bonafide belief that their activity was not liable to service tax and there was no deliberate intention to evade payment of service tax. They cited many case laws in their support. They also submitted additional submission in which a flow chart of the whole process of their work was given which is reproduced herein below:


Market Research Project Awarded By Client
Research Objective Shared with Azure
Scope and Target Countries Informed to Azure By Client
Azure Prepares Draft Questionnaire
Client Shares Input and Recommendations with Azure
Azure Prepares final Questionnaire after multiple interactions with Client
Client Approves Questionnaire
Azure engages Relevant country specific online database Service Provider for the required data
Azure Provides access of online portal to Service Provider
Service Provider makes available raw data on the online portal
Azure QC Team does QC on the relevant Data retrieved from the online portal
Azure Team analyses final QC approved data feeds and creates Crosstabs, Charts, Bars, Trends, Frequency and Inferences to achieve the end objective
Azure Delivers to client, Final Conclusions as arrived in previous step along with the final data in required formats like SPSS, ASCII etc

5. I have carefully gone through the facts of the case on records, grounds of appeal in the Appeal Memorandum and oral submissions made by and documents produced by the appellants at the time of personal hearing. Short question to be decided is as to whether service rendered is 'Market Research Agency Service' or 'online information and database access or retrieval service' (OIDAR service).

6. I have perused the flow chart submitted of the whole process of their work in respect of service provided by the appellants and I find that the appellants are engaged in the activity which can be summarized in the following manner:

(i) The service receiver abroad entrusted the work for the market research to be carried out in various countries to the Appellant.

(ii) The Appellant had entered into an agreement with the service providers abroad for receiving service from them.

(iii) the appellant prepared the questionnaire after getting inputs and recommendations from the clients

(iii) The service provider abroad collected the relevant data and uploaded the relevant data on the portal.

(iv) Subsequently, the Appellant retrieved the data from the portal.

(v) The Appellant then carried out the value addition on such data and prepared the research report, which the Appellant submitted to the service receiver abroad.

From the above it is clear that the clients of the appellants situated abroad give them a particular work as per their requirements and scope and target countries are also pre-decided by the clients. On the basis of that information, the appellants prepare required parameters based on which data is to be collected and this data collection work is done by the service provider in abroad. The service provider in abroad collects the data from the target fields and uploads them online. The appellants then retrieve data from the specified portal. From agreement I find that ownership of website and data complied are of client and not of appellant. Appellant are only retrieving the data supplied by client and such compiled data. I further find that the service providers abroad had merely provided raw data in the form of interviews, questionnaires etc. to the appellants and it was nothing but representation of information, knowledge, facts, concepts etc which were being prepared or had been prepared in a formalized manner and it was intended to be processed by the appellant and they were therefore providing

OIDAR. I further find that the service provider abroad has not carried out any systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions for the appellants and their work was limited to only collection of data from various target groups through pre-defined methods and media. The service provider has merely made available certain type of raw data to the appellant and accordingly, the service provider abroad has not carried out any kind of market research for the appellants in any manner.

7. I have further gone through the documents provided by the appellants and from them I find that the data uploaded by various service providers abroad are retrieved from the portal but the same are of no use to end client of the appellants unless the same are analyzed by the appellants to give the required outputs to be used by the end clients of the appellants. No analysis is done by the service providers of the appellants. I have gone through para-7 of the impugned order in which a service agreement between the service provider and the appellants has been discussed at length. I find that the work assigned to the service provider abroad asks to collect data and no analysis of the collected data is to be done by the service provider. From the above, it is very clear that the service provider abroad had merely provided raw data in the form of interviews, questionnaires, etc. to the Appellant. The nature of raw data which was provided by the service provider abroad to the Appellant was nothing but a representation of information, knowledge, facts, concepts or instructions which were being prepared or had been prepared in a formalized manner, and the same was intended to be processed by the Appellant. The definition of the term "information" is also very wide and includes "data". Therefore, it can be held that the service provided by the service provider abroad to the Appellant was nothing but merely:

(i) Providing data/ information;

(ii) in electronic form;

(iii) through a computer network

which is provision of service in the nature of *"online information and database access or retrieval services".*

8. I further find from perusal of the para 22.1 of the impugned order that the appellants are classifying the service while exporting to their clients as "Market Research Agency Service" i.e. when the service is provided to their clients when the data retrieved from the service providers have been analysed and having obtained required conclusions. It clearly establishes the

fact that the import of service is merely retrieval of data from online and they are in raw form and not useful in that form. It is only when they are analysed that they become meaningful.

9. I find that the impugned order confirms the activity undertaken by the appellants as "market research agency services". Here it would be essential to understand the meaning of market research as understood in the common parlance given by wikipedia. Marketing research is "the process or set of processes that links the producers, customers, and end users to the marketer through information used to identify and define marketing opportunities and problems; generate, refine, and evaluate marketing actions; monitor marketing performance; and improve understanding of marketing as a process". Marketing research specifies the information required to address these issues in following processes:

1. designs the method for collecting information,
2. manages and implements the data collection process,
3. arranging the data in proper formats,
4. analyzes the data,
5. analyzes the result, and
6. communicates the findings and their implications.

Now on perusing the activity flow chart discussed earlier being undertaken by the appellants, I find that the appellants are given the target by their clients and based on that, they prepare questionnaires and they get raw data from their service providers. These data are then provided in required formats like SPSS, ASCII etc. to their clients. During the whole process, it is the data only which is submitted and retrieved by the appellants so I therefore find that this activity does not merit classification as "market research agency services". I also find support from the case law of Photolibrary India Pvt. Ltd. vs. Commissioner of Service Tax, Mumbai (supra) in which it has been held in para 6 that "the online information means providing data or information which is retrieved or otherwise in electronic form through a computer network". It is the same situation in the instant case too.

10. On perusal of the Circular No. 202/12/2016-Service Tax dtd. 09.11.2016, it is noticed that the circular has given indicative list of services which fall under the category of OIDAR services;

14.	What type of services will be covered	OIDAR services covers services **which are automatically delivered over the internet, or an electronic network, where there is minimal or no**

	under OIDAR services?	**human intervention**. In practice, this can be either : i. where the provision of the digital content is entirely automatic e.g., a consumer clicks the 'Buy Now' button on a website and either : • the content downloads onto the consumer's device, or • the consumer receives an automated e-mail containing the content ii. where the provision of the digital content is essentially automatic, and the small amount of manual process involved doesn't change the nature of the supply from an OIDAR service All 'electronic services' that are provided in the ways outlined above are OIDAR services.

(emphasis supplied)

From the above, it is very clear that when the information or data is available to anyone and cannot be changed and is automatically delivered, it falls under the category of OIDAR services. In the instant case, there is a proper contact between the service provider and the service receiver and there are proper terms of reference and precise methodology as to how the particular data is to be collected. The data is downloaded and the appellants are analysing the data and undertaking processing and the outcome is delivered through internet. So in view of the above, I hold that the service being received by the appellants from their service providers from abroad properly falls under OIADR.

11. From the above, it is clear that the service received by the appellants from their service providers abroad is falling under the category of OIADR and as per Rule 9 of Place of Provision of Services Rules, 2012, the place of provision of the said service is the location of service provider i.e. abroad hence no tax liability arises. In view of this I find that the impugned order is required to be set aside and accordingly the appeal succeeds.

12. In view of above, appeal filed by the appellants is allowed and the impugned order is set aside.

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

The appeal filed by the appellant stand disposed off in above terms.

(उमा शंकर)
केंद्रीय कर आयुक्त (अपील्स)
अहमदाबाद
दिनांक:

सत्यापित

(धर्मेंद्र उपाध्याय)
अधीक्षक (अपील्स),
केंद्रीय कर, अहमदाबाद

By R.P.A.D.

To:
M/s. Azure Knowledge Corporation Pvt. Ltd.,
Azure House,
Behind Town Hall,
Ellisbridge,
Ahmedabad-380006

Copy to:-

(1) The Chief Commissioner, CGST, Ahmedabad Zone,
(2) The Commissioner, CGST, Ahmedabad (North),
(3) The Dy./Astt. Comm'r, CGST, Div.-I, Ahmedabad (South),
(4) The Dy./Astt. Comm'r(Systems),CGST, Ahmedabad (South),
(5) Guard File,
(6) P.A.File.