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

रजिस्टर्ड डाक ए.डी. द्वारा

S/49-70/2018

क फाइल संख्या : File No : V2(ST)39/Ahd-South/2018-19
Stay Appl.No. /2017-18

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-001-APP-027-2018-19**
दिनाँक Date : **13-07-2018** जारी करने की तारीख Date of Issue 8/8/2018

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

ग Arising out of Order-in-Original No. **MP/13/AC/Div-IV/2017-18** दिनाँक: **26.02.2018** issued by Assistant Commissioner, Div-IV, Central Tax, Ahmedabad-South

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

Kamal Freight 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 पूवोक्त 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 प्रकिया 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।

(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 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 मुताबिक 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 हो 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) 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 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.

---3---

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) 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 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

This appeal has been filed by M/s. Kamal Freight Private Limited, Nr. Jetalpur Seva Sahakari Mandali, HP Petrol Pump, Jetalpur, Dist. Ahmedabad – 382 426 [for short – 'appellant'] against OIO No. MP/13/AC/Div IV/2017-18 dated 26.2.2018 passed by the Assistant Commissioner, CGST, Division IV, Ahmedabad-South Commissionerate [for short – 'adjudicating authority'].

2. Briefly, the facts are that during the course of detailed manual scrutiny of the returns filed by the appellant, along with the Profit and Loss account for the year 2014-15, it was observed that the appellant had shown reimbursement income of Rs. 86,98,412/- but had excluded the reimbursement income from the gross amount for deriving the taxable value under section 67 of the Finance Act, 1994. It was also observed that the appellant had failed to get himself registered under *Business Support Service*, though he was paying tax under the said service. The appellant had also not filed ST-3 returns within the stipulated time. Therefore, a show cause notice dated 12.6.2017, was issued to the appellant, invoking extended period *inter alia* demanding service tax of Rs. 10,75,124/- along with interest. Penalty was proposed on the appellant under sections 77 and 78 of the Finance Act, 1994. The notice further proposed demand of late fees from the appellant in terms of Rule 7C of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994.

3. This notice was adjudicated vide the impugned OIO dated 26.2.2018, wherein the adjudicating authority held as follows:

- that from the kind of services provided and from the definition of *Business Support Service* (BSS), it is evident that the services provided fell within the ambit of BSS as defined under section 65(105)zzzq of the Finance Act, 1994;
- that the appellant had shown reimbursement income which was a consideration and hence the appellant is required to discharge service tax as demanded in the show cause notice;
- that there is no agreement between M/s. AMW Motors Limited and the appellant; that the letter dated 2.4.2013 is a one sided letter with no consent from the appellant and hence it cannot be considered as an agreement in terms of section 10 of the Indian Contract Act, 1872; the appellant has failed to give any documentary evidence to merit qualification as a '***pure agent***';

The adjudicating authority further confirmed the demand along with interest and further imposed penalty on the appellant under sections 77 and 78 of the Finance Act, 1994. He also imposed a late fee of Rs. 8,200/- under Rule 7C of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994.

4. Feeling aggrieved, the appellant has filed this appeal raising the following averments:

- that the term consideration was amended on 14.5.2015 based on which the demand has been confirmed, pertaining to the period 2014-15;
- that when the taxable value is available under section 67(1) of the Finance Act, 1994, mechanism as prescribed in valuation rule cannot be applied;
- the appellant has merely acted on behalf of M/s. AMW Motors Private Limited and has received the said amount incurred on behalf of M/s. AMW Motors as pure agent;
- that the entire payment of Rs. 86.98 lacs was made to third party at toll tax collection booth in respect of movement of vehicles owned by M/s. AMW Motors Limited, from one place to another; that the appellant was paying the toll tax on the basis of authorization received from M/s.

AMW Motors Limited; that the act does not require that there should be explicit written contract but merely there must be offer and acceptance;

- that road and toll charges collected are mentioned in the negative list; that if the appellant is required to discharge service tax on the toll charges, then the burden would fall on M/s. AMW Motors, which would result in levy of service tax on toll charges through back door which is otherwise in the negative list;
- that they would like to rely on the case of Intercontinental Consultants & Technocrats P Ltd [2018(3) TMI 357 SC];
- that the notice is barred by limitation;
- that penalty cannot be imposed when all the facts were within the knowledge of the department;
- that penalty under section 77 cannot be imposed as the dispute is relating to interpretation of law; that there was no intention to evade payment of duty.

5. Personal hearing in the case was held on 27.6.2018, wherein Shri Nitesh Jain, CA appeared on behalf of the appellant and reiterated the grounds of appeal. He informed that one to one correlation of toll tax and invoices are available and that he would be submitting CA certified copy of the ledger soon. He reiterated that the judgment of Intercontinental is applicable to their case. The appellant thereafter vide their letter dated 9.7.2018 submitted CA certified reimbursement of income and expense ledger containing reimbursement income and Road and toll tax expenses.

6. I have gone through the facts of the case, the grounds of appeal, and the oral averments raised during the course of personal hearing. The primary question to be decided is whether the reimbursement income is a *consideration* which should be added to the gross amount charged in terms of Section 67 of the Finance Act, 1994, on which service tax is to be paid by the appellant or otherwise.

6.1 As is evident the impugned OIO dated 26.2.2018 was issued on the same date. However, the appellant, in the appeal form has mentioned the date of communication as 27.4.2018. Therefore, the adjudicating authority was asked to inform the date of receipt of OIO by the appellant. The adjudicating authority vide his letter dated 26.6.2018, stated that the impugned OIO was dispatched by speed post on 27.2.2018 but as the appellant informed that he had not received the OIO, it was handed over to the appellant on 27.4.2018. In view of the foregoing, I find that the appellant has filed the appeal within the prescribed time in terms of Section 85 of the Finance Act, 1994.

7. Before dwelling on to the question, I find that the appellant was engaged in providing vehicle transportation service wherein their service recipient M/s. AMW Motors Limited, paid them on per vehicle basis; that when a vehicle moves on the road, it is liable to pay various taxes like road taxes, entry taxes and toll charges for use of roads and highways. It is on reimbursement of these taxes, charges, that the department is demanding service tax by treating it as a *consideration*. The service tax is demanded for the FY 2014-15 in terms of proviso to Rule 5 of the Service Tax (Determination of Value) Rules, 2006 read with Section 67 of the Finance Act, 1994.

8. The term *consideration*, as amended in Section 67 of the Finance Act, 1994, which finds a mention in the show cause notice in para 8 and in the findings portion of the impugned OIO in para 26, was substituted vide Finance Act, 2015 which was enacted on 14.5.2015. Therefore, it is not understood as to how this would be applicable in respect of a demand relating to a prior period i.e. 2014-15. Even otherwise, this issue is no longer res integra, having been first decided by the Hon'ble Delhi High Court in the case of Intercontinental Consultants & Technocrats Pvt. Ltd. [2013 (29) S.T.R. 9 (Del.)], wherein on the question of the constitutional validity of Rule 5 of the Service Tax (Determination of Value) Rules, 2006 to the extent it includes re-imbursement of expenses in the value of taxable services for the purposes of levy of service tax, the Court held as follows:

> **18.** Section 66 levies service tax at a particular rate on the value of taxable services. Section 67(1) makes the provisions of the section subject to the provisions of Chapter V, which includes Section 66. This is a clear mandate that the value of taxable services for charging service tax has to be in consonance with Section 66 which levies a tax only on the taxable service and nothing else. There is thus inbuilt mechanism to ensure that only the taxable service shall be evaluated under the provisions of 67. Clause (i) of sub-section (1) of Section 67 provides that the value of the taxable service shall be the gross amount charged by the service provider "for such service". Reading Section 66 and Section 67(1)(i) together and harmoniously, it seems clear to us that in the valuation of the taxable service, nothing more and nothing less than the consideration paid as quid pro quo for the service can be brought to charge. Sub-section (4) of Section 67 which enables the determination of the value of the taxable service "in such manner as may be prescribed" is expressly made subject to the provisions of sub-section (1). The thread which runs through Sections 66, 67 and Section 94, which empowers the Central Government to make rules for carrying out the provisions of Chapter V of the Act is manifest, in the sense that only the service actually provided by the service provider can be valued and assessed to service tax. **We are, therefore, undoubtedly of the opinion that Rule 5(1) of the Rules runs counter and is repugnant to Sections 66 and 67 of the Act and to that extent it is ultra vires**. It purports to tax not what is due from the service provider under the charging Section, but it seeks to extract something more from him by including in the valuation of the taxable service the other expenditure and costs which are incurred by the service provider "in the course of providing taxable service". What is brought to charge under the relevant Sections is only the consideration for the taxable service. By including the expenditure and costs, Rule 5(1) goes far beyond the charging provisions and cannot be upheld. It is no answer to say that under sub-section (4) of Section 94 of the Act, every rule framed by the Central Government shall be laid before each House of Parliament and that the House has the power to modify the rule. As pointed out by the Supreme Court in Hukam Chand v. Union of India, AIR 1972 SC 2427 :-
>
> "The fact that the rules framed under the Act have to be laid before each House of Parliament would not confer validity on a rule if it is made not in conformity with Section 40 of the Act."
>
> Thus Section 94(4) does not add any greater force to the Rules than what they ordinarily have as species of subordinate legislation

The department feeling aggrieved by the aforesaid judgdment, filed an appeal before the Hon'ble Supreme Court of India. The Supreme Court in the departmental appeal in the case of Intercontinental Consultants & Technocrats Pvt. Ltd. [2018 (10) G.S.T.L. 401 (S.C.)], held as follows:

> **29.** In the present case, the aforesaid view gets strengthened from the manner in which the Legislature itself acted. Realising that Section 67, dealing with valuation of taxable services, does not include reimbursable expenses for providing such service, the Legislature amended by Finance Act, 2015 with effect from May 14, 2015, whereby Clause (a) which deals with 'consideration' is suitably amended to include reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service. **Thus, only with effect from May 14, 2015, by virtue of provisions of Section 67 itself, such reimbursable expenditure or cost would also form part of valuation of taxable services for charging service tax**. Though, it was not argued by the Learned Counsel for the Department that Section 67 is a declaratory provision, nor could it be argued so, as we find that this is a

substantive change brought about with the amendment to Section 67 and, **therefore, has to be prospective in nature**. On this aspect of the matter, we may usefully refer to the Constitution Bench judgment in the case of *Commissioner of Income Tax (Central)-I, New Delhi* v. *Vatika Township Private Limited* [(2015) 1 SCC 1] wherein it was observed as under :

> *"27. A legislation, be it a statutory Act or a statutory rule or a statutory notification, may physically consists of words printed on papers. However, conceptually it is a great deal more than an ordinary prose. There is a special peculiarity in the mode of verbal communication by a legislation. A legislation is not just a series of statements, such as one finds in a work of fiction/non-fiction or even in a judgment of a court of law. There is a technique required to draft a legislation as well as to understand a legislation. Former technique is known as legislative drafting and latter one is to be found in the various principles of "interpretation of statutes". Vis-a-vis ordinary prose, a legislation differs in its provenance, layout and features as also in the implication as to its meaning that arise by presumptions as to the intent of the maker thereof.*
>
> *28. Of the various rules guiding how a legislation has to be interpreted, one established rule is that unless a contrary intention appears, a legislation is presumed not to be intended to have a retrospective operation. The idea behind the rule is that a current law should govern current activities. Law passed today cannot apply to the events of the past. If we do something today, we do it keeping in view the law of today and in force and not tomorrow's backward adjustment of it. Our belief in the nature of the law is founded on the bedrock that every human being is entitled to arrange his affairs by relying on the existing law and should not find that his plans have been retrospectively upset. This principle of law is known as lex prospicit non respicit : law looks forward not backward. As was observed in Phillips v. Eyre [(1870) LR 6 QB 1] , a retrospective legislation is contrary to the general principle that legislation by which the conduct of mankind is to be regulated when introduced for the first time to deal with future acts ought not to change the character of past transactions carried on upon the faith of the then existing law.*
>
> *29. The obvious basis of the principle against retrospectivity is the principle of "fairness", which must be the basis of every legal rule as was observed in L'Office Cherifien des Phosphates v. Yamashita-Shinnihon Steamship Co. Ltd. Thus, legislations which modified accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect; unless the legislation is for purpose of supplying an obvious omission in a former legislation or to explain a former legislation. We need not note the cornucopia of case law available on the subject because aforesaid legal position clearly emerges from the various decisions and this legal position was conceded by the counsel for the parties. In any case, we shall refer to few judgments containing this dicta, a little later."*
>
> **30.** As a result, we do not find any merit in any of those appeals which are accordingly dismissed.
>
> *[emphasis added]*

9. Article 141 of the Constitution of India states that the law declared by the Supreme Court shall be binding on all courts within the territory of India. As, it has been held by the Hon'ble Supreme Court of India that reimbursable expenses cannot form a part of the valuation of taxable services, the question of adding reimbursable expenditure to the gross amount charged in terms of Section 67 of the Finance Act, 1994, for the period prior to 14.5.2015 simply does not arise more so since the present dispute is pertaining to the period 2014-15. Thus, the demand of Rs. 10,75,124/- confirmed by the adjudicating authority vide the impugned OIO, is set aside. The demand of interest and the penalty under section 78 of the Finance Act, 1994 is also accordingly, set aside.

10. As far as penalty under section 77 of the Finance Act, 1994, imposed for failure to amend registration and fine under Rule 7C of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994 for late filing of returns is concerned, the same are upheld.

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

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

(उमा शंकर)
आयुक्त (अपील्स)

Date : 13.7.2018

Attested

(Vinod Lukose)
Superintendent (Appeal),
Central Tax,
Ahmedabad.

By RPAD.

To,

M/s. Kamal Freight Private Limited,
Nr. Jetalpur Seva Sahakari Mandali,
HP Petrol Pump,
Jetalpur,
Dist. Ahmedabad – 382 426

Copy to:-

1. The Chief Commissioner, Central Tax, Ahmedabad Zone .
2. The Principal Commissioner, Central Tax, Ahmedabad South Commissionerate.
3. The Assistant Commissioner, Central Tax Division-IV, Ahmedabad South Commissionerate.
4. The Assistant Commissioner, System, Central Tax, Ahmedabad South Commissionerate.
5. Guard File.
6. P.A.

OFFICE OF THE COMMISSIONER CENTRAL GST (APPEALS) AHMEDABAD