आयुक्त(अपील)का कार्यालय,
Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय,अहमदाबाद
Central GST, Appeal Commissionerate, Ahmedabad
जीएसटी भवन, राजस्वमार्ग, अम्बावाड़ीअहमदाबाद३८००१५.
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
07926305065 – टेलेफैक्स07926305136

DIN : **20230164SW0000444CD9**

स्पीड पोस्ट

क फाइल संख्या : File No : GAPPL/COM/STP/1715/2022 /7007 – 11

ख अपील आदेश संख्या Order-In-Appeal No. **AHM-EXCUS-001-APP-121/2022-23**
दिनाँक Date : **05-01-2023** जारी करने की तारीख Date of Issue 09.01.2023

आयुक्त (अपील) द्वारापारित
Passed by **Shri Akhilesh Kumar**, Commissioner (Appeals)

ग Arising out of OIO No. **40/DC/Div-I/B.K./2021-22** दिनाँक: **25.03.2022** passed by Deputy Commissioner, CGST, Division-I, Ahmedabad South

ध अपीलकर्ता का नाम एवं पता Name & Address

Appellant

M/s J.J. Construction
B-10, Shikhar Apartment,
Nr. Bhagirath Bunglow,
Hariom Nagar, Ghodasar,
Ahmedabad - 380050

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 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 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 मे 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.

(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 मामलें 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 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।

(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 दिनाँक 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.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रूपये या उससे कम होतो रूपये 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 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 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. 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 होत 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 शुल्कअधिनियम 1970 यथासंशोधित की अनुसूचि–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 कान्यायालय 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.

9ण सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण(सिस्टेट),के प्रतिअपीलो 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)-

a. *(Section)* खंड 11D के तहत निर्धारित राशि;
इ॰ लिया गलत सेनवैट क्रेडिट की राशि;
ब॰ 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:

(cclxii) amount determined under Section 11 D;
(cclxiii) amount of erroneous Cenvat Credit taken;
(cclxiv) 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. J. J. Construction, B-10, Shikar Apartment, Near Bhagirath Bungalow, Hariom Nagar, Ahmedabad – 380 050 (hereinafter referred to as the "appellant") against Order in Original No. 40/DC/Div-I/B.K./2021-22 dated 25.03.2022 [hereinafter referred to as "*impugned order*"] passed by the Deputy Commissioner, CGST, Division-I, Commissionerate : Ahmedabad South [hereinafter referred to as "*adjudicating authority*"].

2. Briefly stated, the facts of the case are that the appellant were holding Service Tax Registration No. BCZPJ9655ASD001 and engaged in providing Works Contract Services and Construction of Residential Complex Services. During the course of audit of the records of the appellant for the period from April, 2015 to June, 2017, conducted by the Officers of Central Tax Audit, Ahmedabad, the following observations were raised in Final Audit Report No. CE/ST-133 dated 22.06.2020.

2.1 **Revenue Para No. 1** : It was observed that the appellant had availed the benefit of Serial No.12 of Notification No.26/2012-ST dated 20.06.2012 and they had paid service tax on 30% of the booking value received in advance if the value of land was also included in the amount charged from the service receiver. However, it appeared that the condition of inclusion of land value was not satisfied by the appellant and, therefore, the benefit of abatement claimed by them was not admissible and they were eligible to abatement @ 30% instead of @70% availed by them.

2.2 Further, as per the agreement entered into by the appellant with Sarabhai Trust, the type of work appeared to be in the nature of repair and maintenance of the premises of the client. In terms of Rule 2A (ii) (B) of the Service Tax (Determination of Value) Rules, 2006 (hereinafter referred to as the "Valuation Rule"), Work Contract Service, which is in the nature of maintenance and repair or completion and finishing services, the service tax is payable on 70% of the total value charged for the Works Contract. It, therefore, appeared that abatement @ 30% only is admissible to the appellant.

2.3 From the Financial Statements of the appellant for F.Y. 2016-17, it appeared that the appellant had paid service tax only on 'Construction Income-Value of service' after availing abatement @ 70%. From the Sales Register, it appeared that a single invoice contained the value of goods as well as value of service and the appellant failed to submit the invoices issued by them, hence, the exact nature of supply made and work performed could not be ascertained. However, the sample agreements of F.Y. 2016-17 indicated that the nature of work performed was composite in nature involving supply of goods and value of services i.e. Works Contract Service.

2.4 In view of the above, it appeared that the appellant was liable to pay service tax amounting to Rs.23,85,860/- on account of wrong availment of abatement @ 70% instead of 30%.

3. **Revenue Para No. 2** : It was observed that the appellant had not made payment of interest amounting to Rs.30,742/- on late payment of service tax during F.Y. 2015-16 to F.Y. 2017-18.

4. **Revenue Para No. 3** : It was observed that the appellant had late filed their ST-3 return for the period from October, 2015 to March, 2016 and April, 2017 to June, 2017 for which they were liable to pay Late Fee amounting to Rs.1,700/-.

5. The appellant was, subsequently, issued a Show Cause Notice bearing No. 27/2020-21 dated 23.09.2020 from F.No. VI/1(b)-251/C-I/AP-II/Audit/Ahd/19-20 wherein it was proposed to :

a) Recover service tax amounting to Rs.23,85,860/- in terms of the proviso to Section 73 (1) of the Finance Act, 1994.

b) Recover Interest under Section 75 of the Finance Act, 1994.

c) Impose penalty under Section 78 (1) of the Finance Act, 1994.

d) Interest amounting to Rs.30,742/- should not be charged and recovered under Section 75 of the Finance Act, 1994.

e) Demand and recover Late Fee amounting to Rs.1,700/- under Section 70 of the Finance Act, 1994 read with Rule 7C of the Service Tax Rules, 1994.

6. The SCN was adjudicated vide the impugned order wherein the demand of service tax amount was confirmed along with interest. Penalty equivalent to the service tax confirmed was imposed under Section 78 of the Finance Act, 1994. The demand of interest amounting to Rs.30,742/- and Late Fee amounting to Rs.1,700/- were also confirmed.

7. Being aggrieved with the impugned order confirming demand of service tax along with interest and penalty under Section 78 of the Finance Act, 1994, the appellant have filed the present appeal on the following grounds :

i. They had mainly contested the demand on the grounds of limitation and submitted that there was no suppression of facts. However, the adjudicating authority has failed to appreciate their submissions made in Para 12 of their reply to the SCN.

ii. They had contested the allegation of suppression of facts as they had regularly filed their half yearly return showing therein all the details and also paid the tax, albeit on wrong computation. However, the allegation of suppression of facts has been held against them merely because they had not disclosed wrong computation of abatement. Wrong computation of abatement is a bonafide mistake and cannot be construed as suppression of facts, that too for evasion of service tax.

iii. The department had never inquired or called for any document since April, 2015. The documents were called for during June-July, 2020 when audit of their record was undertaken. The SCN has been issued don the basis of returns and financial statements supplied by them. As such the details were not concealed or clandestinely kept. Therefore, merely not informing or furnishing details of wrong computation of abatement cannot be construed as suppression of facts.

iv. Reliance is placed upon the judgment in the case of Continental Foundation Jt. Venture Vs. CCE, Chandigarh-I – 2007 (216) ELT 177 (SC); Compark E Services Pvt. Ltd. Vs. CCE& ST, Ghaziabad – 2019 (24) GSTL 634 (Tri.-All.).

v. The adjudicating authority has discarded the judgment of the Hon'ble Tribunal, which is squarely applicable in their case and a futile effort

has been made to distinguish the case on the ground that the decision deals with non filing of return.

vi. They were under the bonafide belief that since they undertook construction of heritage building and structures, the activity did not attract service tax. The heritage construction work was undertaken by them for Sarabhai Trust of Ahmedabad. The trust officials were also of the view that heritage construction would not attract tax. However, on the advice of Chartered Accountant, service tax was paid and returns were regularly filed.

vii. They had paid service tax under the category of construction service instead of works contract service. As such the finding of the adjudicating authority that they were fully aware of the admissibility of 30% abatement is against the facts.

viii. The judgment in the case of P.K.Ghosh & Sons Vs. CST, Kolkata – 2017 (3) GSTL 429 (Tri.-Kolkata) relied upon by the adjudicating authority is distinguishable in the facts of the present case.

ix. With respect to suppression of facts, they had relied upon the judgment in the case of Sem Construction V. CCE & ST, Rajkot – 2021 (44) GSTL 385 (Tri.Ahmd.); Tata Steel Ltd. Vs. CCE & ST, Jamshedpur – 2020 (38) GSTL 62 (Tri.-Kolkata).

x. Merely not informing or furnishing details of wrong computation of abatement cannot be construed as suppression of facts. Reliance is placed upon the judgment in the case of Charanjeet Singh Khanuja Vs. CST Indore/Lucknow/Jaipur/Ludhiana – 2016 (41) STR 213 (Tri.-Del.).

xi. Demand was raised construing the service as maintenance of repair of immovable property. Since they had undertaken heritage construction for Sarabhai Trust, Ahmedabad, the same cannot be construed as maintenance or repair of immovable property. However, the adjudicating authority has without discussing their submissions relied upon the SCN in concluding that the activity undertaken by them was repair and maintenance of the premises of the client.

xii. From Clause (a) of Explanation 1 to Rule 2A (ii) of the Valuation Rules, it is revealed that original works means all new constructions and all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable. Since they had undertaken construction of heritage building and heritage structure, the

same is covered under the meaning of Original Works. Therefore, confirmation of demand by determining the value under Rule 2A (ii)(B) is against the provisions of the Valuation Rules.

xiii. Regarding imposition of penalty under Section 78 of the Finance Act, 1994, it is submitted that this a merely a case of wrong computation of abatement on the part of the Chartered Accountant entrusted with the taxation matter. Therefore, imposition of penalty under Section 78 cannot be held against them. Reliance is placed upon the judgment in the case of CCE & C, Nashik, Vs. Sharad N. Pawar – 2017 (49) STR 255 (Tri.-Mumbai).

8. Personal Hearing in the case was held on 21.12.2022. Shri P.G. Mehta, Advocate, appeared on behalf of appellant for the hearing. He reiterated the submissions made in appeal memorandum. He submitted a written submission during hearing.

9. In their written submission filed during the hearing, the appellant basically reiterated the submissions made in their appeal memorandum.

10. I have gone through the facts of the case, submissions made in the Appeal Memorandum and the material available on records. The dispute involved in the present appeal relates to the confirmation of demand of service tax amounting to Rs.23, 85,860/-. The demand pertains to the period F.Y. 2015-16 to F.Y. 2017-18 (upto June, 2017).

11. It is observed that the demand of service tax was issued to the appellant primarily on the grounds that they had wrongly classified the service provided by them as Construction of Residential Complex instead of the correct classification under Works Contract Service. The appellant have not contested the issue of wrong classification. The only issues which are, therefore, required to be addressed are whether the demand is barred by limitation and whether the activity undertaken by the appellant can be considered as 'original works' as defined under Explanation 1 (a) of Rule 2A (ii) of the Valuation Rules.

12. Before dealing with the issue of limitation, I proceed to deal with the issue of whether the activity undertaken by the appellant can be considered as

'original works' as defined under Explanation 1 (a) of Rule 2A (ii) of the Valuation Rules, as contended by the appellant. It is observed that Explanation 1(a) of Rule 2A (ii) defines 'Original Works' to mean :

> " (i) all new constructions;
> (ii) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
> (iii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;"

12.1 The appellant have contended that they undertook construction of heritage building and structure for Sarabhai Trust of Ahmedabad and that the construction is undertaken by traditional methodology. It has been further contended by the appellant that inasmuch as the heritage construction is undertaken on damaged structures of heritage, the nature of work undertaken by them is covered under the meaning of original work. Therefore, confirmation of demand of service tax on 70% of the total amount charged is illegal.

12.2 It is observed that to qualify as 'original works', the activity undertaken should be either a new construction or addition or alteration to an abandoned or damaged structure on land that are required to make them workable. It is not the case of the appellant that the activity undertaken by them is in respect of a new construction. Regarding their contention that they had undertaken construction on damaged structure as heritage, it is observed from a plain reading of the said Explanation that even mere construction activity on damaged structure would not qualify as 'original works' unless the activity undertaken results in the structure becoming workable. This implies that the existing structure, on which the activity is undertaken, must have been not workable prior to the activity undertaken on the same. Only such activity would be covered by the definition of 'original works' in terms of Explanation 1 (a) of Rule 2A (ii) of the Valuation Rules. It is observed that except for merely contending that they had undertaken work on damaged structure of heritage, the appellant have not submitted any document or evidence in support of their claim. It is also not forthcoming from the submissions of the appellant or the materials available on record whether the appellant was engaged in mere renovation of an existing structure or whether they had undertaken construction activity in respect of a damaged or abandoned structure which had rendered such structure workable.

12.3 I find that the demand of service tax has been issued to the appellant for the period F.Y. 2015-16 to F.Y. 2017-18 (up to June, 2017). However, it is stated at Para 3.3 of the impugned order that the appellant had not submitted the invoices for F.Y. 2016-17 and F.Y. 2017-18 (up to June, 2017) and, therefore, the exact nature of supply made and work performed could not be ascertained. The demand has, therefore, been issued on the basis of the sample agreements entered into during F.Y. 2016-17. It has also been stated that as the appellant failed to submit the relevant documents supporting the exemption claimed, the same has been included while calculating the service tax liability.

12.4 The adjudicating authority has given his findings in the impugned order based on the documents of only F.Y. 2016-17 and proceeded to confirm the demand for the period F.Y. 2015-16 to F.Y. 2017-18 (up to June, 2017). This in my view is not a proper methodology to either determine the taxability of the services provided by the appellant or confirm the demand of service tax against the appellant. The adjudicating authority was required call for and consider the documents for the entire period for which service tax is being demanded before arriving at any conclusion regarding the taxability of the services and liability to pay service tax. Therefore, I find that it would be in the fitness of things if the matter is remanded back to the adjudicating authority for denovo proceedings. The appellant is directed to submit before the adjudicating authority the relevant documents within 15 day of the receipt of this order . The adjudicating authority shall after examining the documents submitted by the appellant and considering their submissions, decide the matter afresh by following the principles of natural justice.

13. Regarding the issue of limitation raised by the appellant, I am of the considered view that since the matter is being remanded back to the adjudicating authority in terms of the directions contained in Para 12.4 above, this issue, which has not been properly addressed in the impugned order, too is required to be considered and decided by the adjudicating authority in the remand proceedings. The appellant had relied upon various judgments before the adjudicating authority. However, the same were summarily brushed aside by the adjudicating authority in the impugned order. Therefore, the adjudicating authority is directed to examine the submissions of the appellant

in the light of the judgments relied upon by them and give specific findings while adjudicating the case in the remand proceedings.

14. In view of the facts discussed hereinabove, I set aside the impugned order and allow the appeal filed by the appellant by way of remand in terms of the observations and directions contained in Para 12.4 and 13 above.

15. 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.

5th January, 2023..

(Akhilesh Kumar)
Commissioner (Appeals)
Date: 05.01.2023.

Attested:

(N.Suryanarayanan. Iyer)
Superintendent(Appeals),
CGST, Ahmedabad.

BY RPAD / SPEED POST

To

M/s. J. J. Construction,
B-10, Shikar Apartment,
Near Bhagirath Bungalow,
Hariom Nagar,
Ahmedabad – 380 050

Appellant

The Deputy Commissioner,
CGST, Division- I,
Commissionerate : Ahmedabad South.

Respondent

Copy to:

1. The Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Principal Commissioner, CGST, Ahmedabad South.
3. The Assistant Commissioner (HQ System), CGST, Ahmedabad South. (for uploading the OIA)
4. ~~Guard~~ File.
5. P.A. File.