



सत्यमेव जयते

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

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद
Central GST, Appeal Commissionerate, Ahmedabad
जीएसटी भवन, राजस्वमार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
☎ 07926305065 - टेलिफैक्स 07926305136



DIN : 20230164SW000000F401

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/2349/2022 /A625-79
- ख अपील आदेश संख्या Order-In-Appeal No. AHM-EXCUS-001-APP-144/2022-23
दिनांक Date : 24-01-2023 जारी करने की तारीख Date of Issue 25.01.2023
- आयुक्त (अपील) द्वारा पारित
Passed by Shri Akhilesh Kumar, Commissioner (Appeals)
- ग Arising out of OIO No. CGST/WS07/O&A/OIO-212/AC/RAG/2022-23 दिनांक: 05.04.2022
passed by Assistant Commissioner, CGST, Division VII, Ahmedabad South
- घ अपीलकर्ता का नाम एवं पता Name & Address

Appellant

M/s Rupa Sujal Shah
B-302, The First, Keshavbaug,
Vastrapur, Ahmedabad - 380015

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :

Revision application to Government of India:

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी 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 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 मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(A) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ख) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(B) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(c) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के 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 रुपये या उससे कम होतो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

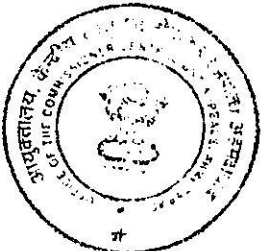
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 :-

(क) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण(सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद-380004

(a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd Floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad : 380004. in case of appeals other than as mentioned in para-2(i) (a) above.



The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के 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 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 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.

19⁰ 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)-

- (Section) खंड 11D के तहत निर्धारित राशि;
- इण लिया गलत सेनवैट क्रेडिट की राशि;
- बण 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.

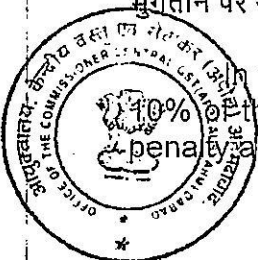
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (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:

- (cccix) amount determined under Section 11 D;
- (cccxx) amount of erroneous Cenvat Credit taken;
- (cccxxi) 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 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. Rupa Sujal Shah, B-302, The First, Keshavbaug, Vastrapur, Ahmedabad – 380 015 (hereinafter referred to as the “appellant”) against Order in Original No. CGST/WS07/O&A/OIO-212/AC/RAG/2022-23 dated 05.04.2022 [hereinafter referred to as “*impugned order*”] passed by the Assistant Commissioner, Division – VII, CGST, Commissionerate : Ahmedabad South [hereinafter referred to as “*adjudicating authority*”].

2. Briefly stated, the facts of the case are that the appellant was holding Service Tax Registration No.ABJPL7920QSD001. As per the information received from the Income Tax Department, it was found that the appellant had declared different values in their ST-3 returns and the Income Tax returns for the F.Y. 2015-16. The appellant had in their ITR declared income from sale of services amounting to Rs.19,99,778/-, whereas in their ST-3 returns they had declared a taxable income amounting to Rs.10,43,564/-. It, therefore, appeared that they had short declared taxable value amounting to Rs.9,56,214/- and thereby short paid service tax amounting to Rs.1,38,651/-. Therefore, the appellant was issued Show Cause Notice bearing No. V/WS07/III/O&A/SCN-847/2015-16/REG/2020 dated 24.12.2020 wherein it was proposed to :

A. Demand and recover the service tax amounting to Rs.1,38,651/- under the proviso to Section 73 (1) of the Finance Act, 1994 along with interest under Section 75 of the Finance Act, 1994.

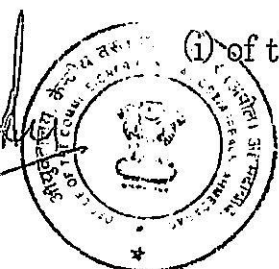
B. Impose penalty under Sections 77(1) (c), 77(2) and 78 of the Finance Act, 1994.

3. The SCN was adjudicated vide the impugned order wherein :

a) The demand of service tax amounting to Rs.1,19,620/- was confirmed.

b) Interest was ordered to be recovered under Section 75 of the Finance Act, 1994.

c) Penalty amounting to Rs.1,19,620/- was imposed under Section 78 (1) (i) of the Finance Act, 1994.



4. Being aggrieved with the impugned order, the appellant have filed the present appeal on the following grounds :
- i. The adjudicating authority has completely ignored the reply filed by them and thereby failed to deal with the legitimate objections raised in the said reply.
 - ii. The adjudicating authority has failed to consider the fact that the demand was barred by limitation as the same was made after more than 30 months. The extended period of limitation can be invoked only in certain extraordinary circumstances as contemplated in the proviso to Section 73 of the Act. Their case does not fall under any of the said categories. Neither the SCN nor the impugned order claimed that their case falls under any of the said categories.
 - iii. Merely quoting the proviso to Section 73 in the SCN will not allow the department to issue notice under the extended period of limitation. The burden to prove as to whether their case falls under one or more of the situations contemplated in the said Section was on the department. The department did not provide or even claimed to have in possession any such evidence in the SCN.
 - iv. The adjudicating authority has erred in not considering the fact that the difference in the ITR value and the ST-3 value could be due to number of reasons and in absence of any prima facie evidence, demand cannot be raised.
 - v. Various courts have time and again accepted the view that any demand of service tax made merely based upon difference in the IR and ST-3 values is not maintainable.
 - vi. The adjudicating authority erred in passing the impugned order inspite of not disputing their right to claim exemption under Notification No.27/2012-ST dated 20.06.2012.
 - vii. The adjudicating authority has erred in holding that merely due to non production of any documentary evidence as required under the said Notification, the benefit of exemption under the said Notification was not admissible.

They had placed on record the contract under which services were provided to British Council (BC). This clearly shows that the revenue



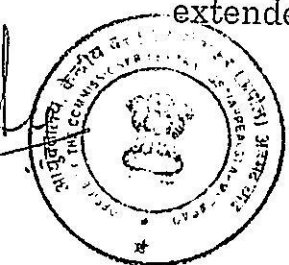
received from BC during F.Y. 2015-16 were under the terms of the contract. Further, considering the nature of the arrangement, they were not issuing invoices to BC.

- ix. The adjudicating authority has erred in holding that while they claimed that service tax on the value of Rs.2,42,080/- was paid in the subsequent year, they failed to produce any evidence of payment. They had already stated in the reply that they were not able to trace many of the records due to the reasons stated therein.
- x. They had paid service tax on all revenue on which service tax was liable to be paid.
- xi. The adjudicating authority erred in charging interest under Section 75 and imposing penalty under Section 78 of the Finance Act, 1994.
- xii. There is no findings has concluded that they had suppressed any facts from the department. Their inability to produce documents after the period of limitation cannot be considered as suppression.

5. Personal Hearing in the case was held on 05.01.2023. Shri Sujal Shah, Advocate, appeared on behalf of appellant for the hearing. He reiterated the submissions made in appeal memorandum. He submitted a written submission during hearing and reiterated the submissions made therein. He stated that he would submit relevant documents for reconciliation as part of additional written submission.

6. In the additional written submissions filed during the course of personal hearing on 05.01.2023, the appellant contended, inter alia, that :

- Discrepancy in the value of Sales of Services as per ITR and ST-3 returns cannot be the sole reason for raising demand. Reliance is placed upon the judgment dated 02.07.2019 of the Hon'ble Tribunal in the case of Pappu Crane Service Vs. CCE & ST.
- The SCN was issued after the period of limitation and is, hence, barred in law. The period of limitation has ended between December, 2017 to September, 2018, as the case may be. Their case does not fall under any of the events contemplated in Section 73 for invoking extended period of limitation.



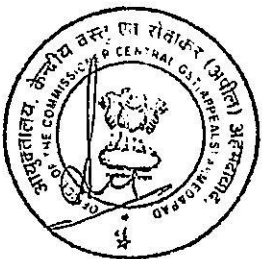
- The department is obliged to prove that their case falls under the events provided in Section 73 of the Act.
- The impugned order does not object to their claim for exemption under the said Notification.
- Their claim for exemption was rejected on the grounds of their inability to provide evidence as contemplated in the said Notification.

7. The appellant, on 17.01.2023, submitted copies of the Reconciliation Statement along with copy of Agreement, statement showing various payments made to them by BC, certified copy of Bank Statement, some of the communications received from BC indicating payment made, copy of Form 26AS.

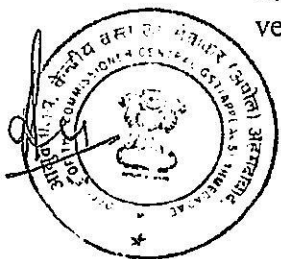
8. I have gone through the facts of the case, submissions made in the Appeal Memorandum, the additional written submissions as well as submissions made at the time of personal hearing and the materials available on records. The issue before me for decision is as whether the impugned order passed by the adjudicating authority confirming the demand of service tax amounting to Rs. 1,19,620/-, in the facts and circumstances of the case, is legal and proper or otherwise. The dispute pertains to the period F.Y. 2015-16.

9. It is observed from the materials available on record that the appellant has contended that the service was provided by them to the British Council (BC), a unit of the British High Commission, and that the same is exempted from payment of service tax in terms of Notification No.27/2012-ST dated 20.06.2012. It is, therefore, pertinent to refer to the said Notification, the relevant part of which is reproduced below :

“In exercise of the powers conferred by section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts taxable services provided by any person, for the official use of a foreign diplomatic mission or consular post in India, or for personal use or for the use of the family members of diplomatic agents or career consular officers posted therein from whole of the service tax leviable under section 66B of the said Act, subject to the following conditions, namely :-



- (i) that the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to exemption from service tax, as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity;
- (ii) that in case of diplomatic agents or career consular officers posted in the foreign diplomatic mission or consular post in India, the Protocol Division of the Ministry of External Affairs or the Protocol Department of the State concerned issues to each of such diplomatic agent or career consular officer an identification card bearing unique identification number and containing a photograph and name of such diplomatic agent or career consular officer and the name of the foreign diplomatic mission or consular post in India, where he is posted;
- (iii) that the head of the foreign diplomatic mission or consular post, or any person of such mission or post authorised by him, shall furnish to the provider of taxable service, a copy of such certificate duly authenticated by him or the authorised person, alongwith an undertaking in original, signed by him or the authorised person, bearing running serial number commencing from a financial year and stating that the services received are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his/her family mentioning the unique identification number as appearing in the identification card issued to them and stating that the services received are for personal use of the said diplomatic agent or career consular officer or members of his/her family;
- (iv) that the head of the foreign diplomatic mission or consular post or the authorized person shall maintain an account of the undertakings issued during a financial year and the account shall contain:-
- (a) the serial number and date of issue of the undertakings;
 - (b) in case of personal use of diplomatic agents or career consular officers posted in the foreign diplomatic mission or consular post in India, the name, designation and unique identification number of the diplomatic agent or career consular officer in favour of whom the undertaking has been issued;
 - (c) the name and the registration number of the provider of taxable service; and
 - (d) the description of taxable service and invoice number.
- (v) The invoice or bill, or as the case may be, the challan issued under the provisions contained in rule 4A of the Service Tax Rules, 1994, shall, in addition to the information required to be furnished under the said rule, contain the serial number and the date of the undertaking furnished by the said head of foreign diplomatic mission or consular post or in case of diplomatic agents or career consular officers posted in such foreign diplomatic mission or consular post in India, the unique identification number of the diplomatic agent or career consular officer, as the case may be; and
- (vi) that the provider of taxable service shall retain the documents referred to in the conditions (i), (ii) and (iii) alongwith a duplicate copy of the invoice issued, for the purposes of verification."

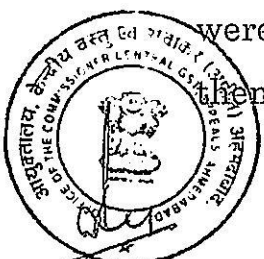


9.1 From a plain reading of the said Notification, it is evident that the exemption is subject to conditions prescribed in the said Notification. In terms of Condition No.(i), the exemption is as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs. In terms of Condition No. (iii) of the said Notification, a copy of the said certificate, duly authenticated, is to be furnished to the service provider along with an undertaking in original bearing a running serial number stating that the services are received for official purposes of the foreign diplomatic mission. In the instant case, it is seen that the appellant have not produced any such certificate either before the adjudicating authority or in the course of the present appeal proceedings. Further, in terms of Condition No. (vi) of the said Notification, the invoice issued by the service provider shall contain the serial number and date of the undertaking furnished by the head of the foreign diplomatic mission. The appellant have, however, not produced any invoice issued by them to the British Council bearing the details as mandated under the said exemption Notification. It is a settled position in law that the onus on establishing the eligibility to exemption Notification is upon the claimant of exemption. In the instant case, the appellant have failed to comply with any of the conditions specified in the said exemption Notification. Accordingly, they are not eligible for the benefit of exemption from payment of service tax in terms of the said Notification.

9.2 It is also pertinent to refer to Clause 5.1 of Schedule 4 to the Agreement dated 30.03.2015 between the appellant and the British Council, the text of which is reproduced below :

“British Council is a division of the British High Commission in India and hence a diplomatic mission. Accordingly British Council will ordinarily not withhold and/or deposit income, service or any other taxes with the concerned authorities of the Government of India in relation to the payments made to you. It is therefore the responsibility of the contractor to pay the full taxes on all payments, and all such taxes are expressly and/or impliedly assumed included in your invoice and payments effected to you pursuant thereto.”

9.3 From the above Clause of Schedule 4 the said Agreement, the appellant was responsible for payment of taxes. Accordingly, the appellant were required to pay the applicable service tax on the services provided by them to the British Council.

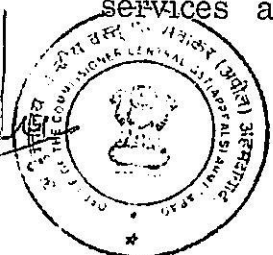


9.4 The appellant have contended that considering the nature of arrangement with the British Council, they were never issuing invoices. However, this contention of the appellant is belied by Clause 5.4 of the said Agreement. Clause 5.4 stipulated that "*Unless stated otherwise, the Service Provider shall invoice for the Charges monthly in arrears and all such invoices shall be accompanied by a statement setting out the Services and/or Deliverables supplied in the relevant month in sufficient detail to justify the Charges charged.*"

9.5 In view of the above fact, I am of the considered view that the appellant have failed to comply with the conditions stipulated in the said Notification No.27/2012-ST dated 20.06.2012 and, consequently, they are not eligible for exemption from payment of service tax in terms of the said Notification.

10. The appellant have also contended that they had paid service tax on the taxable value amounting to Rs.2,42,080/- in the subsequent year i.e. the year of receipt of payment as per Rule 6 (1) of the Service Tax Rules, 1994. However, it is observed that the appellant have failed to produce any document evidencing payment of service tax on the said amount as claimed by them. The appellant did not produce any document even before the adjudicating authority, which has been recorded at Para 3.4 of the impugned order. Merely stating that the service tax was paid, without any supporting document, is not sustainable. Hence, I reject the contention of the appellant in this regard as being unsubstantiated and devoid of merit.

11. The appellant have also challenged the confirmation of service tax on the grounds of limitation. It is observed that the appellant were holding service tax registration and were filing ST-3 returns. Even services which are exempted in terms of any Notification are also required to be declared in the ST-3 returns. However, the appellant have, in their ST-3 returns, never declared the services provided by them and in respect of which exemption was being claimed. The fact of the appellant providing taxable services and receiving taxable income thereof was only within the



knowledge of the appellant and the same was never disclosed to the department. This is a clear case of suppression of facts with an intent to evade payment of service tax. Accordingly, I am of the considered view that the extended period of limitation has been rightly invoked for raising demand of service tax against the appellant.

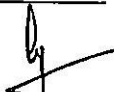
12. Since the appellant had indulged in suppression of facts with the intent to evade payment of service tax and the extended period of limitation has been held to be invocable, the provisions of Section 78 (1) of the Finance Act, 1994 are applicable. The adjudicating authority has therefore, rightly imposed penalty under Section 78(1) of the Finance Act, 1994. Further, since the appellant are liable for payment of service tax, they are also liable to pay interest, at the applicable rate, in terms of Section 75 of the Finance Act, 1994.

13. In view of the facts discussed hereinabove, I uphold the impugned order and reject the appeal filed by the appellant.

14. 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.

Attested:

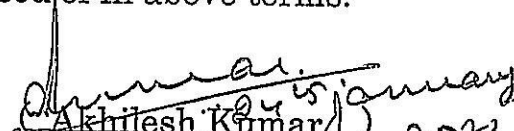

(N.Suryanarayanan. Iyer)
Assistant Commissioner (In situ) (Appeals),
CGST, Ahmedabad.

BY RPAD / SPEED POST

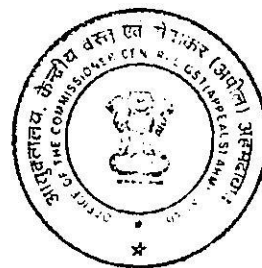
To

M/s. Rupa Sujal Shah,
B-302, The First, Keshavbaug,
Vastrapur, Ahmedabad – 380 015

The Assistant Commissioner,
CGST, Division- VII,
Commissionerate : Ahmedabad South.


Akhilesh Kumar
Commissioner (Appeals)

Date: 24.01.2023.



Appellant

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.

