



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 : 20230264SW0000314708

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/2779,2780/2022 / 8911 - 15
- ख अपील आदेश संख्या Order-In-Appeal No. AHM-EXCUS-001-APP-167 to 168/2022-23  
दिनांक Date : 27-02-2023 जारी करने की तारीख Date of Issue 28.02.2023  
आयुक्त (अपील) द्वारा पारित  
Passed by Shri Akhilesh Kumar, Commissioner (Appeals)
- ग Arising out of OIO No. 01-02/Additional Commissioner/2012 दिनांक: 03.01.2012 passed by  
Additional Commissioner, erstwhile Central Excise, Ahmedabad - I
- घ अपीलकर्ता का नाम एवं पता Name & Address

**Appellant**

M/s Hakimchand D & Sons  
Room No. 2, 35D/13/11/11A,  
Ground Floor, Praijat Building,  
Mugbhat Lane, Mumbai - 400004

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, 4<sup>th</sup> Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :
- (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 प्रक्रिया के दौरान हुई हो।

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.



- (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 हों।

- (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 संलग्नरकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

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

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

- (1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-

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

- (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 2<sup>nd</sup> माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद-380004

- (a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2<sup>nd</sup> Floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad : 380004. in case of appeals other than as mentioned 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 होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

- (4) न्यायालय 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 रु.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.

12<sup>प</sup> 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;  
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:

- (xliii) amount determined under Section 11 D;  
(xliv) amount of erroneous Cenvat Credit taken;  
(xlv) 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."



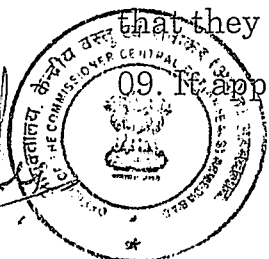
## ORDER-IN-APPEAL

Two appeals have been filed by M/s. Hakimchand D & Sons, 6, Nityanand Apartment, Near Vakil Wadi, Maninagar, Ahmedabad [present known address : Room No.2, 35D/13/11/11A, Ground Floor, Parijat Building, Mugbhat Lane, Mumbai – 400 004] [hereinafter referred to as the “appellant”] against OIO No.01-02/Additional Commissioner/2012 dated 03.01.2012 [hereinafter referred to as the “impugned order”] passed by Additional Commissioner, erstwhile Central Excise, Ahmedabad-I Commissionerate [hereinafter referred to as the “adjudicating authority”]. Since the issue involved is the same in both the appeals viz. GAPPL/COM/STP/2779/2022 and GAPPL/COM/STP/2780/2022, they are being decided vide this OIA.

2. Briefly stated, the facts of the case are that the appellant were holding Service Tax Registration No. AACFH5016PST001 for providing Outdoor Catering services and providing Bed-Rolls in various Trains of Indian Railways as per the licence/contract with Indian Railway Catering and Tourism Corporation of India Ltd. (IRCTC). The services provided by the appellant appeared to be covered under Business Auxiliary Services as defined under Section 65 of the Finance Act, 1994. The appellant was providing bedroll kits to the passengers of Air-conditioned class and other classes on behalf of IRCTC as per the contracts of such services allotted to them by IRCTC. For each bedroll provided by the appellant, the monthly bill used to be raised by them on IRCTC, who was paying a fixed amount per bedroll kit to the appellant, and the appellant were not charging the same from the passengers. It appeared that the appellant was providing taxable services covered under Business Auxiliary Services, effective from 01.07.2003, and the payments received by them appeared to be consideration liable for service tax. However, the appellant did not obtain service tax registration for the said service and did not pay service tax.

2.1 The appellant was issued letter dated 03.03.2010 calling for the details of the income received from providing bedroll kits during the period from 01.04.2008 to 30.09.2009. The appellant vide letter dated 13.04.2010 submitted

that they had received income amounting to Rs.2,12,74,875/- during F.Y. 2008-09. It appeared that the appellant were liable to pay service tax amounting to



Rs.26,29,575/- on the said income, however, they failed to pay the same. The appellant also failed to file their ST-3 returns for the said period within the stipulated time period.

2.2 The appellant was asked vide letter dated 17.06.2010 to submit details of the income earned from supply of bedrolls during F.Y. 2009-10. The appellant vide letter dated 06.07.2010 submitted that they had earned income amounting to Rs.1,20,52,014/- during the said period. However, the appellant did not pay the service tax amounting to Rs.12,41,357/- on the said income from supply of bedrolls.

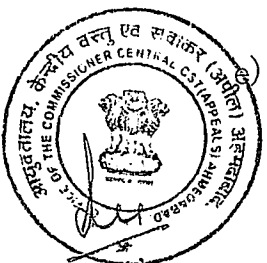
3. Therefore, the appellant was issued Show Cause Notices bearing No. STC/4-11/O&A/2010-11 dated 20.04.2010 and STC/4-29/O&A/10-11 dated 01.09.2010 wherein it was proposed to :

- A. Consider the services rendered by them as taxable services and service tax amounting to Rs.26,29,575/- and Rs.12,41,357/- on the taxable income amounting to Rs.2,12,74,875/- and Rs.1,20,52,014/-, respectively, should not be demanded from them under Section 73 (1) of the Finance Act, 1994 along with interest under Section 75 of the Finance Act, 1994.
- B. Impose penalty under Sections 76, 77 and 78 of the Finance Act, 1994.

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

- a) The services provided by the appellant were held to be taxable services under the category of Business Auxiliary Services as defined under Section 65 of the Finance Act, 1994.
- b) The demand of service tax amounting to Rs.26,29,575/- and Rs.12,41,357/- were confirmed along with interest.
- c) Penalty amounting to Rs.200/- per day or at the rate of 2% of the tax, per month, whichever is higher was imposed under Section 76 of the Finance Act, 1994. The penalty was imposed for the period from 01.04.2009 to 31.03.2010 in terms of SCN dated 01.09.2010.
- d) Penalty amounting to Rs.5,000/- was imposed under Section 77 of the Finance Act, 1994.

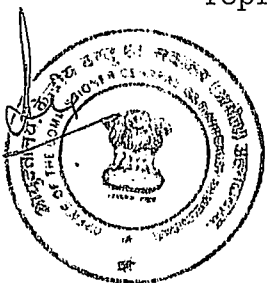
Penalty amounting to Rs.26,29,575/- was imposed under Section 78 of the Finance Act, 1994.



5. Being aggrieved with the impugned order, the appellant have filed the present appeal, on 17.01.2012, on the grounds that the adjudicating authority has wrongly confirmed the demand of service tax, charged interest and imposed penalty under Section 76, 77 and 78 of the Finance Act, 1994.

6. Personal Hearing in the case was initially scheduled on 25.01.2012. However, the appellant vide letter dated 25.01.2012 sought adjournment stating that their Chartered Accountant was out of station. Therefore, the appellant were granted personal hearing on 27.02.2012. The appellant, in the course of the personal hearing, filed a written submission dated 27.02.2012. In the written submissions, the appellant contended that :

- As per the procedure of tendering and bidding for the catering services in various trains, they had bid for supply of bedrolls and the tendering and bidding process was similar to that of catering services in Trains. As per the licence allotted, they had to compulsorily supply bedroll kit to passengers of Air Conditioned class.
- As stated in their statement dated 04.06.2008, the charges per bedroll varies from Rs.19 to Rs.25 per bedroll kit. Month wise bills are prepared by them and as per the terms of the tender, IRCTC returns 10% of the total billed amount towards licence fees and any other deductions of tax at source and the remaining amount is paid to them.
- It can be seen from the bills issued by them, they have never charged or collected service tax for supply of bedrolls . Further, as per the prevailing practice followed by other Contractors, they are also not paying any service tax on supply of bedroll kits.
- The activities covered under Business Auxiliary Services are related to promotion, marketing or sale of goods and services, customer care services, procurement of goods or services or provision of service on behalf of the client.
- The term 'on behalf of client' would indicate an action or activity or service undertaken, representing someone to a third party. In such a situation, there are three parties in the arrangement and one party is representing another to the third party.



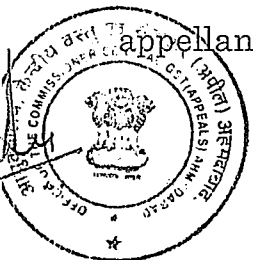
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- In the present case, there are four parties viz. Indian Railways, IRCTC, the service provider and the customers who travel in the trains.
  - They, being a contractor, receive payments for providing bedrolls, which are their own property and not of IRCTC. They supply the bedrolls to the passengers for the journey. So, it is in no way promotion of goods or services belonging to principal party or any provision of service on behalf of the client.
  - Further, in order for the service provided by them to be covered under Business Auxiliary Services, they must be providing service to Indian Railways on behalf of IRCTC. However, as per the MOU between Indian Railways and IRCTC, it is independent responsibility of IRCTC to provide services to Indian Railways. Therefore, provision of Business Auxiliary Service is not attracted in their case.
  - Reference is drawn towards the correspondence between IRCTC and Delhi Service Tax Commissionerate dated 02.01.2009 wherein IRCTC had categorically informed the department that service tax is not applicable on the work of providing bedrolls.
  - They have never collected service tax on the said supply. IRCTC has also not allowed them to collect service tax. The other service providers working with IRCTC have also not collected or paid service tax.
  - They have obtained some contracts for the said work beyond the applicability of service tax. At that time there was no service tax provision. Therefore, they had placed bids without considering future liability of service tax, if any. If sudden liability arises, they would incur heavy losses. Therefore, it is suggested that the liability be passed on to IRCTC who is legally liable under the MOU with Indian Railways.
  - The SCN has invoked extended period of limitation however, the SCN has failed to explain how they had suppressed the information from eh department. The allegation that there was a failure on their part in disclosing all material facts is baseless.
  - There was no deliberate intention on their part to no disclose information or evade payment of service tax. In fact, the department never asked for any information which they failed to disclose.



- As they have not violated any of the provision of Section 68, 69 or 70 of the Finance Act, 1994, they are not liable to penalty under Section 76, 77 and 78 of the Finance Act, 1994.
- Reliance is placed upon the judgment in the case of CCE, Bangalore-II vs. Nina Industries – 2007 (210) ELT 547 (Tri.-Bang.); Collector Vs. Chemphar Drugs – 1989 (40) ELT 276 (SC); Apex Electricals Vs. UOI – 1992 (61) ELT 413 (Guj.); Pahwa Chemicals P. Ltd. Vs. Commissioner of C.Ex., Delhi – 205 (189) ELT 257 (SC); Hindustan Steel Vs. State of Orissa – 1978 (ELT) 159 (SC); CCE, Mumbai Vs. Gamma Consultancy Pvt. Ltd. – 2004 (4) STR 591 (Tri.-Mum.) and Gopsons Papers Ltd. Vs. CCE, Noida – 2007 (5) STR 371 (Tri.-Del.).
- Without prejudice to the above submissions, it is submitted that proceedings have been separately launched by the Service Tax Department, Delhi against IRCTC for payment of service tax on supply of bedrolls. Since tax on the same services cannot be recovered twice, the matter be kept in abeyance till disposal of the proceedings against IRCTC.

7. In an identical matter involving the appellant, the department had filed an appeal before the Hon'ble CESTAT, Ahmedabad against OIO No. STC/05/Commr/AHD/2010 dated 26.02.2010. Therefore, the case was transferred to the Call Book pending decision of the Hon'ble Tribunal. As the case was decided by the Hon'ble Tribunal vide Final Order No. A/10413-10414/2022 dated 06.05.2022, the case was retrieved from the Call Book and taken up for decision.

7.1 The appellant was granted opportunities for personal hearing on 31.10.2022, 15.11.2022, 21.12.2022, 05.01.2023, 20.01.2023, 09.02.2023 and 22.02.2023. Except for letter dated 15.12.2022 granting personal hearing on 21.12.2022, the remaining letters were returned undelivered. Though the letter dated 15.12.2022 was delivered to the appellant, they neither appeared for the personal hearing nor sought any adjournment. Considering this fact, I am of the view that the appellant have been given ample opportunities for personal hearing in compliance of the principles of natural justice. Since the appellant have failed to avail the opportunity of personal hearing granted to





them, I proceed to decide the appeals on the basis of the materials available on record.

8. I have gone through the facts of the case, submissions made in the Appeal Memorandum, the additional written submissions and the materials available on records. The issue before me for decision is as to whether the impugned order confirming the demand of service tax by holding that the supply of bedroll kits to passengers in Trains falls within the ambit of Business Auxiliary Service, in the facts and circumstances of the case, is legal and proper. The demand pertains to the period F.Y. 2008-09 to F.Y. 2009-10.

9. It is observed from the materials available on record that the appellant were issued a SCN for the period from 01.07.2003 to 31.03.2008 demanding service tax on the service of providing bedroll kits to passengers in Trains. The said SCN was adjudicated vide OIO No. STC/05/Commr/AHD/2010 dated 26.02.2010 wherein it was held that the said service provided by the appellant was Business Auxiliary. The demand of service tax amounting to Rs.42,20,893/- was confirmed vide the said OIO dated 26.02.2010.

9.1 Being aggrieved, the appellant had filed appeal before the Hon'ble Tribunal, Ahmedabad, who vide Final Order No. A/10413-10414/2022 dated 06.05.2022 held that :

“5.2 The facts, is not disputed in the present matter that Appellant has supplied bedroll kits to passengers of Air-Conditioned class and other classes on behalf of IRCTC. As per the contract with IRCTC, the Appellant has to compulsorily provide the bedroll kit to passengers on demand. For the said services a monthly bill was raised by the appellant to IRCTC, the appellant for the said services needs not to charge the passengers. The services have been rendered by the appellant to the passengers on behalf of IRCTC. The said services rendered by Appellant for an on behalf of IRCTC to passengers in the nature of a „customer care service“. **Therefore we are of the view that such services appropriately classifiable under business auxiliary services under the category of “Customer care services provided on behalf of the client under Section 65(11) of the Finance Act, 1994”.** As regards judgment of *General Pre cured Treads Pvt. Ltd. supra* relied upon by the Learned Counsel, we find that the said judgment is on different facts. Therefore, the ratio of the same is not applicable. **As per our above discussion we are of the considered view that the impugned order is sustainable on the above issue.** We also find that this is not the case where the issue was under litigation or there is any interpretation of law involved for the reason that all the judgments relied upon by the appellant are on different facts and accordingly the demand of extended period is sustainable. As regard penalty imposed under Section 76 and 78, we are of the view that simultaneous penalty under Section 76 and 78 cannot be imposed. Therefore, the penalty imposed under Section 76 is set aside. Other penalties and interests to the extent demand was sustained is also sustainable.



As per our above discussion and finding, impugned order is modified to above extent in respect of demand of supply of Bedroll Kits.”[Emphasis supplied]

9.2 In view of the above judgment of the Hon’ble Tribunal, Ahmedabad holding that the supply of bedrolls is classifiable as Customer Care Services under the category of Business Auxiliary Services, the matter is no more *res integra*. Further, there is no material available on record to indicate that the said judgment of the Hon’ble Tribunal has been stayed or overruled by any higher judicial authority. Accordingly, in consonance with the principles of judicial discipline, I follow the ratio of the above judgment of the Hon’ble Tribunal and hold that the supply of bedrolls to the passengers in Trains is classifiable under the category of Business Auxiliary Service and chargeable to service tax. In view thereof, I do not find any cause for interfering with the impugned order confirming the demand of service tax against the appellant.

10. Accordingly, I uphold the impugned orders and reject the appeals filed by the appellant.

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

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

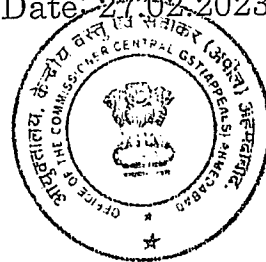
*Akhil Kumar*  
27 February, 2023..

( Akhilesh Kumar )  
Commissioner (Appeals)

Date: 27.02.2023.

Attested:

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



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Ground Floor, Parijat Building,  
Mugbhat Lane,  
Mumbai – 400 004

Appellant

The Additional Commissioner,  
CGST,  
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)
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5. P.A. File.



