आयुक्त(अपील)का कार्यालय
Office of the Commissioner (Appeals)

केंद्रीय जीएसटी, अपील आयुक्तालय,अहमदाबाद
Central GST, Appeal Commissionerate, Ahmedabad
जीएसटी भवन, राजस्वमार्ग, अम्बावाड़ीअहमदाबाद ३८००१५
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
07926305065 टेलेफैक्स07926305136

DIN : 20230364SW0000333EFC

स्पीड पोस्ट

क फाइल संख्या : File No : GAPPL/COM/STP/2742/2022 /9513-87

ख अपील आदेश संख्या Order-In-Appeal No. **AHM-EXCUS-001-APP-188/2022-23**
दिनाँक Date : **15-03-2023** जारी करने की तारीख Date of Issue 17.03.2023

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

ग Arising out of OIO No. **WS07/O&A/OIO-17/AC-RAG/2022-23** दिनाँक: **10.06.2022** passed by Assistant Commissioner, CGST, Division-VII, Ahmedabad South

ध अपीलकर्ता का नाम एवं पता Name & Address

Appellant

1. **M/s Nikhil S. Shah**
   A/003, Pushkar-4,
   P.T. College Road, Paldi,
   Ahmedabad

Resondent

1. **The Assistant Commissioner**
   CGST, Division VII, Ahmedabad South
   3rd Floor, APM Mall, Anandnagar Road,
   Satellite, Ahmedabad – 15

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.

3ण 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:

(lxxxv) amount determined under Section 11 D;
(lxxxvi) amount of erroneous Cenvat Credit taken;
(lxxxvii) 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

M/s. Nikhil S. Shah, A/003, Pushkar-4, P.T. College Road, Paldi, Ahmedabad (hereinafter referred to as '*the appellant*') have filed the present appeal against the Order-in Original No.WS07/O&A/OIO-17/AC-RAG/2022-23 dated 10.06.2022 (in short '*impugned order*') passed by the Assistant Commissioner, Central GST, Division-VII, Ahmedabad South (hereinafter referred to as '*the adjudicating authority*').

2. The facts of the case, in brief, are that on the basis of the data received from the Central Board of Direct Taxes (CBDT), it was noticed that the appellant had earned substantial service income during the F.Y. 2014-15 to F.Y. 2016-17. The appellant, however, neither obtained Service Tax Registration nor paid service tax on the said income. They had declared income of Rs.23,59,500/-, Rs.16,81,433/- & Rs.12,99,103/- under the 'Sales/Gross Receipts' in their ITR filed for the F.Y. 2014-15, F.Y. 2015-16 & F.Y. 2016-17 respectively, on which no service tax was discharged. Letters were, therefore, issued to the appellant to explain the reasons for non-payment of tax and to provide certified documentary evidences to prove the same. They neither submitted any documents nor filed any reply to substantiate the non-payment of service tax on such receipts.

2.1 Thereafter, a Show Cause Notice (SCN) No.V/WS07/O&A/SCN-257/BEPPS4490L/2020-2021 dated 23.09.2020 was issued to the appellant proposing recovery of service tax demand of Rs.5,63,336/- not paid on the income received during the F.Y. 2014-15 to F.Y. 2016-17, along with interest under Section 73(1) and Section 75 of the Finance Act, 1994, respectively. Imposition of late fees under Sections 70, imposition of penalty both under Section 77 and Section 78 of the Finance Act, 1994 were also proposed.

2.2 The said SCN was adjudicated vide the impugned order, wherein out of the total demand of Rs.5,63,336/-, the service tax demand of Rs.5,41,313/- was confirmed after granting exemption under Notification No. 30/2012-ST dated 20.06.2012 and cum-tax benefit in terms of Section 67(2) of the Finance Act, 1944. Interest of Rs.3,12,859/- was worked out considering the reduced service tax demand confirmed. Penalty of Rs.10,000/- was imposed under Section 77 and equivalent penalty of Rs.5,41,313/- was also imposed under Section 78. Late fees of Rs.1,20,000/- was also imposed under Section 70.

3. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal on the grounds elaborated below:-

- Relevant submissions and case laws relied as binding precedents were not considered without giving any reasons, which is in gross violation of the natural justice.
- In the F.Y.2014-15, the taxable value was Rs.9,41,733/- which was less than the threshold exemption, but the same was not considered while confirming the demand.
- Appellant were under the bonafide belief that they are not liable to pay service on the commission income earned, therefore, no service tax registration or

payment of tax was made. Moreover, the income was recorded in the ITR and Balance Sheet. As the details / information were available in the public domain, suppression cannot be invoked and therefore the notice proposing demand for the F.Y.2014-15 to F.Y. 2016-17, is time barred. Invocation of extended period of limitation would be justified only when the assessee knew about the tax liability and did not pay the tax deliberately to evade the tax payment. They placed reliance on following case laws:

- DCM Engg Products- 2002 (147) ELT 820
- Pranav Vikas (India) Ltd.- 2002 (148) ELT 963
- Bharat Heavy Electricals Ltd-1997 (18) RLT 573
- Continental Foundation- 2007(216) ELT 177 (SC)

- Penalty under Section 78 is not justifiable as non-payment of tax by reasons of fraud, collusion or willful mis-statement or suppression of facts not brought out by the revenue. Reliance placed on Apex Court's judgment passed in the case of Hindustan Steel Ltd.-1978 ELT (J159).
- The appellant were unaware of their tax liability hence did not take registration. I such scenario it cannot be alleged that they failed to take registration, therefore, imposition of penalty of Rs.10,000/- under Section 77(1)(a) is not justifiable.
- The returns were not furnished as they were under the bonafide belief that the service tax is not payable. Therefore, late fee of Rs.1,20,000/- imposed under Section 70 is also not justifiable.
- For the same cause, different penalties cannot be imposed, which is against the Constitution of India.
- As there is no short payment or non-payment of tax, interest cannot be recovered.

4. Personal hearing in the matter was held on 09.02.2023. Shri Sudhanshu Bissa, Advocate, appeared on behalf of the appellant. He reiterated the submissions made in the appeal memorandum.

5. I have carefully gone through the facts of the case, the impugned order passed by the adjudicating authority, submissions made in the appeal memorandum as well as the submissions made at the time of personal hearing. The issue to be decided in the present appeal is as to whether the service tax demand of Rs.5,41,313/- confirmed in the impugned order passed by the adjudicating authority, in the facts and circumstances of the case, is legal and proper or otherwise? The demand pertains to the period F.Y. 2014-15 to F.Y. 2016-17.

6. It is observed that the appellant was rendering Commission Agent Service and had earned total income of Rs.53,40,036/- during the F.Y. 2014-15 to F.Y.2016-17. They had in reply to the SCN, stated that out of the said income, an income of Rs.8,44,199/- was earned as Commission from LIC, on which, under Reverse Charge Mechanism (RCM), the tax liability shall be on the recipient of service. They have claim that their turnover in the F.Y. 2013-14 was Rs.12,45,042/-, out of which Rs.3,08,713/- was earned as Commission Income from LIC. After deducting this income, the value of taxable income in the F.Y. 2013-14 would be Rs.9,36,329/-, which is less that the threshold limit. Thus, they are eligible for the SSI exemption in the succeeding F.Y. 2014-15. Accordingly the taxable income for the F.Y. 2014-15 would arrive at Rs.9,41,732/- (Rs.23,59,500/- minus

Rs.3,08,713/-=Rs.19,41,733-) minus SSI Exemption of Rs.10,00,000/-), and not Rs.23,59,500/- as alleged in the SCN.

6.1 The adjudicating authority has, after examining the Balance Sheet for the F.Y. 2013-14, observed that the Commission Income of Rs.12,45,041/- earned was more than Rs.10 Lakh. He, therefore, denied the SSI exemption for the F.Y. 2014-15. However, the Commission Income received from LIC was deducted from the taxable income and after granting cum tax benefit, the adjudicating authority arrived at the service tax liability of **Rs.2,13,598/-** for the F.Y.2014-15. Similar view was taken for F.Y. 2015-16 & F.Y. 2016-17. Details are furnished in the table below.

(Amount in Rs.)

Year	Income	Commission from LIC	Taxable Income after deduction	Rate of Service tax	Amount on which Service tax to be recovered	Service Tax
2014-15	23,59,500/-	4,17,767/-	19,41,733/-	12.36%	17,28,135/-	2,13,598/-
2015-16	16,81,432/-	2,52,018/-	14,29,414/-	14.50%	12,48,396/-	1,81,017/-
2016-17	12,99,103/-	1,74,418/-	11,24,685/-	15.00%	9,77,987/-	1,46,698/-
					Total	**5,41,313/-**

6.2 The threshold limit exemption is prescribed under Notification No.33/2012-ST dated 20.06.2012, which exempts the taxable services of aggregate value not exceeding ten lakh rupees in any financial year from the whole of the service tax leviable thereon under Section 66 of the Finance Act. The term "**aggregate value**" means the sum total of value of taxable services charged in the first consecutive invoices issued during a financial year but does not include value charged in invoices issued towards such services which are exempt from whole of service tax leviable thereon under section 66B of the said Finance Act under any other notification. I find that the taxable services rendered by the appellant are not exempted vide any notification. Therefore, the Commission Income earned from LIC has to be included in the aggregate value, while considering the threshold limit exemption, as the aggregate value is the total of value of all taxable service except the services exempted from the whole of service tax leviable under Section 66B of the F.A., 1994. The appellant's turnover in the F.Y. 2013-14 was Rs.12,45,042/-, which exceeds the threshold limit of ten lakh rupees. I, therefore, find that the value based exemption denied by the adjudicating authority for the F.Y.2014-15, is legally sustainable.

6.3 Further, the taxable value, where the liability under RCM was on the service recipient, was deducted by the adjudicating authority while confirming the demand. As the services provided by the appellant were neither exempted nor covered under negative list, I find that the appellant is liable to pay service tax on the income earned for rendering such taxable service, excluding the commission received from LIC. I, therefore, do not find any reason to interfere with the findings of the adjudicating authority as the same are legally sustainable on merits. In view of the above, I uphold the demand of Rs.5,41,313/- confirmed in the impugned order.

6.4. When the demand sustains there is no escape from interest, the same is, therefore, recoverable with applicable rate of interest.

7. Further, it is the contention of the appellant that penalty under Section 78 is not imposable as they were under the *bon fide* belief that there is no tax liability on them. I do not agree with the above contention, as the same is not supported by any reasonable explanation. I place reliance in the judgment passed by High Court at Bombay, in the case of **Responsive Industries Ltd**, reported at 2019 (26) G.S.T.L. 457 (Bom.), wherein the appeal was dismissed on the findings that;

> ***9.*** *The contention that there was a bona fide belief that the Appellant are not liable to pay the service tax on outward transportation of goods and the GTA is not supported by any reasonable explanation. The bona fide belief that one is not liable to pay the tax has to be based on some facts on record which led to the belief. It is not the Appellant's case that the belief based on a ruling of the some authority that it not liable to pay service tax on outward transportation. A mere statement to the effect that the Appellant was under a bona fide belief of non liability of paying tax cannot be accepted in the face of clear provision of law. Thus, it is not possible to accept the contention that the Appellant had bona fide belief of for non-payment of tax, so as to invoke Section 80 of the Act.*

7.1 Further, the appellant have also contended that suppression cannot be alleged as income received was reflected in the Balance Sheet of respective years which are public document available in the public domain. It is observed that Hon'ble Tribunal in the case of *Commissioner of Central Excise, Calicut* v. ***Steel Industries Kerala Ltd.*** reported in 2005 (188) E.L.T. 33 (Tri.-Bang.) held that the theory of universal knowledge in respect of balance sheet being a public document not attracted to the Department of Revenue in absence of the declaration by the assessee. The appellant, however, have placed reliance on few case laws in support their contention, which I find are not applicable to the present case as the same are distinguishable on facts. In the case of **DCM Engg Products**- 2002 (147) ELT 820, it was held that the extended period of limitation is not invokable as the price list was submitted by the appellants, the Purchase Order numbers were duly mentioned and the copies of Purchase Orders were also enclosed with the price list. Similarly, in the case of **Pranav Vikas (India) Ltd**- 2002 (148) ELT 963, the demand has been worked out only on the scrutiny of the RT-12 returns. These returns were being regularly submitted by the appellants every month giving each and every details regarding the availment of the concessional rate of duty by them under the notification in question. They had been filing the invoices along with those returns. Similarly, in **Continental Foundation**- 2007(216) ELT 177 (SC), it was held that mere omission to give correct information is not suppression of facts unless it was deliberate to stop the payment of duty. When the facts are known to both the parties, omission by one party to do what he might have done would not render it suppression. An incorrect statement cannot be equated with a willful misstatement. I find that in all these cases, the details were reflected in the statutory return filed with the department. Whereas in the instant case, the appellant is not registered with the department and hence has not filed any return. Therefore the ratio of above decisions cannot be applicable to the present case.

7.2 I, therefore, find that the imposition of penalty under Section 78 is also justifiable as it provides penalty for suppressing the value of taxable services. Hon'ble Supreme Court in case of *Union of India* v/s *Dharamendra Textile Processors* reported in [2008 (231) E.L.T. 3 (S.C.)], considered such provision and came to the conclusion that the section provides for a mandatory penalty and leaves no scope of discretion for imposing lesser penalty. I find that the appellant was rendering a taxable service but did not obtain

registration and hence such non-payment of service tax undoubtedly brings out the willful mis-statement and fraud with intent to evade payment of service tax. If any of the circumstances referred to in Section 73(1) are established, the person liable to pay duty would also be liable to pay a penalty equal to the tax so determined.

8. As regards the imposition of penalty under Section 77 is concerned, I find the appellant were rendering the taxable service and were liable to pay service tax. However, they never considered to obtain the registration in accordance with the provisions of Section 69. They also failed to produce documents called for by a Central Excise Officer in accordance with the provisions of this Chapter or rules made thereunder. All such acts make them liable to a penalty. I, therefore, uphold the penalty of Rs.10,000/-imposed under Section 77 of the Finance Act, 1994.

9. In terms of provisions of Section 70 of the Finance Act, 1994, "*Every person liable to pay the Service Tax shall himself assess the tax due on the services provided by him and shall furnish to the Superintendent of Central Excise a return in such form and in such manner and at such frequency (and with such late fees not exceeding two thousands for delayed furnishing of return) as may be prescribed* ..... Thus, the self-assessment procedure has been prescribed under the Service Tax Law and procedures. It is thus mandatory on the part of the appellant to assess themselves the exact Service Tax liability on the services being provided by them. The appellant were rendering taxable services but they failed to assess their tax liability and failed to file the prescribed returns, thus, I find that the late fees under Section 70 is also imposable on the appellant.

10. In view of above discussion, I uphold the impugned order confirming the service tax demand of Rs.5,41,313/- alongwith interest, penalties and late fee. Accordingly, the appeal filed by the appellant is rejected.

11. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
The appeal filed by the appellant stands disposed off in above terms.

15 March 2023

(अखिलेश कुमार)
आयुक्त(अपील्स)

Date: 15.03.2023

Attested
Rekha A. Nair
(Rekha A. Nair)
Superintendent (Appeals)
CGST, Ahmedabad

By RPAD/SPEED POST

To,
M/s. Nikhil S. Shah,
A/003, Pushkar-4,
P.T. College Road, Paldi,

- **Appellant**

Ahmedabad

The Assistant Commissioner - **Respondent**
CGST, Division-VII, Ahmedabad South
Ahmedabad

Copy to:

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Ahmedabad South.
3. The Assistant Commissioner (H.Q. System), CGST, Ahmedabad South. (For uploading the OIA)
4. Guard File.