



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 : 20221164SW00008186E4

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/2650/2021 / 14623 - 28
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-001-APP-063/2022-23  
दिनांक Date : 20-10-2022 जारी करने की तारीख Date of Issue 10.11.2022  
आयुक्त (अपील) द्वारा पारित  
Passed by Shri Akhilesh Kumar, Commissioner (Appeals)
- ग Arising out of OIO No. CGST/Dem/05/BSM/AC/D-VIII/2019-20 दिनांक: 28.11.2019 passed by  
Assistant Commissioner, CGST, Division-VIII, Ahmedabad South
- घ अपीलकर्ता का नाम एवं पता Name & Address

**Appellant**

1. M/s Streebo Solutions Pvt Ltd  
A-714, Siddhi Vinayak Towers,  
Off. S.G. Highway, Makarba,  
Jivraj Park, Ahmedabad - 380015
2. M/s Streebo Solutions Pvt Ltd  
6<sup>th</sup> Floor, Nr. DAV School, Off S.G. Highway,  
Makarba, Ahmedabad

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

Any person 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 :

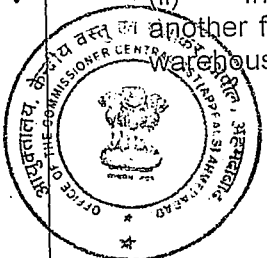
**Revision application to Government of India:**

(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 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 होता 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, अपीलों 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 Appellate 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 अनुसूची-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.

- (40) 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)-

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है.

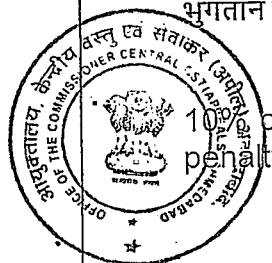
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (ciii) amount determined under Section 11 D;
- (civ) amount of erroneous Cenvat Credit taken;
- (cv) 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. Streebo Solutions Pvt. Ltd., A-714, Siddhi Vinayak Towers, Off. S.G. Highway, Makarba, Jivraj Park, Ahmedabad – 380 015 (hereinafter referred to as the appellant) against Order in Original No. CGST/Dem/05/BSM/AC/D-VIII/2019-20 dated 28.11.2019 [hereinafter referred to as “*impugned order*”] passed by the Assistant Commissioner, CGST, Division-VIII, Commissionerate : Ahmedabad South [hereinafter referred to as “*adjudicating authority*”].

2. Briefly stated, the facts of the case is that the appellant were holding Service Tax Registration No. AAQCS7393PSD001 and providing Information Technology Software Service to both domestic as well as foreign customers. EA-2000 audit on the record of the appellant was carried out by the officers of CGST Audit Commissionerate, Ahmedabad and FAR No. 2271/17-18 dated 27.07.2018 was issued, wherein certain Revenue Paras were raised which are detailed in the succeeding paragraphs.

2.1 Revenue Para 1 : On reconciliation of the financial statements of the appellant with the ST-3 returns, it was noticed that the appellant had, during F.Y. 2012-13 to F.Y. 2016-17, short paid service tax amounting to Rs.8,67,949/-. Out of the total demand, during F.Y. 2012-13 and F.Y. 2013-14, the difference in the income reported in the financial statements and in their ST-3 returns was found on which the appellant had not paid service tax amounting to Rs.8,888/-. It was further observed that the appellant had not discharged service tax on the Travel Reimbursement Income during F.Y.2014-15 to F.Y. 2016-17. Further, they had also not discharged service tax liability on Rs.2,80,000/- received as SVI income from IBM, Bangalore during F.Y. 2014-15.

2.2 Revenue Para 2 : It was observed that the appellant had not discharged service tax under reverse charge in respect of Supply of Manpower services in terms of Notification No.30/2012-ST dated 20.06.2012. Being a body corporate, the appellant was required to discharge 100% service tax in terms



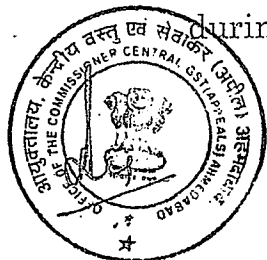
of the said Notification. It appeared that the appellant had not paid service tax amounting to Rs.30,598/- during F.Y. 2015-16 and F.Y. 2016-17.

2.3 Revenue Para 3 : It was observed that the appellant had received Legal Service during F.Y. 2014-15 but had not paid service tax amounting to Rs.1,236/- under reverse charge in terms of Notification No.30/2012-ST dated 20.06.2012.

2.4 Revenue Para 4 : It was observed that the appellant had incurred Rent Expenses amounting to Rs.36,00,000/- during F.Y.2012-13 to F.Y. 2016-17 for the immovable property taken on rent from one of their Directors, but had not paid service tax amounting to Rs.4,79,376/- under reverse charge in terms of Notification No.30/2012-ST dated 20.06.2012.

2.5 Revenue Para 5 : It was observed that the appellant had, during F.Y. 2014-15 to F.Y. 2016-17, forfeited/retained certain amount of salary from the employees who had left the company without completion of three years of minimum service. It appeared that the appellant was providing a service to persons leaving the company without completion of the stipulated period by way of Tolerating an Act, for which the company was recovering certain amount from them. Such service is a declared service in terms of Section 66E (e) of the Finance Act, 1994 and the appellant was liable to pay service tax amounting to Rs.95,509/-.

2.6 Revenue Para 6 : On verification of the cenvat credit invoices, it was observed that appellant had availed cenvat credit amounting to Rs.15,960/- on the basis of proforma invoices without having service tax charged therein. It was also found that the appellant had merged the unutilized balance credit of Education Cess and Higher Education Cess in to the basic service tax credit wrongly. It was further noticed that the appellant had made adjustment of Rs.2,278/- in the opening balance of basic service tax credit in the ST-3 returns for April to June, 2016. It, therefore, appeared that the appellant had wrongly availed cenvat credit totally amounting to Rs.18,658/- during F.Y. 2015-16 to F.Y. 2016-17.



2.7. The objections raised in FAR 2271/2017-18 dated 27.07.2018 were communicated to the appellant by a query memo dated 13.06.2018. However, no reply was submitted by the appellant.

2.8 The appellant had similarly not paid service tax under reverse charge on the rent paid to the Director during F.Y.2017-18 (upto June, 2017) and had not paid service tax amounting to Rs.27,000/-. They had also not paid service tax amounting to Rs.24,235/- on the amount of Notice Pay in F.Y.2017-18 (upto June, 2017). In this regard, the appellant was issued Show Cause Notice No. .Dn-VIII/O&A/10A/Audit/CN/Streebo/2018-19 dated 06.02.2019 demanding service tax amounting to Rs.51,235/- under Section 73 (1) of the Finance Act, 1994.

3. The appellant was, therefore, issued another Show Cause Notice wherein it was proposed to :

- a) Demand and recover service tax totally amounting to Rs.15,25,903/-, in respect of all the six Revenue Paras and also including the amount demanded vide SCN dated 06.02.2019, under 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) Disallow and recover cenvat credit amounting to Rs.18,658/- under Rule 14 of the Cenvat Credit Rules, 2004 read with Section 73 of the Finance Act, 1994.
- e) Recover interest under Rule 14 of the CCR, 2004 read with Section 75 of the Finance Act, 1994.
- f) Impose penalty under Rule 15 of the CCR, 204 read with Section 78 of the Finance Act, 1994.
- g) Impose penalty under Section 77(2) of the Finance Act, 1994.

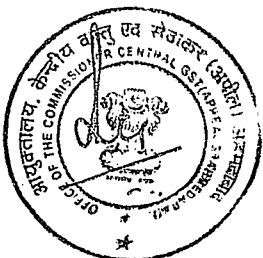
4. The SCNs were adjudicated vide the impugned order wherein the demand for service tax and cenvat credit was confirmed along with interest. Penalty equivalent to the service tax and cenvat credit confirmed was imposed. Though penalty was also imposed under Section 77(2) of the Finance Act, 1994, the amount of penalty has not been specified.



5. Being aggrieved with the impugned order, the appellant have filed the present appeal on the following grounds :

- i. The adjudicating authority has erred in confirming the demand of Rs.15,25,903/-; He has erred in law by relying upon difference of opinion and interpretation of law as the differential amount does not represent their income.
- ii. The adjudicating authority has erred in charging service tax on various incomes/reimbursement which does not represent taxable service as per the provisions of Service Tax Act.
- iii. The adjudicating authority has erred in not considering their various submissions and documents submitted by them. No proper opportunity of being heard was given which is in gross violation of the principles of natural justice.
- iv. Service tax has been charged on exempt services and income without considering the proper documents and evidences submitted by them.
- v. The adjudicating authority has erroneously mentioned their non-attendance on various dates without considering the facts of the case.
- vi. They were doing the activity of software development services and the department was of the view that they were liable to pay service tax on various incomes. However, service tax is not applicable on the various incomes mentioned in the impugned order.
- vii. The adjudicating authority has erred in considering and holding that they had undertaken transactions of taxable services.
- viii. Penalty has been imposed without there being any mens rea, contumacious conduct and guilty mind on their part. In the absence of the same, initiating and imposing penalty is highly unwarranted and bad in law.
- ix. Charging of interest under Section 75 of the Finance Act, 1994 is unjustified and unlawful.

6. The appellant also filed an application for condonation of delay, wherein it was submitted that :



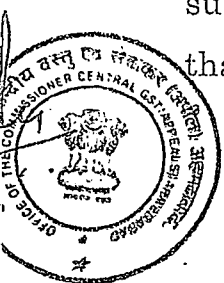
- The impugned order dated 28.11.2019 was received by them on 10.12.2019 and appeal was required to be filed on or before 10.03.2020. However, the appeal was filed late by 18 months on 05.10.2021.
- On receipt of the impugned order, their accountant was directed to consult their consultant and submit papers for filing appeal. However, in February, 2020 the Account Department head left the job and kept all the papers in one file without intimating the management about the same. The management was under the impression that the appeal was filed.
- Even in July, 2020, when pre-deposit was paid the management was not informed that the appeal was not filed. During this period, there was death in the family of the Director and they were busy in the rituals. Hence, the appeal could not be filed within the stipulated time period.
- The Government and the Hon'ble Supreme Court have extended time limit to file various compliances including taxation appeals. Accordingly, the delay of six months may kindly be condoned and the appeal admitted.
- They rely upon the various judicial pronouncements in their support.

7. Personal Hearing in the case was held on 29.08.2022. Shri Varis V. Isani, Advocate, appeared on behalf of appellant for the hearing. He stated that they are accepting liability on two issues i.e. on Manpower services and Legal Services. He requested for adjournment for fixing details submissions.

7.1 The appellant was subsequently granted personal hearing on 07.10.2022. Shri Varis V. Isani, Advocate, appeared on behalf of appellant for the hearing. He reiterated the submissions made in appeal memorandum and submitted a written submission during the hearing and reiterated the submissions made therein.

8. In their written submissions made during the personal hearing, the appellant submitted, inter alia, that :

- The service tax of Rs.8,67,949/- has been worked out erroneously. There is no difference in income, which attracts service tax liability. They are submitting details of reconciliation of difference in income which shows that during F.Y. 2012-13 to F.Y.2016-17, they had received certain





amount, which is reflected on the credit side of income and expenditure account. Majority of the income is towards reimbursement of expense. They rely upon the decision in the case of Saher Vs. Commissioner of Service Tax, Delhi-II in Service Tax Appeal No.52708 of 2016 dated 13.06.2022 as well as the judgment in the case of Inter-Continental Consultant and Techno Craft Pvt. Ltd. – 2018(10) GSTL 401 (SC).

- Service tax of Rs.30,598/- has been charged on Manpower Services received during F.Y.2015-16 and F.Y. 2016-17. It is submitted that the service received by them is cleaner and sweeper, who are cleaning their office. They are individual employee to whom salary is paid and there is no service tax on payment of salary.
- Service Tax of Rs.1,236/- has been charged on Legal Services. It is submitted that the service was not for legal work and the amount was paid to renew certificate of various municipal authorities.
- Regarding rent paid to Directors, it is submitted that the same was not liable to service tax as it was below the threshold limit. The SCN for F.Y. 2012-13 to F.Y.2016-17 is time barred.
- Regarding service tax on Notice Pay recovery, it is submitted that these are not income. The amount of retention money is not their income; infact it is their liability towards employees which is to be paid to them on completion of three years of service.

9. 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 on various counts mentioned in the impugned order for service tax along with interest and penalty. The demand pertains to the period F.Y. 2012-13 to F.Y. 2016-17.

10. It is observed from the records that the present appeal was filed by the appellant on 05.10.2021 against the impugned order dated 28.11.2019, which the appellant have claimed to have been received by them on 10.12.2019. Appeals preferred before the Commissioner (Appeals) are governed by the provisions of Section 85 of the Finance Act, 1994. The

relevant part of the said section is reproduced below :



“(3A) An appeal shall be presented within two months from the date of receipt of the decision or order of such adjudicating authority, made on and after the Finance Bill, 2012 received the assent of the President, relating to service tax, interest or penalty under this Chapter:

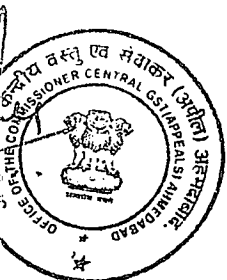
Provided that the Commissioner of Central Excise (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of two months, allow it to be presented within a further period of one month.”

10.1 In the instant case, the impugned order is dated 28.11.2019 and the appellant have admittedly received it on 10.12.2019. Therefore, the period of two months for filing the appeal before the Commissioner (Appeals) ended on 10.02.2020. The further period of one month, which the Commissioner (Appeals) is empowered to allow for filing appeal also ended on 10.03.2020. However, the appeal has been filed by the appellant on 05.10.2021 i.e. after a delay of more than 18 months from the date of receipt of the impugned order.

10.2 The ground advanced by the appellant seeking condonation of delay in filing the appeal does not in any way help their case. The proviso to Section 85 (3A) of the Finance Act, 1944 allows the Commissioner (Appeals) to only condone delay and allow a further period of one month, beyond the two month allowed for filing of appeal in terms of Section 85 (3A) of the Finance Act, 1994. Since the appeal in the instant case has been filed beyond this further period of one month, this authority is not empowered to condone delay in filing of appeal beyond the period of one months as per the proviso to Section 85 (3A) of the Finance Act, 1994.

10.3 My above view also finds support from the judgment of the Hon'ble Tribunal, Ahmedabad in the case of Zenith Rubber Pvt. Ltd. Vs. Commissioner of Central Excise and Service Tax, Ahmedabad – 2014 (12) TMI 1215 – CESTAT, Ahmedabad. In the said case, the Hon'ble Tribunal had held that :

“5. It is clear from the above provisions of Section 85(3A) of the Finance Act, 1994 that Commissioner (Appeals) is empowered to condone the delay for a further period of one month. The Hon'ble Supreme Court in the case of Singh Enterprises (supra) held that Commissioner (Appeals) has no power to condone the delay beyond the prescribed period. In our considered view, Commissioner (Appeals) rightly rejected the appeal following the statutory provisions of the Act. So, we do not find any reasons to interfere in the impugned order. Accordingly, we reject the appeal filed by the appellant.”



11. The appellant have relied upon the decision of the Government to relax and extend the time limits for various compliances in view of the COVID-19 pandemic. They have also relied upon the judgment dated 23.03.2020 of the Hon'ble Supreme Court in Suo Moto Writ Petition Civil No.3 of 2020. However, I find that neither the decision of the Government nor the judgment of the Hon'ble Supreme Court helps the cause of the appellant. The Hon'ble Supreme Court had in the case supra, relaxed and extended the time limits for various compliance from 15.03.2020 onward. In the case of the appellant, the time limit, including the extended one month condonable period, for filing appeal expired on 10.03.2020. Consequently, the relaxation of time limits by the Government and the Hon'ble Supreme Court is not applicable in the facts of this case.

12. In view of the facts discussed herein above and considering the judgment of the Hon'ble Tribunal, supra, I reject the appeal filed by the appellant on the grounds of limitation.

13. 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)  
Superintendent(Appeals),  
CGST, Ahmedabad.

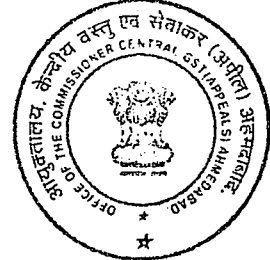
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Jivraj Park, Ahmedabad – 380.015

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

*Akhilish Kumar*  
20 October, 2022  
( Akhilish Kumar )  
Commissioner (Appeals).  
Date: 20.10.2022:



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.

