



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: 20230964SW000000A121

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/3813/2023 /52K2 -116
- ख अपील आदेश संख्या Order-In-Appeal No. AHM-EXCUS-001-APP-108/2023-24
दिनांक Date : 28-08-2023 जारी करने की तारीख Date of Issue 04.09.2023
आयुक्त (अपील) द्वारा पारित
Passed by Shri Shiv Pratap Singh, Commissioner (Appeals)
- ग Arising out of OIO No. CGST-VI/Dem-397/Kushal/AC/DAP/2022-23 दिनांक: 10.03.2023 passed by Assistant Commissioner, CGST, Division-VI, Ahmedabad South
- घ अपीलकर्ता का नाम एवं पता Name & Address

Appellant

M/s. Kushal Vijaykumar Advani,
116, Himalaya Arcade,
Opp. Vastrapur Lake,
Ahmedabad-380054.

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 प्रक्रिया 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 इका 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 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 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 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 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.

10 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;
- इष्ट 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.

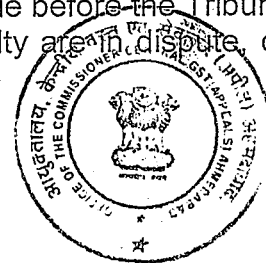
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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

- amount determined under Section 11 D;
- amount of erroneous Cenvat Credit taken;
- 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."



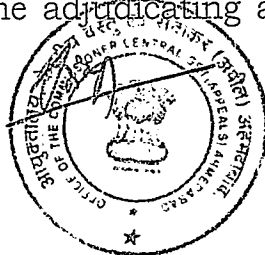
ORDER IN APPEAL

The present appeal has been filed by M/s Kushal Vijaykumar Advani, 116, Himalaya Arcade, Opp. Vastrapur Lake, Ahmdabad -380 054 (hereinafter referred to as the "appellant") against Order in Original No. CGST-VI/Dem-397/Kushal/AC/DAP/2022-23 dated 10.03.2023 [hereinafter referred to as "impugned order"] passed by the Assistant Commissioner, CGST, Division VI, Ahmedabad South (hereinafter referred to as "adjudicating authority").

2. Briefly stated, the facts of the case are that the appellant were not found to be registered with Service Tax department. They are holding PAN No. BGHPA7551C. As per the information received from the Income Tax Department, the appellant had earned substantial service income amounting to Rs. 18,40,434/- during 2014-15, however did not obtain service tax registration and did not discharge service tax. The appellant were sought to provide documentary evidence in respect to the above mentioned income, which they failed to produce. Therefore, the appellant were issued Show Cause Notice bearing No. V/WS06/O&A/SCN-183/2020-21/WS0602 dated 24.09.2020, wherein it was proposed to:

- a) Demand and recover an amount of Rs. 2,27,478/- for the F.Y. 2014-15 to 2016-17 under proviso to Sub Section (1) of Section 73 of the Finance Act, 1994 along with interest under section 75 of the Finance Act 1994.
- b) Impose penalty under the provisions of Section 70, 77 (1) and 78 of the Finance Act, 1994.

3. In reply to the SCN it is submitted by the appellant that the appellant are running a business of sound recording and other allied activities thereof and from the said business they had earned gross receipt amounting to Rs. 18,40,434/- out of which they had earned income Rs. 6,40,144/- from sale of goods and had received income of Rs. 12,00,290/- by rendering the service. On the basis of documentary evidence i.e. P & L Account, Balance Sheet, etc. for F.Y. 2013-14 and 2014-15 submitted by the appellant the adjudicating authority found



that income of Rs. 6,40,144/- was not taxable service income as the said income had been earned by the appellant from sales of good, which was covered under negative list as per section 66D (e) of the Finance Act, 1994 (hereinafter referred to as 'the Act'). Further, the remaining income of Rs. 12,00,290/- earned from sound recording service was covered under taxable service; as such the appellant were under the liability to pay service tax thereon. The adjudicating authority also found income received during F.Y. 2013-14 was less than 10 lakhs. In view of the above, the order was passed revising the service tax liability wherein:

- a) The demand of service tax amounting to Rs. 24,756/- was confirmed along with interest.
- b) Penalty amounting to Rs. 24,756/- was imposed under 78(1) of the Finance Act, 1994.
- c) Penalty amounting to Rs. 40,000/- was imposed under 70 and Rs. 10,000/- under 77(1) of the Finance Act, 1994.
- d) The appellant vide letter dated 11.05.2023 informed that they had paid tax along with interest and 25 % of penalty imposed under section 78(1) of the Act under protest total amounting to Rs. 61,029/-. They request to consider the above amount as pre-deposit in terms of provision of 35F of the Central Excise Act, 1944.

4. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal on the following grounds:

- The service alleged to be provided in the instant case is a 'works contract service' following ratio in judgment pronounced in the case of M/s Agarwal Colour Advance Photo System [2020(4) TMI 799-Madhya Pradesh H.C.]. In view of Rule 2A of the service tax rules, 1994 the appellant is liable to discharge service tax on 70 % value only (i.e. 70% of Rs. 12,00,290/- = Rs. 8,40,203/-). As the said amount being less than 10 lakhs is exempted in view of notification no. 33/2012-ST dated 20.06.2012 and hence the appellant is not liable to discharge any service tax.



➤ The demand confirmed by the impugned OIO was raised only on the basis of Income Tax Return filed by the applicant. As such data received from Income tax Return cannot be used for determining service tax liability unless there is conclusive evidence. The appellant relied upon following decision in support of the above submission

1. Indus Motor Company Vs. CCE 2007-1855-CESTAT-Bang: 2008(9) STR (Tri. Ban.)
2. Synergy Audio Visual Workshop Pvt. Ltd. Vs. CST, 2008-809-CESTAT-Bang.
3. Kush Constructions Vs. CGST NACIN 2019(34)GSTL 606
4. Luit Developers Pvt. Ltd. 2022 (3) TMI 50 CESTAT
5. CCE Vs. Deluxe Enterprises 2011 (22) STR 203

➤ Show Cause notice pertaining to the period April 14 to September 2014 is barred by limitation even under the proviso of section 73(1) of the Act.

➤ SCN is issued based on assumption and presumptions and hence vague and incoherent.

➤ The extended period for issuing Show Cause Notice as prescribed under section 73(1) is inapplicable in the instant case. The short payment of service tax as mentioned in the impugned Show Cause Notice is not because of reason of fraud, collusion, willful misstatement or suppression of facts or contravention of any provision of service tax or rules is made with an intent to evade payment of service tax. The appellant did not willfully/deliberately suppress any facts. In other words, there was no positive act by the appellant to evade the service tax. In this regard the appellant relied upon the following decisions

1. Oriental Insurance Company Limited (2021 (5) TMI 869) (CESTATE, New Delhi)
2. Om Sai Professional Detectives and Secutirites Service Pv.t Ltd. Vs. CCE {2008—12-STR 79 (Tri. Bang)}
3. Uniworth Textiles ltd. Vs. CCE-2013(288)ELT 161 (S.C.)



➤ The appellant had not collected service tax from the recipient of service as substantial income is earned form the activity of sale of goods. The appellant relied upon following decision in support of the above submission

1. Balaji Manpower Service Vs. UOI 2019 (31) GSTL 418 (P&H)
2. M/s Honda Cars India Ltd. Vs. CCE and vice-versa, 2018(3) TMI 257(CESTAT New Delhi)
3. Hi-Line Pens Ltd. Vs. CCE, Delhi-2017(5) GSTL 423 (Tri-Del.)
4. Hans Interior Vs CCE-2016-TIOL-1155-CESTAT-Chennai
5. Loop Mobile India Ltd. Vs CCE-2016-(959)-CESTAT-MUM
6. Polaris Software Lab Ltd. Vs. CCE -2016(427)-CESTAT-MAD
7. Saraswati traders vs CCE (1569)-CESTAT-ALL

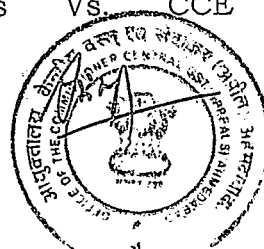
➤ Even if service tax is payable the appellant is eligible to discharge service tax on actual receipt.

➤ In respect to interest on delayed payment of Service tax the appellant submit that as the service tax is not leviable, interest under section 75 of Finance Act, 1994 cannot be recovered. Reliance is placed on the case of Sundaram Textiles Ltd. 2014(36)STR 30(Mad.).

➤ Similarly, since the appellant are not liable to pay service tax, demand of penalty under section 77 (1) does not arise.

➤ Penalty under section 78 of the Finance Act, 1994 cannot be imposed merely due to failure to disclose or declare as it would not be amount to suppression. The applicant relied upon the case of Anand Nishikawa Co. Ltd. Vs. CCE, Meerut in support of the above submission. In this regard Reliance is placed on the following judgments of the Hon'ble Supreme Court

1. Collector Vs. Chemphar Drugs & Liniments-1989(40)ELT 276 (S.C.)
2. Padmini Products Vs CCE
3. Sarabhai M. Chemicals Vs. CCE (2005)2 SCC 168=2005(179)ELT 3(S.C.)



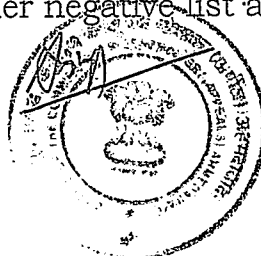
4. Pahwa Chemicals Pvt. Ltd. Vs Commissioner-2005 (189) ELT 257 (S.C.)
5. Uniworth Textiles Ltd. Vs. Commissioner-2013(288)ELT 161(S.C.)
6. CCE Vs. Sh. Suthan Promoters 2010-623-HC-MAD-ST

➤ Since the appellant are not liable to register under the Act, late fees of Rs. 40,000/- under section 70 of the Act cannot be imposed on the applicant

5. Personal Hearing in the case was held on 28.07.2023. Ms. Labdhi Shah, CA, appeared on behalf of appellant for the hearing. She reiterated the submissions made in appeal memorandum. She stated that the appellant had provided works contract service in respect of recording of sound in the media which was supplied with materials to the customers and therefore the appellant is eligible for abatement. Subject to the extending abatement and threshold exemption, the appellant is not liable to pay service tax.

6. I have gone through the facts of the case, submission made in the Appeal Memorandum, oral submissions made at the time of personal hearing and the material available on record. The issue before me for decision is whether the impugned order passed by the adjudicating authority confirming demand of service tax amount of Rs. 24,756/- along with interest and penalties, considering the facts and circumstances of the case, is legal and proper or otherwise. The dispute pertains to the period F.Y. 2014-15.

7. It is observed that the demand of service tax vide Show Cause Notice (supra) was raised against the appellant on the basis of the data received from Income Tax department. As per the data received from Income Tax department, the appellant had received Rs. 18,40,434/- during FY. 2014-15 and received no income during F.Y. 2015-16 and 2016-17. On the basis of documentary evidence i.e. P & L Account, Balance Sheet, etc. for F.Y. 2013-14 and 2014-15 submitted by the appellant the adjudicating authority found that out of the gross receipt of Rs. 18,40,434/- during F.Y. 2014-15 Rs. 6,40,144/- was not taxable service income as the said income had been earned by the appellant from sales of good, which was covered under negative list as per section



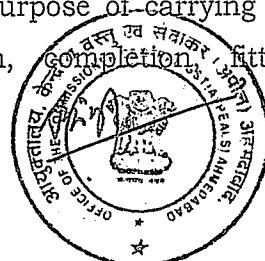
66D (e) of the Act. Further, the remaining income of Rs. 12,00,290/- earned from sound recording service was covered under taxable service; as such the appellant was under the liability to pay service tax thereon. The adjudicating authority also found income received during F.Y. 2013-14 was less than 10 lakhs. In view of the above, the order was passed revising the service tax liability as shown under:

Sr. No.	Description	2014-15
1.	Total Income	18,40,434
2.	Less-Non-taxable value (trading of goods)	6,40,144
3.	Less-SSI exemption (Notification No. 33 of 2012)	10,00,000
4.	Gross Taxable Value	2,00,290
5.	Service Tax Payable @ 12.36%	24,756

8. It is observed that the contention of the appellant is that service provided by way of sound recording is works contract service as in execution of the service transfer of property in goods component like pendrive were used and which are liable to sales tax. Therefore I find that it is not disputable that the appellant is liable to pay service tax only on the 70% of value. Considering the receipt of the appellant during FY 2014-15 was only Rs. 12,00,290/- the abated taxable value is amounting to Rs. 8,40,203/-, which is below the threshold limit of Rs. 10 lakhs. The adjudicating authority held that the appellant had received income of Rs. 6,42,567/- in 2013-14 which is also below the threshold limit of Rs. 10 Lakhs. Therefore, in terms of Notification No. 33/2012-ST dated 20.06.2012 the appellant are not liable to pay any service tax in respect of the taxable services provided by them during F.Y. 2014-15.

9. For ease of reference I reproduce the relevant legal provision contained under Section 65B (54) of the Act as below:

(54) "works contract" means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair,



maintenance, renovation, alteration of any movable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property;

Further, the legal provisions contained under Rules 2A of the Service Tax (Determination of value), 2006 are reproduced below:

"2A. Determination of value of service portion in the execution of a works contract.-

Subject to the provisions of section 67, the value of service portion in the execution of a works contract, referred to in clause (h) of section 66E of the Act, shall be determined in the following manner, namely:-

(i) Value of service portion in the execution of a works contract shall be equivalent to the gross amount charged for the works contract less the value of property in goods transferred in the execution of the said works contract.

(ii) Where the value has not been determined under clause (i), the person liable to pay tax on the service portion involved in the execution of the works contract shall determine the service tax payable in the following manner, namely:

(A) in case of works contracts entered into for execution of original works, service tax shall be payable on forty per cent of the total amount charged for the works contract;

(B) in case of works contract entered into for maintenance or repair or reconditioning or restoration or servicing of any goods, service tax shall be payable on seventy percent of the total amount charged for the works contract;

(C) in case of other works contracts, not covered under sub-clauses (A) and (B), including maintenance, repair, completion and finishing services such as glazing, plastering, floor and wall tiling, installation of electrical fittings of an immovable property, service tax shall be payable on sixty per cent. of the total amount charged for the works contract;

10. In view of the above provision, I find that the service provided by way of sound recording is works contract service as in execution of the service transfer of property in goods component like pendrives were used and which are liable to sales tax. The taxable value during FY. 2014-15, after applying abatement @ 30% in respect of Works Contract



Service entered into for maintenance or repair or reconditioning or restoration or servicing of any goods amounting to Rs. 12,00,290/- comes to Rs. 8,40,203/- Accordingly, the total taxable value of the appellant from providing taxable services during F.Y. 2014-15 is amounting to Rs. 8,40,203/-, which is below the threshold exemption limit of Rs. 10 lakhs as per Notification No. 33/2012-ST dated 20.06.2012. Consequently, the appellant are not liable to pay service tax on the income. In view thereof, I am of the considered view that the adjudicating authority has erred in confirming the demand of service tax amounting to Rs. 24,756/- for FY. 2014-15.

11. Accordingly, in view of my foregoing discussions, I set aside the impugned order passed by the adjudicating authority for being not legal and proper and allow the appeal filed by the appellant.

12. Since the demand of service tax is not sustainable on merits, there does not arise any question of interest or penalty in the matter.

13. अपीलकर्ता द्वारा दायर अपील का निपटान उपरोक्त तरीके से किया जाता है।

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

Attested
Anrendra Kumar
(Anrendra Kumar)
Superintendent(Appeals)
CGST Ahmedabad.

Shiv Pratap Singh
20-8-23
(Shiv Pratap Singh)

Commissioner (Appeals)

Dated: __.08.2023



BY RPAD/ SPEED POST

To

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116, Himalaya Arcade,
Opp. Vastrapur lake,
Ahmedabad -380 054

Appellant

Copy to :

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

