



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: 20230964SW0000212862

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/1593/2023 / 6361 - 6365
- ख अपील आदेश संख्या Order-In-Appeal No. AHM-EXCUS-001-APP-133/2023-24
दिनांक Date : 22-09-2023 जारी करने की तारीख Date of Issue 25.09.2023
आयुक्त (अपील) द्वारा पारित
Passed by Shri Shiv Pratap Singh, Commissioner (Appeals)
- ग Arising out of OIO No. 156/WSO8/AC/KSZ/2022-23 दिनांक: 15.12.2022 passed by The Assistant Commissioner, CGST, Division-VIII, Ahmedabad South.
- घ अपीलकर्ता का नाम एवं पता Name & Address

Appellant

M/s. Rajesh Rameshbhai Bhaskar;
B-31, Baldevnagar-2,
132 Feet Ring Road, Jivraj Park,
Ahmedabad-380051.

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

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

भारत सरकार का पुनरीक्षण आवेदन :

Revision application to Government of India:

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

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

(ii) यदि माल की हानि के मामले में जब ऐसी हानिकार खाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रकिया के दौरान हुई हो।

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



(क) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

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

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

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

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

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

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतरमूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ.का मुख्य शीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम होतो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

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

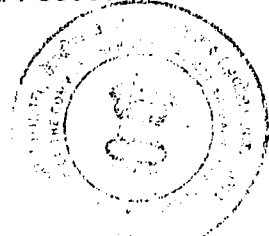
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

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

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

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

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



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

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

1^प 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:

- (i) amount determined under Section 11 D;
(ii) amount of erroneous Cenvat Credit taken;
(iii) 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."



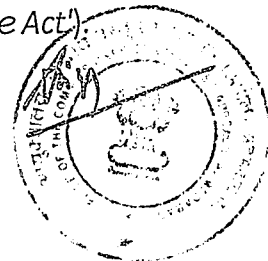
ORDER-IN-APPEAL

The present appeal has been filed by M/s. Rajesh Rameshbhai Bhaskar, B-31, Baldevnagar-2, 132 Feet Ring Road, Jivraj Park, Ahmedabad - 380051 (hereinafter referred to as "the appellant") against Order-in-Original No. 156/WS08/AC/KSZ/2022-23 dated 15.12.2022 issued on 16.12.2022 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner, Central GST, Division-VIII, Ahmedabad South (hereinafter referred to as "the adjudicating authority").

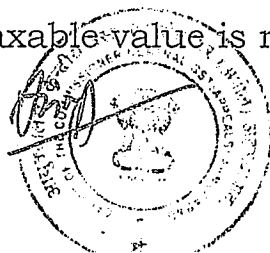
2. Briefly stated, the facts of the case are that the appellant are holding PAN No. AJEPB5061F. On scrutiny of the data received from the Central Board of Direct Taxes (CBDT) for the Financial Year 2015-16, it was noticed that the appellant had earned an income of Rs. 1,17,84,273/- during the FY 2015-16, which was reflected under the heads "Sales / Gross Receipts from Services (Value from ITR)" or "Total amount paid / credited under Section 194C, 194I, 194H, 194J (Value from Form 26AS)" filed with the Income Tax department. Accordingly, it appeared that the appellant had earned the said substantial income by way of providing taxable services but has neither obtained Service Tax registration nor paid the applicable service tax thereon. The appellant were called upon to submit copies of relevant documents for assessment for the said period. However, the appellant had not responded to the letters issued by the department.

2.1. Subsequently, the appellant were issued Show Cause Notice No. CGST/WS0802/O&A/TPD(15-16)/AJEPB5061F/2020-21/5471 dated 22.12.2020 wherein it was proposed to:

a) Demand and recover an amount of Rs. 17,08,784/- for F.Y. 2015-16 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 (hereinafter referred to as 'the Act').

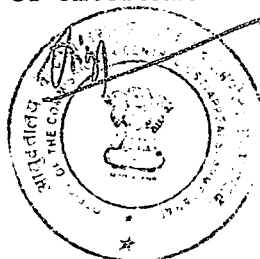


- b) Impose penalty under the provisions of Section 77. (1), 77(2) and 78 of the Act.
3. The SCN was adjudicated vide the impugned order wherein:
- a) The demand of service tax amounting to Rs. 17,08,784/- was confirmed under proviso to Sub-Section (1) of Section 73 of the Act along with interest under Section 75 of the Act for the period from FY 2015-16.
- b) Penalty amounting to Rs. 17,08,784/- was imposed under section 78 of the Act.
- c) Penalty amounting to Rs. 10,000/- was imposed under section 77(l) of the Act for failure to taking Service Tax Registration.
- d) Penalty amounting to Rs. 10,000/- was imposed for not submitting the documents under section 77(2) of the Act for non-furnishing / late filing of service tax returns.
4. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal, inter alia, on the following grounds:
- The appellant has not availed any opportunity of hearing because the appellant had not received any hearing notice. In absence of any reply to SCN and explaining the case without hearing, the impugned order confirming the duty is not proper and legal.
 - While demand is confirmed on the ground of CBDT data, the cum duty price benefit is not extended.
 - It is admitted fact that in ITR for the period 2015-16 , the amount of income shown is Rs. 1,17,84,723/- which is considered as taxable service by adjudicating authority but on what ground it is considered as taxable value is not mentioned



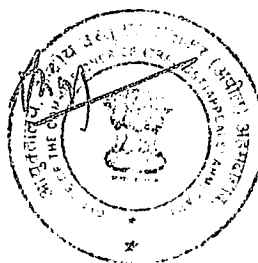
anywhere in notice or in impugned order. Therefore, in absence of any ground, the said SCN & impugned order for demanding service tax is not sustainable.

- Even the department has not taken care to investigate the matter whether, in fact, the amount of income as per ITR return is liable to service tax. Therefore, in absence of any evidence, the appellant is not liable to pay service tax as mentioned in impugned order though there is difference in duty amount. Therefore, on this count, the said demand of service tax is not sustainable. In support of their above contention they relied upon the judgment reported in 2019 (24) GSTL 606 in the case of Kush Construction.
- In the notice, there is no classification of service has been mentioned that under which appellant is covered and liable to pay service tax. If there is no such classification of service is mentioned in notice, it cannot be concluded that the appellant is liable to pay service Tax. In support of their above contention they relied upon the judgment reported in 2018 (10) GSTL 392 in the case of Deltax Enterprise, and 2015 (040) STR 1034 & 2020 (43) GSTL 533 in the case of Vaatika Constructions.
- The appellant also relied upon recent judgment reported in 2022 (58) GSTL 324 in the case of Ganpati Mega Builders (I) Pvt Ltd & 2002(58) 245 in the case of Quest Engineers & Consultant (P) wherein Hon'ble Tribunal held that - "Form 26AS is not prescribed documents for ascertaining gross turnover of Assessee. The case of the appellant is covered by above judgments of Hon'ble Tribunal and therefore, the impugned order requires to be dropped.
- The appellant was providing activity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a road for use



by general public and this type of activity is exempted vide E. No. 13 (a) of Noti. No. 25/2012 ST dated 20/06/2012 and therefore, service tax is not leviable.

- The allegation made in the notice that the appellant has suppressed the facts, misstatement and contravention, omission and suppressed the facts, nature and value of service provided by noticee not assessing and paying due service tax liability and the said thing brought to the notice to the deptt. on the basis of ITR return submitted to the Income Tax deptt. Therefore, there is no suppression of facts as alleged in the notice as the appellant has filed so called IT return on the basis of department has issued notice within time prescribed under Income Tax Act. Therefore, the invocation of extended period to cover liability for the period 2015-16 is totally baseless and vague by issuing notice on 22/12/2020. Therefore, the demand is totally time barred and subsequently the impugned OIO is not sustainable.
- In support of the above, they relied upon the case law reported at 2016 (337) ELT 482 in the case of Commissioner of Central Excise, Jalandhar Versus Royal Enterprises, 2017 (349) ELT 13 (Kar) and 2017(349) ELT 137.
- The penalty is proposed to be imposed under Section 78 of the Finance Act, 1994 on the ground of suppression of facts but there is no suppression of facts on the part of appellant as the appellant is not liable to pay service tax as explained above. Therefore, mere taking shelter or resort of ITR data is not sufficient to arrive at evasion of service tax liability. Moreover, here the question does not arise for deliberate suppression of facts as the service tax payment as per Law is made/ Paid on taxable value of service. In support of the above, they relied upon the following case laws:

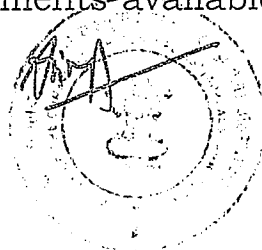


- JAISHRI ENGINEERING CO. (P) LTD. versus C.C.E. - 1989 (40) E.L.T. 214 (S.C.).
- HI-LIFE TAPES (P) LTD. versus COLLECTOR OF CENTRAL EXCISE – 1990 (46) E.L.T. 430 (TRIBUNAL)
- HINDUSTAN STEEL versus STATE OF ORISSA [1978 (2) E.L.T. (J 159) (S.C.)]
- 2008 (226) E.L.T. 38 (P & H) COMMISSIONER OF C. EX., JALANDHAR versus S. K. SACKS (P) LTD.
- 1998 (33) E.L.T. 548 (Tri) -INDOPHARMA PHARMACEUTICAL WORKS
- 2000 (125) E.L.T. 781 (Tribunal) - BHILLAI CONDUCTORS (P) LTD.
- 1994 (74) E.L.T. 9 (SC) - TAMIL NADU HOUSING BOARD

➤ That penalty is proposed to be imposed under Section 77 in addition to Section 78 is not proper and legal in as much as the appellant is not liable to pay service tax as explained above and till issuance of above SCN, no letter or no notice is issued for any contravention of Provisions of Section or Rule of Finance Act, 1994. Therefore, the Penalty is proposed to be imposed is unwarranted. The interest is also not leviable.

5. Personal hearing in the case was held on 18.08.2023. Shri Naimesh K Oza, Advocate, appeared on behalf of the appellant for personal hearing. He reiterated the submissions in the appeal and the additional submissions handed over at the time of personal hearing along with supporting documents. He submitted that the appellant provided service regarding construction of roads to Ahmedabad Municipal Corporation, which may be seen from the form 26AS. In this respect, he submitted copies of work orders, bills as well as ITR returns for the disputed period. He also submitted that the service rendered by appellant is exempt under SR. No. 13 (a) of the Mega exemption notification No. 25/2012-ST and requested to set aside the impugned order.

6. I have carefully gone through the facts of the case, grounds of appeal, submissions made in the Appeal Memorandum, during the course of personal hearing and documents available on record. The



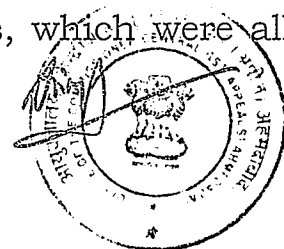
issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority, confirming the demand of service tax against the appellant along with interest and penalty, in the facts and circumstance of the case, is legal and proper or otherwise. The demand pertains to the period FY 2015-16.

7. I find that in the SCN in question, the demand has been raised for the period FY 2015-16 based on the Income Tax Returns filed by the appellant. Except for the value of "Sales of Services under Sales /Gross Receipts from Services" provided by the Income Tax Department, no other cogent reason or justification is forthcoming from the SCN for raising the demand against the appellant. It is also not specified as to under which category of service the non-levy of service tax is alleged against the appellant. Merely because the appellant had reported receipts from services, the same cannot form the basis for arriving at the conclusion that the respondent was liable to pay service tax, which was not paid by them. In this regard, I find that CBIC had, vide Instruction dated 26.10.2021, directed that:

"It was further reiterated that demand notices may not be issued indiscriminately based on the difference between the ITR-TDS taxable value and the taxable value in Service Tax Returns.

3. It is once again reiterated that instructions of the Board to issue show cause notices based on the difference in ITR-TDS data and service tax returns only after proper verification of facts, may be followed diligently. Pr. Chief Commissioner / Chief Commissioner (s) may devise a suitable mechanism to monitor and prevent issue of indiscriminate show cause notices. Needless to mention that in all such cases where the notices have already been issued, adjudicating authorities are expected to pass a judicious order after proper appreciation of facts and submission of the noticee."

7.1 In the present case, I find that letters were issued to the appellant seeking details and documents, which were allegedly not



submitted by them. However, without any further inquiry or investigation, the SCN has been issued only on the basis of details received from the Income Tax department, without even specifying the category of service in respect of which service tax is sought to be levied and collected. This, in my considered view, is not a valid ground for raising the demand of service tax.

8. The adjudicating authority had confirmed the demand of Service Tax in the impugned order by not considering exemption benefit under Sr. No. 13 (a) of the Notification No. 25/2012-ST dated 20.06.2012 to the appellant, inter alia, holding that the appellant have not produced any evidence to prove that the said amount credited in their account is against services provided to Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a road, bridge, tunnel, or terminal for road transportation for use by general public.

9. For ease of reference, I reproduce the relevant provision of Sr. No. 13 (a) of Notification No. 25/2012-ST dated 20.06.2012 as amended vide Notification No. 06/2015 dated 01.03.2015 (effective from 01.04.2015), which reads as under:

"Notification No. 25/2012-Service Tax dated 20th June, 2012

G.S.R. 467(E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification No. 12/2012-Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 210 (E), dated the 17th March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services from the whole of the service tax leviable thereon under section 66B of the said Act, namely:-

1...

2... ..

3.....

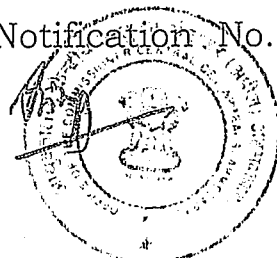


13. Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,

(a) a road, bridge, tunnel, or terminal for road transportation for use by general public;

10. In view of the above provision of Sr. No. 13 (a) of Notification No. 25/2012-ST dated 20.06.2012 as amended vide Notification No. 06/2015 dated 01.03.2015, it is amply clear that if the appellant provided services by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, a road, bridge, tunnel, or terminal for road transportation for use by general public the services provided by the appellant is exempted one.

11. On verification of the various documents submitted by the appellant, viz. copy of contract with Ahmedabad Municipal Corporation, copy of work order issued by AMC, copy of Letter of Intimation (L.O.I.) issued by AMC, copy of Bills raised to Ahmedabad Municipal Corporation, 26AS and IT returns for 2015-16, I find that the appellant had provided services to Ahmedabad Municipal Corporation related to construction and repairing of Road and Footpath for road transportation for use by general public. Therefore, the said services were exempted as per Sr. No.13 (a) of Notification No. 25/2012-ST dated 20.06.2012 as amended vide Notification No. 06/2015 dated 01.03.2015. Under the circumstances, I find that the version of the appellant that they were engaged in the services by way of carrying out any activity in relation to any function ordinarily entrusted to a municipality in relation to services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, a road, bridge, tunnel, or terminal for road transportation for use by general public and that consideration so received against providing such services were exempted vide Sr. No. No.13 (a) of Notification No. 25/2012-ST



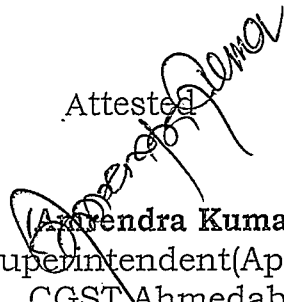
dated 20.06.2012 as amended vide Notification No. 06/2015 dated 01.03.2015 has to be considered in their favour in absence of any contrary evidences brought on record by the adjudicating authority.


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. 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.

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

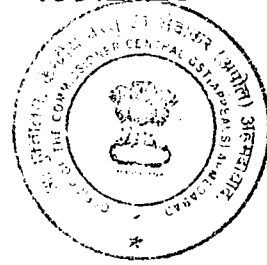
The appeal filed by the appellant stands disposed of in above terms.

Attested

 (Anshendra Kumar)
 Superintendent (Appeals)
 CGST Ahmedabad.


 (Shiv Pratap Singh)

Commissioner (Appeals)

Date : 22.09.2023



By RPAD / SPEED POST

To,
 M/s. Rajesh Rameshbhai Bhaskar,
 B-31, Baldevnagar-2,
 132 Feet Ring Road, Jivraj Park,
 Ahmedabad - 380051

Appellant

The Assistant Commissioner,
 CGST, Division-VIII,
 Ahmedabad South

Respondent

Copy to :

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone
2. The Commissioner, CGST, Ahmedabad South
3. The Assistant Commissioner, CGST, Division VIII, Ahmedabad South
4. The Assistant Commissioner (HQ System), CGST, Ahmedabad South
(for uploading the OIA)

- ~~5.~~ Guard File
- ~~6.~~ PA file

