



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 NO. : 20230964SW000000CF78

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/COM/GSTP/45/2023

1633-32

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-138-2023-24

दिनांक Date : 25-09-2023, जारी करने की तारीख Date of Issue : 25-09-2023

आयुक्त (अपील) द्वारा पारित

Passed by Shiv Pratap Singh, Commissioner (Appeals)

ग Arising out of Order-in-Original No 44/CGST/Ahmd-South/JC/MT/2022-23 dated 22.11.2022 issued by The Joint Commissioner, CGST, Ahmedabad South,

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

**Shri Nimesh Bhavsar (S.P. Electric),
30, Vasisthanagar Society,
Nr. Yamunaji's Haveli, Isanpur Road,
Maninagar, Ahmedabad.**

(A)	Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.
(i)	National Bench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act in the cases where one of the issues involved relates to place of supply as per Section 109(5) of CGST Act, 2017.
(ii)	State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in para- (A)(i) above in terms of Section 109(7) of CGST Act, 2017
(iii)	Appeal to the Appellate Tribunal shall be filed as prescribed under Rule 110 of CGST Rules, 2017 and shall be accompanied with a fee of Rs. One Thousand for every Rs. One Lakh of Tax or Input Tax Credit involved or the difference in Tax or Input Tax Credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of Rs. Twenty-Five Thousand.
(B)	Appeal under Section 112(1) of CGST Act, 2017 to Appellate Tribunal shall be filed along with relevant documents either electronically or as may be notified by the Registrar, Appellate Tribunal in FORM GST APL-05, on common portal as prescribed under Rule 110 of CGST Rules, 2017, and shall be accompanied by a copy of the order appealed against within seven days of filing FORM GST APL-05 online.
(i)	Appeal to be filed before Appellate Tribunal under Section 112(8) of the CGST Act, 2017 after paying - (i) <u>Full amount of Tax, Interest, Fine, Fee and Penalty</u> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <u>twenty five per cent</u> of the remaining amount of Tax in dispute, in addition to the amount paid under Section 107(6) of CGST Act, 2017, arising from the said order, in relation to which the appeal has been filed.
(ii)	The Central Goods & Service Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019 has provided that the appeal to tribunal can be made within three months from the date of communication of Order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.
(C)	For elaborate, detailed and latest provisions relating to filing of appeal to the appellate authority, the appellant may refer to the website www.cbic.gov.in .



ORDER-IN-APPEAL

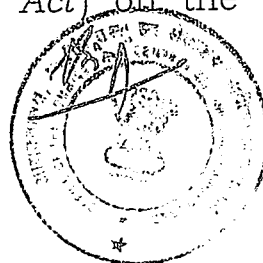
The present appeal has been filed by Shri Nimesh Surendrakumar Bhavsar (S.P. Electric), 30, Vasisthanagar Society, Nr. Yamunaji's Haveli, Isanpur Road, Maninagar, Ahmedabad(hereinafter referred to as "the appellant") against Order-in-Original No.44/CGST/Ahmd-South/JC/MT/22-23 dated 22.11.2022(hereinafter referred to as "the impugned order") passed by the Joint Commissioner, Central GST & Excise, AhmedabadSouth (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, the facts of the case are that the Appellant is having registered with Goods and Service Tax Department and are holding GSTIN 24AEMPB1 809G1ZX and is engaged into business of providing Mandap Service/Decoration/Electric service. For the period July' 2017 to March' 2020, records/documents subjected to GST Audit of the Appellant were scrutinized by the jurisdictional officers of Central Tax Audit Commissionerate, Ahmedabad in the course of which one Revenue Para, in respect of which the appellant were not in agreement with the objection taken by the audit officers remained unsettled.

2.1 Revenue Para 1 :Wrong availment of Exemption Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017 as amended by Notification No. 02/2018-Central Tax (Rate) dated 25-01-2018.

2.2 The appellant were subsequently issued Show Cause Notice bearing No. GADT/TECH/SCN/GST/52/2022-TECH and LEGAL-O/O COMMR-CGST-ADT-AHMEDBAD wherein:

(i) Demand and recovery of Rs. 3,70,80,429/- for F.Y. 2018-19 and 2019-20 under the provision of Section 74(1) of the CGST Act, 2017(hereinafter referred to as 'the Act') on the value of supply



amounting to Rs. 20,60,02,386/-on which the appellant had wrongly claimed exemption.

(ii) Demand and recovery of interest under Section 50(1) of the Act.

(iii) Impose penalty under the provisions of Section 74(1) of the Act read with the provision of Section 122 (2) of the Act.

3. The SCN was adjudicated vide the impugned order wherein the adjudicating authority had passed the order as under:

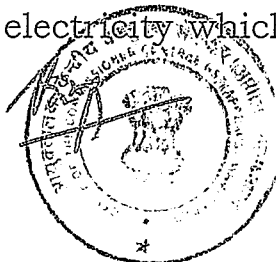
(i) Out of proposed value of supply of Rs. 20,60,02,386/- vide SCN (supra) the adjudicating authority found Rs. 3,24,86,078/- as exempted and remaining Rs. 17,35,16,308/- as taxable supply of service. Accordingly, the demand of GST amounting to Rs. 3,12,32,935/- (CGST+SGST) was confirmed under the provision of Section 74(1) of the Act, dropping the demand of Rs. 58,47,494/-.

(ii) Demand and recover interest amount on Rs. 3,12,32,935/- was confirmed under section 50(1) of the Act.

(iii) Penalty amounting to Rs. 3,12,32,935/- under section 74(1) of the Act read with the provision of Section 122 (2)(b) of the Act.

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:

- Show Cause Notice failed to appreciate that the supplies were in relation to sovereign functions listed in Article 243W and / or 243G of Constitution of India and accordingly eligible for exemption under Entry No. 3/3A of Notification No 12/2017-Central Tax (Rate)
- Show Cause Notice failed to appreciate that certain of the Supplies were that of supply of electricity which is an exempt

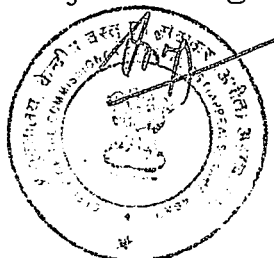


supplies as per Entry No 104 of Notification No 2/2017-Central Tax (Rate)

- Show Cause Notice travelled beyond the scope of Section 74
- Show Cause Notice failed to appropriate the amount paid by way of reversal of input tax credit against demand of tax
- Demand of Interest and Penalty not sustainable
- Show Cause Notice was not correct in proposing to impose penalties

5. Personal hearing in the case was held on 18.08.2023. ShriRahul Patel, CA, appeared on behalf of the appellant for personal hearing reiterated the submission in the appeal and handed over additional written submissions with a paper book of supportive documents. He reiterated the contents thereof, and the submissions made in the appeal. He submitted that the appellant provided pure services to Government in discharge of the functions under article 243W and 243G of the Constitution of India. The services are exempt under the Notification No. 12 of 2017, Central Tax (Rate) (Serial number 3). He requested to set aside the impugned order. He further, added that the impugned order passed on the basis of the strength of the show cause notice issued breach of Rule 142 of CGST Rule 2017. He explained that it mandatory as per rule 142 to upload as well as issue, a summary of show cause notice in form DRC-01 in addition to the show cause notice, to the Noticee. However, in the instant case, neither the copy from DRC-01 was served along with the show cause notice, nor was the same uploaded at the GSTN portal. He further added that the show cause notice was issued under section 74 instead of section 73 despite a fact that no suppression was attributable on part of the appellant as the information were appropriately made available at relevant point time. Hence, the show cause notice is bad in law.

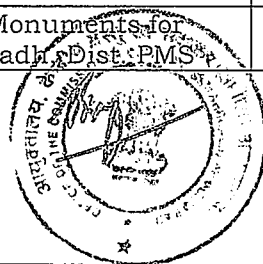
6. I have carefully gone through the facts of the case and find that the demand was raised by the adjudicating authority after



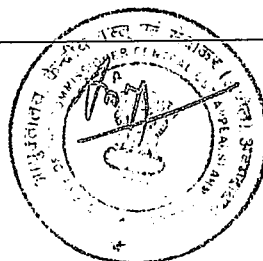
classifying/listing all the supplies made by the appellant during F.Y. 2018-19 & 2019-20 presuming that all the supplies made by the appellant were exempt supplies. The appellant has submitted details of exempt sales register with work done details. The adjudicating authority had inclined to agree with the appellant that the service provided by doing some work by them were in relation to activities falling under 243G or 243W of Constitution of India and hence the benefit of exemption under entry No. 3 of Notification No. 12/2017-Ct (Rate) on the following services shown in table 'A'.

Table-'A'

Sr.No.	Name of festival/celebration/program	Bill value (Rs.)
4	Providing Temporary E.I., AC Machine and Standby Power Supply for Maa Narmada Mahotsav at Vaghroli Taluka - Galteshwar Dist. Kheda	1,17,498.00
5	Providing Temporary Illumination at (2 Nos.) Narmada Main Canal Crossing For Celebration of Narmada Mahotsav at Dist. Kheda	2,11,008.00
18	Providing Temporary E.I., DG Set, Sound System etc. at ANNEXE -STATE GUEST HOUSE, ahmedabad for the new year celebration programme of Hon'ble Chief Minister Sir & other hon'ble ministers of Gujarat.	1,10,734.00
23	Providing Temporary Lighting (Roshni) For the Visit of H'ble P.M. Sir For Function of "PaniPurvatha Yojna at Various Government Building of Modasa, Dist. Arrvali . (For Three Days)(Jilla Seva Sadan, Circuit House, R & B Office 1 & 2, Court Building & Sabalpur District Court)	13,10,028.00
24	Providing Temporary E.I. & A.C Machines with Stand by DG Set for the "PaniPurvatha Yojna" Programm in Presence of Hon. Prime Minister at Modasa, Arravali District	70,87,076.00
25	Providing Temporary E.I. & Illumination & Power Supply for the Function of "Vishwa Yoga Divas" at Other Ground, Ahmedabad	33,08,625.00
33	Providing Temporary EI & Standby Power Supply by D.G.Set on The Function of "SAUNO SATH SAUNO VIKAS" at Arts & Science College, Bhamasa Hall, Modasa, Dist. - Arravali	1,48,135.00
37	Prov.Temp. Illumination Roshni on Collector Office Bldg. for the Celebration of "Mahasankalp Din" for 2 Days at Baroda.	2,97,958.00
38	Hire Charges For Prov. Temp. Roshni And Lighting on Various Govt. Building for the Celebration of 26 Jan @ Godhra	94,479.00
39	Providing Temp. E.I. & A.C. Machines with Stand by D.G.Set For "Ma Narmada Mahotsav" Programme main Event Area in Presence of H'ble P.M. at Dabhoi, Dist. Vadodara	58,19,359.00
41	Providing Temp. E.I. with Stand by D.G.Set for "Ma Narmada Mahotsav" at Halol, Dist.-PMS.	2,10,774.00
43	Providing Temp.E.I. & Sound System with Standby D.G.Set for Celebration of Independence Day 2017 at Halol, Dist. PMS	1,40,270.00
44	Hire Charges Temporary Roshni And Lighting on Various Govt. Building for the Celebration of 15th August at Godhra	1,49,226.00
45	Providing Temp. E.I. with Stand by D.G.Set & AC Machine for Yuva Sammelan in Presence of Hon. CM at Pologround, Vadodara	8,27,635.00
46	Prov. Temp. Illumination Roshni for Various Monuments for Celebration of Panch Mahotsav 2017 at Pavagadh, Dist. PMS	14,82,901.00



47	Providing Temporary Parking Lighting for Various Parking area for Panch Mahotsav 2017 at Pavagadh, Dist. PMS	2,77,058.00
48	Providing Temp. E.I. with Stand by D.G.Set& AC Machine for Celebration of Panch Mahotsav 2017 at Pavagadh Dist. PMS.	19,52,222.00
49	Providing Temporary General Lighting for Food Bazar, Amusement Park & Tent Area etc. for Celebration of Panch Mahotsav 2017 at Pavagadh, Dist. PMS.	19,09,204.00
53	Providing Temporary, Illumination Roshni on Various Govt. Buildings and Roads in Mehsana for Celebration of State Level Celebration of 26th January 2018 at Mehsana.	39,54,273.00
54	Providing Temporary EI, AC Machine and Stand by Power Supply ForCultutralProgramme for State Level Celebration 26th January 2018 at Mehsana.	23,17,256.00
55	Providing Temp. E.I. & A. C. Machines with Stand By DG Set for Inaguration of GMERS Medical College and Launching Institute of Intesified Mission Indra Dhanush Programme in Presence of Hon. Prime Minister at VadnagarDist Mehsana.	59,74,394.00
56	Providing Temporary E.I. with Standby D.G.Set for Parade for State Level Celebration of "Gujarat Gaurav Din"	9,09,474.00
57	Providing Temporary E.I. with Standby D.G.Set for MASAL PT for State Level Celebration of "Gujarat Gaurav Din"	9,19,342.00
58	Providing Temporary Roshni in Sarrinding at MASAL PT and Parade of 1st May 2018..	9,33,838.00
59	ROSHNI CELEBRATION OF GUJARAT GAURAV DIVAS AT VERIOUS PLACES AT BHARUCH 4 DAYS 28/4/18 TO 1/5/18.	34,99,948.00
61	Providing Temprary E.I. with Standby D.G. Set & A.C. Machines for "SujlamSuflam Jal Abhiyan-2018" by Honorable C.M. Programme	4,59,757.00
62	Providing Temprary E.I. with Standby D.G. Set & A.C. Machines for "SujlamSuflam Jal Abhiyan-2018" by Honorable C.M. Programme at Mahisagar	4,35,176.00
63	Providing Temporary Sound System for Celebration of Independent Day 2018 at Kapadvanj Dist. Kheda.	1,12,276.00
65	Providing Temporary Sound System for Aayushman Bharat PM Live Programme at Civil Hospital Nadiad Dist. Kheda	48,322.00
66	Providing Temporary Sound System for Celebration of Independent Day 2018 at Anand Dist. Anand	1,12,277.00
67	Hire Charges of Providing Temporary Roshni and Lighting on Various Govt. Building for Celebration of 15th Augugst @ Godhra .	96,262.00
69	Providing Temporary EI with Stand by DG Set & Sound System for Celebration of 150th Jayanti of Mahatma Gandhiji@Police Parade Ground, Godhra Dist. PMS	2,91,685.00
70	Providing Temporary EI & Sound System with Standby DG Set Tiranga Yatra Programme of 15 August Flag Hosting at Police HQ, Godhra, Dist. PMS	1,51,445.00
71	Providing Temporary EI with Stand by DG Set & AC Machines for "SujlamSuflam Jal Abhiyan 2018" by Hon. CM Programme at Kanthagur, Ta. Fatepura, Dist. Dahod	4,31,413.00
72	Providing Temporary E.I., Illumination, D.G. Set as Standby Power Supply(For 2 Days) and Sound System(For 1 Day) For Rath Yatra Route.	13,08,485.00
73	Providing Temporary EI with Stand by DG Set @ Shukal Tirth PlallpoldFor State Level Celebration of Gujarat Gaurav Din @ 1May 2018)@ Bharuch	2,84,070.00
74	Providing Temporary EI with Stand by DG Set & AC Machines for "SujlamSuflam Jal Abhiyan SamapanSamroh 2018" by Hon. CM at Kareli, Ta. Jambusar, Dist. Bharuch	4,90,055.00
75	Hire Charges of Providing Temporary Roshni and Lighting on Various Govt. Building for the Celebration of Dr. Ambedkar Jayanti at Godhra	1,69,647.00



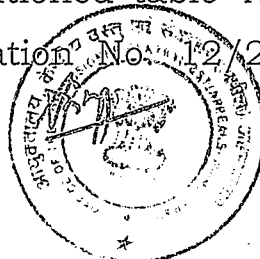
76	Providing Temporary EI with Stand by DG Set & AC Machines for "SujlamSuflam Jal Abhiyan Closing Ceremony Programme at Vaddair, Ta.Halol, Dist. PMS	3,21,943.00
78	Providing Temporary EI with Stand by DG Set & AC Machines for "SujlamSuflam Jal Abhiyan SamapanSamroh 2018" by Hon. CM at Chepali, Ta. Dediapada, Dist. Narmada	6,01,563.00
79	Providing Temporary Decorative Lighting for Vibrent Gujarat-2019 from Indroda Circle to Circuit House Circle at Gandhinagar	21,77,277.00
Total		5,14,54,368.00

7. Carefully gone through the table I find that the adjudicating authority had made an error in computing all the value shown in the above table and computed the value of service as Rs. 3,24,86,078/- in place of Rs. 5,14,54,368/-. Thus the adjudicating authority mis-calculated tax as shown by the table in para 32 related to Order-in-Original. The table is once again reproduced as under:

	Value (Rs.)	Tax
Total demand as per SCN	20,60,02,386/-	3,70,80,429
Exempted Supply	3,24,86,078/-	58,47,494/-
Taxable Supply	17,35,16,308	3,12,32,935/-

The Adjudicating authority had shown exempted supply value as 3,24,86,078/- in place of 5,14,54,368/-and thereby mis-calculated tax as Rs. 58,47,494/- in place of 92,61,786/-.

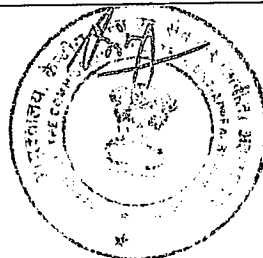
8. On carefully going through the impugned Order-in-Original, it is noticed that the adjudicating authority divided all works done by the appellant in the impugned period into three broad categories (i) Visit of dignitaries, (ii) inauguration of government buildings, and (iii) celebration of different programs on the basis of nature of service. It is also noticed that the adjudicating authority had considered all those services provided by the appellant in F.Y. 2018-19, which are shown in the aforementioned table 'A' as exempted service under entry no. 3 of Notification No. 12/2017-CT (Rate)



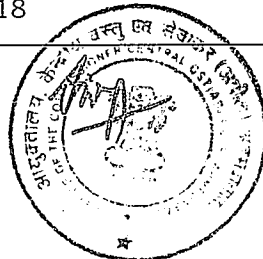
considering the work done by the appellant as the services falling under the Article 243G or 243W of the Constitution of India and under the category of (iii) celebration of different programs and did not find those work done would fall under the remaining two categories i.e. (i) visit of dignitaries, (ii) inauguration of government buildings.

9. I have carefully gone through the list of works in their submission provided by the appellant in F.Y. 2019-20 and what I found that following services illustrated by table 'B' were the same type of services, which the appellant had provided in the F.Y. 2018-19, which are also mentioned in table 'A' by the adjudicating authority and considered as exempted.

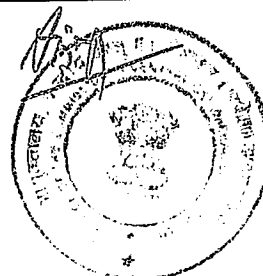
Sr.No.	Name of festival/celebration/program in 2019-20	Bill value (Rs.)
6	Providing Temporary Illumination Roshani on Various Govt. Buildings and Roads in Palanpur for Celebration of State level Celebration of 26th January 2019 at Palanpur at Dist : BK .	45 63 520.00
7	Providing Temporary E.I.,AC Machine , Stand by Power supply and Sound System for AT HOME programme for State level Celebration of 26th January-2019 at PalanpurDist : BK	14 50 473.00
13	Providing Temporary Decorative Lighting at Central Vista Gh to G For Vibrant Gujarat 2019 Gandhinagar.	9 80 064.00
14	Providing Temporary Decorative Lighting at Central Vista J-5 To J-6 For Vibrant Gujarat 2019 Gandhinagar.	2 99 224.00
15	Providing Temporary Roshni on Occasion of Vibrant Gujarat Global Summit 2019 at Ahmedabad Collector Office, Subhasbridge at Ahmedabad	92 205.00
22	Providing Temporary Illumination for Occasion of Vibrant Gujarat Global Summit 2019 at R.T.O Campus, Subhasbridge, Ahmedabad.	1 06 550.00
29	Providing Temporary E.I. with stand by DG Set for "SujlamSufnam" Jal Abhiyaan Purnahuti Function at Mota fadiya Village of Sinor Dist.- Vadodara	2 11 626.00
30	Providing Temporary E.I. & Sound System with Stand by DG Set for Celebration of Republic Day 2019 at Ranjit Nagar, Ta. Ghoghamba, Dist. PMS	1 65 751.00
31	Hire Charges of Providing Temporary Roshni and Lighting on Various Govt. Building for the Celebration of 26 January 2019 at Godhra	96 604.00
35	Providing Temporary EI with Stand by DG Set for District level Republic Day 2019 Celebration at Village Sokhada, Ta.-. Dist.- Vadodara.	1 40 075.00



36	Providing Temporary E.I., stand by DG Set & AC Machines for Celebration of Panch Mahotsav 2018 at Pavagadh, Dist. - PMS (General Lighting For Cultural Programme Area & Parking)	19 92 102.00
46	Providing Temporary EI for Yog Day Parking Area of 21st June 2017 at TV Tower,Shakamba Party Plot,LoyalaPlot,A'bad	8 15 674.00
48	Providing Temporary EI,Working Security Light,DecorativeLighting,DG Set etc for the PM & VVIP Dignitaries during Vibrant Gujarat 2019	62 44 810.00
51	Providing Temporary EI,Decorative Lightings etc for the Vibrant Gujarat 2019 at Annexe,NewAnnexeBldg& NRG Bhavan At A'bad on Dt.17.1.19 to 21.1.19(5 Dyas)	12 85 168.00
56	Providing Temporary EI,Decorative Lightings etc for the Vibrant Gujarat 2019 at Circuit House,A'bad At A'bad on Dt.17.1.19 to 21.1.19(5 Dyas)	4 22 766.00
59	ProvidingTemporary EI Stand by Power Supply for Celebration of Republic Day at Bayad Dist.Arvalli on dt.24.1.2019 to 26.1.2019(For 3 days)	2 97 421.00
60	Providing Temporary Sound Systemon occasion of Republic Day at bayad,Dist.Aravalli on dt.26.1.19(One day with Rehersal)	1 11 350.00
61	Providing Temporary Sound Systemon occasion of Republic Day at Vadali,Dist.S.K. on dt.26.1.19(One day with Rehersal)	1 11 350.00
67	Providing Temporary EI,Securitylight,DG set Etc for Yoga-2018 in presence of Govenor& C of Gujarat at SP Stadium,Navrangpura,A'bad.(21.6.18 with on edayrehersal)	12 25 676.00
74	Providing Temporary EI, Decorative lighting & Roshni etc during Vibrant Gujarat-2019 at sales tax Bhavan, Ashram Road, A'bad on Dt.16.01.2019 to 20.1.2019(5 Days)	5 13 747.00
75	Providing Temporary EI & power supply for Occasion of celebraion of 26th January at Modasa, Aravalli on dt.24.1.18 to 26.1.18(for 3 days)	2 09 785.00
84	Pro. Temp EI Sound System for Celebration of Independence Day at P G Mehta High School,Malpur,Dist.S.K on dt.14.8.2018 to 15.8.2018(For 2 days)	1 19 366.00
87	Pro. Temp EI,Fans& stand by power by DG set for the celebration of Independence Day at Jyoti High School,Khedbrahma,Dist.S.K. on Dt.13.08.2018 to 15/8/2018.(for 3 days)	1 68 291.00
88	Pro. Temp EI,Fans& stand by power by DG set for the celebration of Independence Day at Jyoti High School,Khedbrahma,Dist.S.K. on Dt.13.08.2018 to 15/8/2018.(for 3 days)	1 68 291.00
89	Pro. Temp Sound System for the celebration of Independence Day at Jyoti High School,Khedbrahma,Dist.S.K. on Dt.13.08.2018 to 15/8/2018.(for 3 days)	1 19 366.00
90	Pro. Temp EI ,AC m/c & Power Supply Etc for visit of CM for the fuction of SujalamSufalam Yojana at HelipGround,Khedbrahma,S.K. on Dt.10.5.18	1 11 529.00
91	Pro. Temp EI ,AC m/c & Power Supply Etc for visit of CM for the fuction of SujalamSufalam Yojana at HelipGround,Meghraj, S.K. on Dt.10.5.18	1 11 529.00
92	Pro. Temp EI ,AC m/c & Power Supply Etc for visit of CM for the fuction of SujalamSufalam Yojana at HelipGround,Beditalav,S.K. on Dt.10.5.18	1 11 529.00



94	Pro. Temp EI ,Sound System,securityLight,DG Set Etc for Vishwa Yoga Divas-2018 at SPGround,Himatnagar S.K. on Dt.21.6.18	2 46 870.00
95	Pro. Temp EI ,Sound System,securityLight,DG Set Etc for Vishwa Yoga Divas-2018 at K N Shah High School Ground,Modasa,S.K. on Dt.21.6.18	2 90 196.00
100	Pro. Temp. EI ,AC M/C & Power supply by DG set for CM for the function of SujlamSufnam Yojana at Kheroj, S.K. on Dt.10.5.18	7 18 941.00
101	Pro. Temp. EI ,AC M/C & Power supply by DG set for visit of CM for the function of SujlamSufnam Yojana at Gamedu Talav, Kaliya Kuva Road, Meghraj, Arravalli on Dt.10.5.18	3 93 563.00
104	Pro. Temp EI, Power Supply by DG set & lighting for celebration of republic day at vadali, S.K. on 24/1/19 to 26/1/18 for 3 days	2 97 634.00
107	Providing Temporary Lighting For the Celebration of Republic day at Various Bldg. Himmatnagar on 24.01.2017 to 26.01.2017.(3 Days)	7 29 040.00
108	Providing Temporary FOGGER SYSTEM For the "PaniPurvatha Yojna" Programme in Presence of Hon. Prime Minister at Modasa, Arravali District on 30/06/2017.	8 90 820.00
111	Providing Temporary CCCTV For the "PaniPurvatha Yojna" Programme in Presence of Hon. Prime Minister at Modasa, Arravali District on 30/06/2017.	2 93 970.00
129	Providing Temporary EI, Working Security Light, D.G.Set Etc. For "State level function of World Yoga Day - 2019" In Presence of H'ble Governor of Gujarat State at Sardar Patel Stadium, Navrangpura, Ahmedabad	11 70 977.00
131	Providing Temp. Illumination Roshni For Independence Day 2019 Celebration at Chhotaudepur	18 98 623.00
132	Providing Temp. E.I. Along with D.G.SetFor Swaminarayan Mandir Vidhyalaya& VIP/VVIP Parking for the state level celebration "Devi Narmada Mahotsav" in the Presence of Hon. Prime Minister at Kevadiya, Dist.- Narmada.	9 78 257.00
133	Providing Temp. E.I. Along with D.G.SetFor Hon. Prime Minister & Chief Minister Helipeds required for the State Level Celebration "Devi Narmada Mahotsav" in the Presence of Hon. Prime Minister at Kevadiya, Dist.- Narmada.	7 28 251.00
134	Providing Temp. E.I. with D.G.Set and AC Machines For the State Level Celebration "Namami Devi Narmada Mahotsav" in the Presence of Hon. Prime Minister at Kevadiya, Dist.- Narmada.	26 28 136.00
136	Providing Temp. E.I. with Standby DG Set & AC Machine For District Level Celebration of Independence Day 2019 at Ta.Savli Dist. Vadodara	2 34 932.00
137	Providing Temp. Roshni at Various Government Buildings during Celebration of Independence Day 2019 at Ta - Dist - Chhotaudepur	6 65 161.00
143	Providing Temp. Sound System for district Level Celebration of 15th August 2019 at Sehera Taluka Dist. Panchmahal.	1 15 994.00
144	Providing Temp. E.I. with Standby DG Set & Roshni (at Various Places) For District Level Celebration of 15th August 2019 at Sehera Taluka Dist. Panchmahal.	2 89 754.00

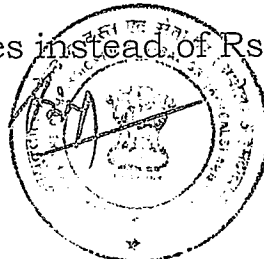


147	Providing Temp. Roshni at Various Government Buildings during Celebration of Independence Day 2019 at Ta -Savli, Dist. Vadodara	2 96 221.00
150	Providing Temp. E.I., DG Set, Sound System for District Level Celebration of International Yoga Day 21st June 2019@ GNFC Ground, Bharuch.	3 17 252.00
151	Providing Temp. E.I. & DG Set for District Level Celebration of Namami Devi Narmade Mahotsav @ Mataria Lake, Bharuch.	1 21 117.00
153	Providing Temporary Sound System for Namami Narmade Programme at IFFCO wala Hole at Nadiad Dist. Kheda	44 625.00
156	Providing temporary EI, stand by power supply by DG set for Viswa Yoga Day at Himatnagar, Dist. Sabarkantha	1 88 995.00
157	Providing temporary sound system for Viswa Yoga day at Modasa, Dist. Aravall	74 942.00
164	Providing temporary EI, stand by power supply by DG set & Lighting For celebration of Independence Day at Modasa, Dist. Aravalli	1 11 350.00
165	Providing temporary EI, stand by power supply by DG set for celebration of Independence Day at Talod, Dist. Sabarkantha	1 20 205.00
166	Providing temporary EI, stand by power supply by DG set & Lighting For celebration of Independence Day at Modasa, Dist. Aravalli	2 45 436.00
168	Providing temporary sound system for Viswa Yoga day at Modasa, Dist. Aravall	99 523.00
169	Providing Temporary Stand by D.G.Set at M.S. Building Laldarwaja For Rathyatra 2019 (For Wire Less System of Police Department)	27 768.00
172	Providing Temporary E.I, D.G.Set Etc. For the NEW YEAR CELEBRATION FUNCTION at Annexe, Ahmedabad.	76 239.00
178	Providing Temporary E.I., with Standby DG Set & A.C. Machines for Celebration of Panch Mahotsav 2019 at Pavagadh, Dist. PMS (General Lighting For Cultural Programme Area)	23 00 382.00
179	Providing Temporary E.I., Standby DG Set for Various Parking Area For Celebration of Panch Mahotsav 2019 at Pavagadh, Dist. PMS	6 86 714.00
180	Providing Temporary General Light For Food Bazar, Craft Bazar, Amusement Park For Celebration of Panch Mahotsav 2019 at Pavagadh, Dist. PMS	21 37 100.00
182	Providing Temporary Roshni with E.I. along with D.G.Set for Circuit House, Rajpipla and Temp. Roshni on a Road From Shresha Bharat Bhavan to Ekta Dwar at Kevadiya, Dist. Narmada For the State Level Celebration of "Namami Devi Narmade Mahotsav" in Presence of Hon. Prime Minister at Kevadiya, Dist. Narmada	9 33 313.00
187	Providing Temp. EI. & Sound System for Visit of Hon. Home Minister of India For Ayushman Bharat Programme at Sola Civil Hospital Ahmedabad	3 31 521.00
189	Hire Charges for providing temp. EI Lighting for celebration of 150th anniversary of mahatma Gandhi in Auditorium at GHC Campus, A'bad.	63 986.00
194	Providing Temporary E.I. with Standby DG Set and roshni (at Various Places) for District level celebration of 26th Jan 2020 at Godhra. Dist. Panchmahal	4 59 469.00



195	Providing Temporary E.I. with Standby DG Set and roshni (at Various Places) for District level celebration of 26th Jan 2020 at APMC Ground ta. Wagra	4 37 646.00
196	Providing Temporary E.I. with DG Set as main and back power Supply for Cultural Programme on the event of 26th Jan 2020 at Hostel Ground, Bharuch.	2 95 482.00
202	Providing Temporary EI, Stand by power supply by DG set & Lighting for celebration of Republic day at Dhansura, Dist. Arravali	2 52 948.00
203	Providing Temporary EI, Stand by power supply by DG set & Lighting for celebration of Republic day at Prantij, Dist. Sabarknatha	2 36 023.00
204	Providing Temporary sound system on occasion of Republic day at Prantij, Dist. Sabarkantha,	1 14 885.00
205	Providing Temporary sound system on occasion of Republic day at Dhansura, Dist. Arravali,	1 14 885.00
217	Providing Temporary Sound system for Celebration of Independence Day 2019 at SRP Ground, Nadiad, Dist. Kheda.	1 12 276.00
223	Providing Temporary Decorative Lighting on occasion of "Namami Devi Narmade" at Sarita Udhyan to Ch-0 Circle, Gandhinagar.(From Date - 16-09-2019 To 17-09-2019.)(For Two Days)	9 78 797.00
Total		4,59,96,061.00

9.1 In view of the above discussion I find that out of the total value of service amounting to Rs. 20,60,02,386/- provided by the appellant for the period from 01-04-2018 to 31-03-2020, value of service which amounts to Rs. 9,74,50,429/- (Rs. 4,59,96,061/- + Rs. 5,14,54,368/-) is to be considered as exempted service under entry no. 3 of Notification No. 12/2017-CT (Rate) considering the work done by the appellant as the services falling under the Article 243G or 243W of the Constitution of India for the reasons and findings made by the adjudicating authority in his order. I also find that the department has not preferred any appeal against the findings of the adjudicating authority inasmuch as he considered such values to be exempted services and thus decision of adjudicating authority as to exempted services is no more *res integra* and thus the same has to be extended to the similar type of services to the period of 2019-20, which was forming integral part of the show cause notice decided by the adjudicating authority. Therefore, I find a strong reason to consider the entire amount of Rs. 9,74,50,429 as the exempted services instead of Rs. 3,24,86,078



10. Now I proceed towards the remaining observations of the adjudicating authority who considered all those works mentioned at sr. no. 1,12,13,14,16,17,19,20,21,22,26,27,28,29,30,31,42, and 60 in the list of details of work done by the appellant for F.Y. 2018-19 shown in para 26 of the OIO falling under the first category i.e. (i) Visit of dignitaries and similarly work mentioned at sr. no. 2,3,6,7,8,9,10,11,15,34,36,40,50,51,55,64, and 68 in the said list of para 26 of the OIO falling under the second category i.e. (ii) inauguration of government buildings and sr. no. 32,35,77 & 80 which did not considered to be fall under the category (i) and category (ii) by the adjudicating authority.

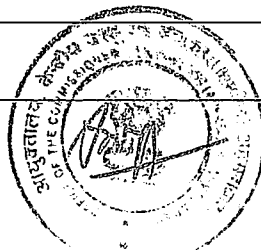
11. I have carefully gone through each and every above said works which were presumed by the adjudicating authority as taxable services. I find that those cases mentioned at sr. no. 1, 40, & 42 in F.Y. 2018-19, and some of the work done in F.Y. 2019-20, the details of which is tabulated under wherein service were provided by the appellant during General Election/Lok Sabha General Election or provided to the Election commission of India which will not be considered as exempted service.

Details of work done and not exempted in F.Y. 2018-19

Sr. No.	Detail of work done/Contract	Bill Value
1	Providing Temporary E.I. at MatdanMathak, Dispatching Center, Receiving Center, Strong Room & Counting Center During Assembly General Election 2017 on	50,35,114.00
40	Providing Temporary E.I., Sound System, DG Set etc. for the press Conference of Election Commission of India in Annexe Building	87,401.00
42	Providing Temporary E.I., D.G.Set and Sound System etc for the Press Conference of Election Commission of India in Annexe Building	77,207.00
	Total	51,99,722.00

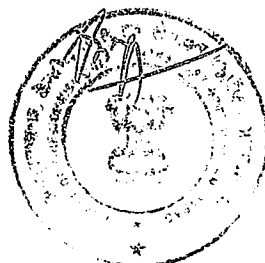
Details of work done and not exempted in F.Y. 2019-20

Sr. No.	Detail of work done/Contract	Bill Value



114	Providing Temporary E.I. , Working Security Light, sound system, Etc. at Ghoda camp ahmedabad for the work of Loksabha Election-2019	1,83,202.00
115	Providing Temporary E.I. , Working Security Light, sound system, Etc. at Ghoda camp ahmedabad for the work of Loksabha Election-2019.	2,22,614.00
116	Bills For Providing Temporary EI, AC Machine and Stand by Power Supply for Strong Room Security Light For "LOK SABHA GENERAL ELECTION 2019" at L.D. Engineering College Campus, Navrangpura, Ahmedabad	52,65,186.00
117	Bills For Providing Temporary EI, AC Machine, Sound System and Standby Power Supply by DG Set for Counting Work During "LOK SABHA GENERAL ELECTION 2019" at L.D. Engineering College Campus, Navrangpura, Ahmedabad	15,02,599.00
118	Providing Temporary EI, AC Machine and Stand by Power Supply for Strong Room Security Light For "LOK SABHA GENERAL ELECTION 2019" at Gujarat College Campus, Ellisbridge, Ahmedabad	43,64,132.00
119	Providing Temporary EI, AC Machine and Stand by Power Supply for Strong Room Security Light For "LOK SABHA GENERAL ELECTION 2019" at Gujarat College Campus, Ellisbridge, Ahmedabad.	25,38,088.00
120	Providing Temporary E.I. , Working Security Light, sound system, Etc. at Ghodacampahmedabad for the work of Loksabha Election-2019	5,44,594.00
121	Providing Temporary E.I , Work for Loksabha Election -2019 Result day at Annexe (State Guest House), Shahibaug, Ahmedabad.	34,222.00
	Total -	1,46,54,637.00

11.1 I find that above works are relating to the election which is a constitutional function but not the functions entrusted under Article 243W or 243G to the local authorities and therefore the said works with respect to elections cannot be considered as exempt under the Notification No 12/2017-CTR. Moreover, I find that the appellant has not merely supplied Diesel Generator Sets for supply of electrical energy in such cases and therefore the same do not qualify for exemption alternatively pleaded by the appellant under Notification No 2/2017-CTR. In cases where the appellant had merely provided DG Sets so as to supply electrical energy, I find that the same be alternatively considered as exempt supply of goods under Notification No 2/2017-CTR but where the same is supplied



along with other machineries / goods forming a composite supply, the exemption is not available to the appellant. Thus in view of the above discussion and above table the value in as much as Rs. 1,98,54,359/- (Rs. 51,99,722/- in F.Y. 2018-19 and Rs. 1,46,54,637/- in F.Y. 2019-20) is taxable.

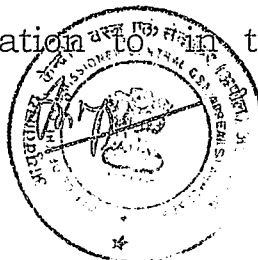
11.2 In all other works done except those mentioned above relating to election, I observed that the recipient of the services is Government of Gujarat through various department/offices and all such supply of services are of the nature of sovereign functions which were stated in article 243W and/or Article 243G. I am of the considered view that the below mentioned entries of Article 243G will be applicable to the purposes for which the supplies were made by the appellant.

3. Minor irrigation, water management and watershed development.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
21. Cultural activities.
23. Health and sanitation, including hospitals, primary health centers and dispensaries.
24. Family welfare.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled tribes.

Similarly, the following entries of Article 243W will be applicable to the purposes for which the supplies were made by the appellant.

6. Public health, sanitation conservancy and solid waste management.
11. Urban poverty alleviation
13. Promotion of cultural, educational and aesthetic aspects
17. Public amenities including street lighting, parking lots, bus stops and public conveniences

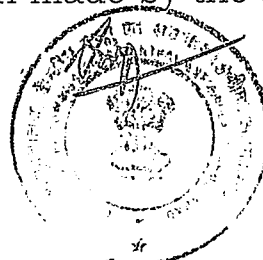
11.3 Constitutional entries and powers are to be construed wide in its amplitude and scope and cannot be given restrictive meaning. Moreover, use of expression "in relation to" in the Sl No 3 of



Notification No. 12/2017-CT (Rate) further expands the scope of the exemption. It is a legal proposition settled by Apex Court that expression "in relation to" is synonym to "concerning with" or "pertaining to" and thus the same must be given expansive meaning and construction. Therefore, anything done for the purpose of the functions listed hereinabove shall qualify for exemption under said Entry without any restriction or qualification.

11.4 In view of the above entries and reading the entry no. 3 of the Notification No. 12/2017-CT(Rate) and submission made by the appellant I find that the remaining works particularly mentioned at sr. no. 12,13,14,16,17,19,20,21,22,26,27,28,29,30,31,and 60 and 2,3,6,7,8,9,10,11,15,34,36,50,51,55,64, and 68 in the said list of para 26 of the OIO and sr. no. 32,35,77 & 80, which had not been considered as exempted service as mentioned in para 30 of the OIO will squarely fall within the scope of entry No. 3 of the Notification No. 12/2017-CT(Rate).

12. Similarly and for the reasons discussed hereinabove, the work done by the appellant in F.Y. 2019-20 to the amount of Rs. 7,71,61,608/- mainly related to Govt. functions which are of sovereign nature like providing Temp. Lighting/illumination, Music/Sound system for Govt. function viz. garib kalyan mela, PM Awas Yojana, Patang mahotsava, etc, providing temporary E.I. with stand by DG Set for arrangement of Govt. functions viz. Sushasan din, celebration for national unity day, Poshan abhiyan programme, etc. I have carefully gone through each and every above said works which were presumed by the adjudicating authority as taxable services I find that in all such cases the recipient of the services being Government of Gujarat through various department/offices and all such supply of services are of the nature of sovereign functions which were stated in article 243W and/or Article 243G. In view of the above and reading the entry no. 3 of the Notification No. 12/2017-CT (Rate) and submission made by the appellant I find



that the service rendered by the appellant for the amount of Rs. 7,71,61,608/- for the F.Y. 2019-20 will squarely fall within the scope of entry No. 3 of the Notification No. 12/2017-CT(Rate) read with the provision in terms of entry no. 104 of Notification No. 2/2017-CT (Rate).

13. I observe going through the nature of work done by the appellant mentioned at the above said sr. nos. that some of the supply of service pertains to the supply of Electricity (Electric energy) required for illumination during the functions, which is an exempted service in terms of entry no. 104 of Notification No. 2/2017-CT (Rate). I also found that the adjudicating authority had made an error by allowing the service made by the appellant mentioned at sr. no. 55 of the list shown in para 26 of the OIO as exempted as well as considered the same as taxable by assuming the service fall under the second category i.e. inauguration of government building. If the service is supposed to be exempted by the adjudicating authority it need not be taxable. Therefore for the sake of easiness I reproduce the relevant part of Notification No. 02/2017-CT (Rate) as under:

103A	26	Uranium Ore Concentrate	Nil
104	271600 00	Electric Energy	Nil
105	2835	Dicalcium phosphate (DCP) of animal feed grade conforming to IS specification No. 5470: 2002	Nil

14. Thus, in view of the above discussion I find that the value of service amounting to Rs. 20,60,02,386/- provided by the appellant for the period from 01-04-2018 to 31-03-2020 Rs. 18,61,48,027/- (Rs. 4,59,96,061/-+ Rs. 5,14,54,368/-+7,71,61,608/-+1,15,35,990/-) is exempted service under entry no. 3 of Notification No. 12/2017-CT (Rate) considering the work done by the appellant as the services falling under the Article 243G or 243W of the Constitution of India read with the provision in terms of entry



no. 104 of Notification No.2/2017-Ct (Rate) and the value in as much as Rs. 1,98,54,359/- (Rs. 51,99,722/- in F.Y. 2018-19 and Rs. 1,46,54,637/- in F.Y. 2019-20) is taxable.

15. In the light of forgoing analysis, I partly uphold the demand on taxable amount Rs. 1,98,54,359/- of the impugned Order-in-Original along with interest at the applicable rate under Section 50(1) of the CGST Act, 2017 and Penalty imposed under Section 74(1) of the CGST Act, 2017 and drop the demand on the remaining amount of Rs. 18,61,48,027/- of the said Order-in-Original along with interest thereon and penalty.

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.

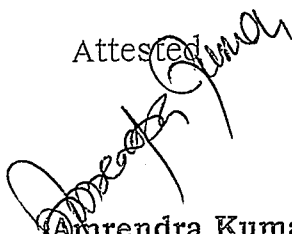

(Shiv Pratap Singh)

Commissioner (Appeals)

Date : .09.2023



Attested


Anrendra Kumar)
Superintendent(Appeals)
CGST Ahmedabad.

By RPAD / SPEED POST

To,
Shri Nimesh Surendrakumar Bhavsar(S.P. Electric), Appellant
30, Vasisthanagar Society,
Nr. Yamunaji's Haveli
Isanpur Road, Maninagar, Ahmedabad.

The Joint Commissioner,
CGST & Excise, Ahmedabad South

Respondent

Copy to :

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

- ✓ 5. Guard File
6. PA file



