



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: 20231164SW000000FCD6

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/3542/2023 (३३११-१६)
- ख अपील आदेश संख्या Order-In-Appeal No. AHM-EXCUS-001-APP-147/2023-24
दिनांक Date : 25-10-2023 जारी करने की तारीख Date of Issue 02.11.2023
आयुक्त (अपील) द्वारा पारित
Passed by **Shri Gyan Chand Jain**, Commissioner (Appeals)
- ग Arising out of OIO No. WSO7/O&A/OIO-270/AC-KSZ/2022-23 दिनांक: 16.02.2023 passed by
Assistasnt Commissioner, CGST, Division VII, Ahmedabad South.
- घ अपीलकर्ता का नाम एवं पता Name & Address

Appellant

**M/s. Gujarat Hi Tech Dental Hospital,
Circle-B, 4th Floor, Judges Bunglow Road,
Sarkhej Highway, Bodakdev,
Ahmedabad-380015.**

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 :

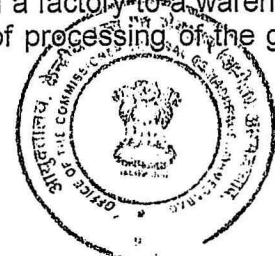
Revision application to Government of India:

(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 रुपये 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(Appel) 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.

- 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. Gujarat Hi Tech Dental Hospital, Circle-B, 4th Floor, Judges Bungalow Road, Sarkhej Highway, Bodakdev, Ahmedabad 380 015 (hereinafter referred to as "the Appellant") against Order-in-Original No. WS07/O&A/OIO-270/AC-KSZ/2022-23 dated 16.02.2023 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner, Central GST, Division-VII, Ahmedabad South (hereinafter referred to as "the 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. AAEEFG4066G. As per the information received from the Income Tax Department, the Appellant had earned substantial service income amounting to Rs. 28,23,200/- 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.

2.1. Subsequently, the Appellant were issued Show Cause Notice No. V/WS207/O&A/SCN-280/AAEEFG4066G/2020-21 dated 29.09.2020 wherein it was proposed to:

- a) Demand and recover an amount of Rs. 3,48,948/- for 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 (hereinafter referred to as 'the Act').
- b) Impose penalty under the provisions of Section 70, 77 (1), and 78 of the Act.

3. The SCN was adjudicated ex-parte vide the impugned order wherein:

- a) The demand of service tax amounting to Rs. 3,48,948/- 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 2014-15 to 2016-17.

- b) Penalty amounting to Rs. 3,48,948/- was imposed under section 78 of the Act.
- c) Penalty amounting to Rs. 10,000/- was imposed under section 77(1) of the Act.
- d) Penalty amounting to Rs. 10,000/- was imposed under section 77(2) of the Act for failure to assess the tax due on the service provided and not to furnish a return in the format of ST-3 within the specified time.

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, dental hospital is providing dental services which belong to healthcare service hence service is exempted under Service tax as per the Sr. No. 2 of the Notification No. 25/20112-St dated 20.06.2012.
- The Appellant are hospital and thus it can be classified as "Clinical establishment".
- Exempt supply is not includible in aggregate turnover for taking service tax registration.
- OIO has not been issued in accordance with Master Circular No. 96/1/2017-CX.1 dated 19.01.2017. As per para 14.10 of the said circular OIO is expected to be issued within a reasonable time as laid down in law of the submission of written reply and conclusion of personal hearing in the case. In the instant case OIO were issued without following the procedure as prescribed in the said circular.
- Service tax cannot be demanded merely on the basis of ITR or from 26AS. The Appellant submitted already the reply of SCN



and mentioned that they had provide the healthcare service but Ld. Adjudicating authority mentioned that the Appellant did not provided any details so liability of service tax has been ascertained on the basis of income mentioned in the ITR returns and Form 26AS filed by the Appellant. There has been no attempt done by the Ld. Adjudicating authority on how the income Tax disclosed in ITR is taxable under service tax law. Plethora of judicial pronouncements have settled the law that no demand of service tax can be confirmed on the basis of amounts whown as receivables in the ITR. [J. I. Jesudashan vs. CCE 2015 (38) S.T.R 1099 (Tri. Chennai); Alpha Management Consultant P. Ltd vs. CST 2006 (6) STR 181 (Tri. Bang); Tempest Advertising (P) Ltd. v. CCE 2007 (5) STR 312 (Tri.-Bang.); Turret Industrial Security Vs. CCE 2008 (9) S.T.R. 564 (Tri- Kolkata).

- It is a settled position of law that income reflected in the IT returns/Balance sheet is not a proper basis to determine the service tax liability without establishing the nature of service and the purpose for which the income is received. Supreme Court in Faquir Chand Gulati vs. Uppal Agencies Pvt. Ltd 2008 (12) S.T.R 401 (S.C) has settled the law that nomenclature of an instrument or document cannot be determinative of the nature or character of activity. Therefore, under such circumstances, the SCN fails to discharge the burden of proof as to taxability of activity. E. Extended Period of limitation cannot be invoked in the absence of fulfillment of the conditions under sub-section (1) to Section 73.
- Extended Period of limitation cannot be invoked in the absence of fulfillment of the conditions under sub-section (1) to Section 73. Only in cases of fraud or collusion or willful misstatement or suppression of facts or contravention of any provision of Chapter V or any Rules made there under with intent to evade payment of service tax, a show cause notice might have been



issued within five years from the relevant date. The figures reflected in Income Tax Returns and Form 26AS are already available with the department at the time of filing during relevant year itself. Therefore, the said information has never been suppressed by the concerned taxpayer from the department. Further, it is submitted that the appellant has also not indulged in any fraud or collusion or willful misstatement as the given figures reported in ITR on the basis of which SCN has been issued and the said information is available for department's perusal right from the year in question. Reliance can be placed on Saboo Coating Ltd. V. CCE Chandigarh [2014(36) STR 447 (Tri.-Del.)] and Prolite engineering C. v. Union of India [1995 (75)ELT 257 (Guj.), wherein disclosure of facts not required by law cannot be attributable to suppression.

- Various courts have in catena of judgments held that allegation of suppression of facts needs to be construed strictly. There must be willful evasion of law and thus such an allegation cannot be raised in cases where there is dispute relating to Interpretation of law. Reliance can be place on the following (1) Bharat Hotel ltd. [2018(12) GSTL 368 (Del.)] (2) Pushpam pharmaceuticals Company [1995 (78) ELT 401 (SC)] (3) Punjab Laminates Pvt. Ltd. [2006(202) ELT 578 (SC)] (4) Sourav Ganguly v. UOI [2016 (43) STR 482 Cal.] (5) Continental Foundation Joint Venutre Holding v. CCE Chandigarh-1 [2007(216) ELT 177] (6) M/s Cosmic Dye Chemicals v. CCE Bombay [1995 (75) E.L.T. 721 (S.C.)
- In case demand is not sustainable interest U/s 75 of the Act and penalty U/s 77(1) and 77(2) of the Act cannot be levied.
- Penalty U/s 78 cannot be levied where no penalty is proposed in SCN. Only in unusual circumstances demand for extended period are to be invoked with a very serious allegation of suppression of facts and intention to evade payment of service



tax. Such serious allegations of suppression can be invoked only if the appellant has deliberately done an action with an intention to hide certain facts from the department and department has confirmed it beyond doubt with aid of corroborative evidence that there was a deliberate act on part of appellant to evade tax. There is' no finding in impugned OIO which can allege that appellant has intended to evade payment of tax. In the absence of any finding of "intent to evade" demand cannot be sustained. Reliance is placed on the following decisions: (i) Continental Foundation v. CCE (2007 (216) E.L.T. 177 (S. C.)) (ii) CCE v. Pioneer Scientific Glass Works [2006 (197) E.L.T. 308 (S. C.)) (iii) Pahwa Chemicals Pvt. Ltd. v. CCE [2005 (189) E.L. T. 257 (S. C.)) (iv) Anand Nishikawa Co Ltd. v. CCE [2005 (188) E. L. T. 149].

➤ No penalty shall be imposable on Appellant for any failure referred to in the said provision if Appellant proved that there was reasonable cause for said failure. CCE, Meerut-II v on Dot Couriers & Cargo Ltd. (2006) 6STJ 337 9CESTAT, New Delhi]]

5. Personal hearing in the case was held on 19.10.2023. Sh. Rashmin Vaja, C.A. and Sh. Foram Dhruv, C.A. appeared on behalf of the appellant for personal hearing and reiterated the content of written submission in the appeal. He requested to allow the appeal.

6. The Appellant have submitted documents viz. 26AS Form and ITR for F.Y. 2014-15, copy of Degree certificate of Doctor of Medicine of all the three partners, copy of Dental fees income Ledger along with P & L Account and Balance Sheet for F.Y. 2014-15, copy of sample bills.

7. I have carefully gone through the facts of the case, the impugned order passed by the adjudicating authority, submissions made in the Appeal Memorandum as well as those made during the course of personal hearing and documents available on record. The

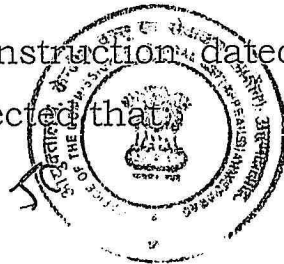


issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority, confirming the demand of service tax against the Appellant along with interest and penalty, in the facts and circumstance of the case, is legal and proper or otherwise. The demand pertains to the period F.Y. 2014-15.

8. It is observed that the Appellant are registered with the department and were filing ST-3 returns. However, the present demand has been raised based on ITR data provided by Income Tax Department. The SCN alleges that the Appellant had not discharged the service tax liability on the differential income noticed on reconciliation of ITR and ST-3 Returns. No other detail for raising demand is available in the SCN.

9. It is observed that the demand of service tax was raised against the Appellant on the basis of the data received from Income Tax department. It is stated in the SCN that the nature of the activities carried out by the Appellant as a service provider appears to be covered under the definition of service; appears to be not covered under the Negative List of services as per Section 66D of the Act and also declared services given in 66E of the Act, as amended; appears to be not exempted under mega exemption Notification No. 25/2012-ST dated 20.06.2012 as amended. However, nowhere in the SCN it is specified as to what service is provided by the appellant, which is liable to service tax under the Act. No cogent reason or justification is forthcoming for raising the demand against the appellant. It is also not specified as to under which category of service, the non payment of service tax is alleged against the appellant. The demand of service tax has been raised merely on the basis of the data received from the Income Tax. However, the data received from the Income Tax department cannot form the sole ground for raising of demand of service tax.

9.1 I find it pertinent to refer to Instruction dated 26.10.2021 issued by the CBIC, wherein it was 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.

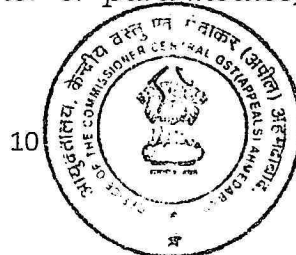
3. *It is once again reiterated that instructions of the Board to issue show cause notices based on the difference in ITR-TDS data and service tax returns only after proper verification of facts, may be followed diligently. Pr. Chief Commissioner/Chief Commissioner(s) may devise a suitable mechanism 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."*

9.2 However, in the instant case, I find that no such exercise, as instructed by the Board has been undertaken, and the SCN has been issued only on the basis of the data received from the Income Tax department. Therefore, on this very ground the demand raised vide the impugned SCN is liable to be dropped.

10. Coming to the merit of the case I find that the main contention of the Appellant are that whether the Appellant are liable to pay service tax on differential income arrived due to reconciliation of Income declared by the Appellant in Service Tax Returns and ITR data provided by Income Tax Department, in context of which the Appellant have held that the present demand on differential Income of Rs. 28,23,200/- pertains to Healthcare Service which are exempted under Notification No. 25/2012-ST dated 20.06.2012 under Entry No. 2 (i) and hence they were not showing the same in ST-3 Returns. For clarification extract of Entry No. 2(i) of Notification No. 25/2012-Service Tax dated 20.06.2012 is reproduced as under:

Extract of Entry No. 2 of Notification No. 25/2012-Service Tax Dated 20.06.2012 is re-produced below:

2. (i) Health care services by a clinical establishment, an authorized medical practitioner or para-medics; (ii) Services



provided by way of transportation of a patient in an ambulance, other than those specified in (i) above;]

11. Reading the aforesaid provision and documents submitted by the Appellant it is very much clear that the service value for the amount of Rs. 28,23,200/- as per their Books of Account and ledger of dental fees income provided by the Appellant is exempted in terms of the entry No. 2(i) under Notification no. 25/2012-ST dated 20.06.2012. On verification of documents submitted by the Appellant and demand raised vide the Order-in-Original by the adjudication authority, I find the amount shown in Income Tax Return for F.Y. 2014-15 over which demand of service tax of Rs. 3,48,948/- was raised is nothing but income collected by rendering health service.

12. The Appellant submitted copies of Degree certificate of Doctor of Medicine, as well as submitted sample invoice in respect of health service provided to several patients. Going through the document submitted by the Appellant it is abundantly clear that they were providing health service. Thus I am of the considered view that the amount of Rs. 28,23,200/- in F.Y. 2014-15 is only the consideration received against the health service rendered by the Appellant, which is exempted in view of Entry No. 2 of Notification No. 25/2012-Service Tax Dated 20.06.2012 and demand raised accordingly is legally wrong and not sustainable.

13. In view of the above discussion, I am of the considered opinion that the activity carried out by the Appellant is not liable to pay Service Tax. Since the demand of Service Tax is not sustainable on merits, there does not arise any question of charging interest or imposing penalties in the case.

14. Accordingly, in view of my foregoing discussions and finding, 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.

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

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

G.C.J.
25.10.23

ज्ञानचंद जैन

आयुक्त (अपील)

Date : 25.10.2023

Attested

(असिंद्र कुमार)
अधीक्षक (अपील)

सी.जी.एस.टी, अहमदाबाद



By RPAD / SPEED POST

To,

M/s. Gujarat Hi Tech Dental Hospital,
Circle-B, 4th Floor, Judges Bungalow Road,
Sarkhej Highway, Bodakdev,
Ahmedabad 380 015.

Appellant

The Assistant Commissioner,
CGST, Division-VII,
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 VII, Ahmedabad South
4. The Assistant Commissioner (HQ System), CGST, Ahmedabad South (for uploading the OIA)
5. Guard File
6. PA file