



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: 20231164SW000000B040

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/3379/2023 17997 - 9801
- ख अपील आदेश संख्या Order-In-Appeal No. **AHM-EXCUS-001-APP-153/2023-24**
दिनांक Date : 26-10-2023 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. 179/AC/Hasinaben Nanabhai Contractor/Div.-II/A'bad-South/JDM/2022-23 दिनांक: 24.02.2023 passed by Assistant Commissioner, CGST, Division III, Ahmedabad South.
- घ अपीलकर्ता का नाम एवं पता Name & Address

Appellant

**M/s. Hasinaben Nanabhai Contractor,
Prop. of M/s. Shine Engineers,
D-10 & 11, Bharat Small Industrial Estate,
B/h. Gujarat Offset, Railway Station Road,
Vatva, Ahmedabad-382445.**

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 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 संलग्नरकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

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

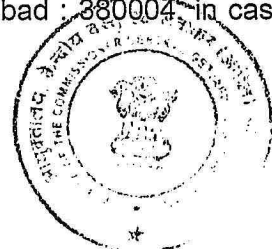
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

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

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

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

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



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

- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellate Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

- (4) न्यायालय शुल्कअधिनियम 1970 यथासंशोधित की 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."



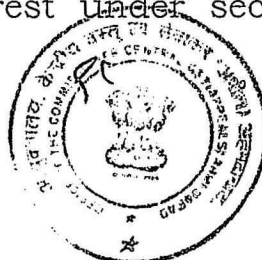
ORDER-IN-APPEAL

The present appeal has been filed by M/s. Hasinaben Nanabhai Contractor Proprietor of M/s Shine Engineers, D-10 & 11, Bharat Small Industrial Estate, B/h. Gujarat Offset, Railway Station Road, Vatva, Ahmedabad 382 445 (hereinafter referred to as "the Appellant") against Order-in-Original No. 179/AC/Hasinaben Nanbhai contractor/Div.-II/A'bad-South/JDM/2022-23 dated 24.02.2023 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner, Central GST, Division-III, Ahmedabad South (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, the facts of the case are that the Appellant are engaged in supply of goods with some portion of labour charges for providing service like installation, repairs etc. They were holding PAN Number ABCPC8959R. On scrutiny of the data received from the Central Board of Direct Taxes (CBDT), it was noticed that the Appellant had earned substantial income from service provided during F.Y. 2014-15, however they failed to obtain Service Tax Registration and also failed to pay service tax on such income. The Appellant were called upon to submit copies of relevant documents for assessment for the said period, however, they neither submitted any required details/documents nor did offer any clarification/explanation regarding gross receipts from services rendered/income earned by them.

2.1. Subsequently, the appellant were issued Show Cause Notice No. WS0205/Third Party Data (2014-15)/11/20-21 dated 24.12.2020 wherein it was proposed to:

a) Demand and recover an amount of Rs. 2,48,961/- for F.Y. 2014-15 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), 70 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. 2,48,961/- 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. 2,48,961/- was imposed under section 78 of the Act.

c) Penalty amounting to Rs. 10,000/- was imposed under section 70 of the Act for non/late filing of ST-3 Return.

d) Penalty amounting to Rs. 10,000/- was imposed under section 77(1) of the Act for failure to include the supply services in their registration under the provision of 69 of the Act read with Rule 4 of Service Tax Rules, 1994.

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:

➤ During F.Y. 2014-15 the Appellant service income was actually Rs. 8,81,312/- (Labour charge Rs. 9,23,278/- minus Quality Difference Credit Note Rs. 41,966/-), which is exempted from levy of service tax under Notification No. 33/2012-ST dated 20th June, 2012. Thus, the Appellant is not required to take registration.

➤ The department cannot raise demand on the basis of 26AS figures and balance sheet figures without examining the real nature of income and without establishing that the entire



amount received by the Appellant is consideration for any taxable services provided and without examining whether the said income was because of any exemption. It is not legal to presume that the entire amount was on account of consideration from providing taxable services without such examination. In support of this the Appellant rely on decision of the Hon'ble Tribunal in the cases of **(1)** Kush Construction V. CGST NACIN, ZTI, Kanpur [2019 (24) GSTL 606 (Tri.-All.)], **(2)** Sharma Fabricator & Erectors Pvt. Ltd. [2017 (5) GSTL 96 (Tri.-All.), **(3)** Alpha Management Consultants Pvt. Ltd. V. CST [2007 (6) STR 181 (Tri. - Bang.)], **(4)** Synergy Audio Visual Workshop P. Ltd. V. CST [2008 (10) STR 578 (Tri. - Bang.)]

- Though there is no service tax liability on the part of the Appellant, however, the impugned order fails to quantify the correct assessable value and service tax payable thereon. In terms of provisions of section 67(2) of the Act, where the gross amount charged by a service provider is inclusive of service tax payable, the value of taxable service shall be such amount as with the addition of tax payable, is equal to the gross amount charged. The Appellant have not charged or recovered any service tax. Hence, it is held that even where service tax is payable, the value should be treated as inclusive of service tax as no service tax is recovered by the Appellant. The Appellant rely on the decision of the Hon'ble Tribunal in the case of Godfrey Phillips India Ltd. V. CCE [2018 (10) GSTL (Tri. - Mum.)].
- Copy of SCN was served to the Appellant after the OIO was received.
- Interest and Penalty is not required to be paid as the Appellant is not liable to pay service tax.
- The Appellant is not liable to pay service tax as Chapter V of the Act was omitted vide Section 173 of the CGST Act. In support the Appellant rely on the decision of the Hon'ble



Supreme Court in the case of Rayala Corporation V. Directorate of Enforcement [1969 (2) SCC 412].

➤ The demand of service tax by invoking extended period of limitation and **even beyond a period of five years from relevant date** despite the fact that there is no iota of evidence of suppression or intent to evade payment of tax on the part of the Appellant. Considering that penalties cannot be imposed and extended period of limitation cannot be invoked and demand is entirely time barred. In the support the Appellant rely on the following decided case:

(a) CCE, Mumbai-IV v. Damnet Chemicals P. Ltd. [2007 (216) ELT 3 (SC)]

(b) CC v. Seth Enterprises [1990(49) ELT 619 (Tri.-Del.)]

(c) Tamilnadu Housing Board v. CCE-1194 (74) ELT 9 (SC)

(d) Pahwa Chemicals P. Ltd. v. CCE, Delhi [2005 (189) ELT 257 (SC)]

(e) Cosmic Dye Chemical v. CCE, Bombay [1995 (75) ELT 721 (SC)]

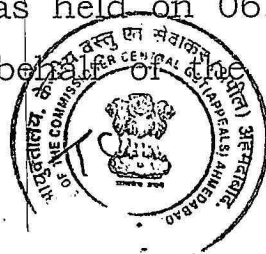
(f) Hindustan Steel v State of Orissa [1978 (2) ELT (J159) (S.C.)]

(g) Cement Marketing Co. [1980 (6) ELT 295 (S.C.)]

➤ Service Income from labour charge is reflected in the audit report and Revenue from operation is shown in ITR, details in respect of sale of goods and other sale (labour charge for service) are disclosed in VAT Returns, hence there is no suppression of facts or intent to evade payment of service tax.

➤ SCN is time barred as it is issued after the limitation of 30 months from the relevant date. SCN can be served within 30 months where there is no intent to evade payment of service tax and the same can be served within 5 years from relevant date where there is intent to evade payment of service tax. The SCN issued on 24-12-2020, which is much after the period of 30 months or 5 years from relevant date.

5. Personal hearing in the case was held on 06.10.2023. Sh. Nandesh Barai, C.A., appeared on behalf of the appellant for



personal hearing and reiterated the submission in the appeal and requested to allow their appeal. He also reiterated the contents of written submission made at the time of hearing.

6. The Appellant have submitted documents viz. copy of Income Tax Return, Profit & Loss Account for F.Y. 2014-15 & 2013-14. They have also submitted one credit note dated 17th Oct., 2014 issued in the name of GRV Spintex Pvt. Ltd. of Rs. 41,966/- being amount of Labour Charge Rate difference and booked as quality difference in P & L Account for F.Y. 2014-15 and sample service invoice.

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 FY 2014-15.

8. 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. However, it is nowhere specified in the SCN 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. 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 the demand of service tax.

8.1 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."*

8.2 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.

9. Coming to the merit of the case I find that the main contention of the appellant are that (i) they were engaged in both trading activities and labour service during F.Y. 2014-15, (ii) their income from service activities was Rs. 8,81,312/-, which was below the threshold limit and thus, no service tax is payable by them in terms of Notification No. 33/2012-ST dated 20th June, 2012, (iii) their income from sale of goods was Rs. 1,47,76,464/-, which was not liable for service tax as per Section 66D(e) of the Act. It is also observed that the adjudicating authority has passed the impugned order ex-parte.

10. On verification of the documents submitted by the Appellant, i.e. Profit & Loss Account, and Income Tax Return for F.Y. 2013-14



& F.Y. 2014-15, I find that during the impugned period i.e. F.Y. 2014-15, the Appellant were engaged in trading activities as well as in providing labour service and their income from trading activities was Rs. 1,47,76,464/- and from service activities was Rs. 8,81,312/- during the FY 2014-15. The breakup in respect of taxable service income and exempted service income in F.Y. 2013-14 & 2014-15 is shown as under:

Sr. No.	Details of Income as per P&L/ITR	Amount (in Rs.)	
		F.Y. 2013-14	F.Y.2014-15
1	Total Income	1,57,93,557	1,56,57,776
2	Income from Sales of Goods	1,49,11,122	1,47,46,464
3	Income from Labour Charges	8,82,435	9,23,278
4	Less: Quality Difference	Nil	41,966
5	Net Income from Service	8,82,435	8,81,312

11. In view of the breakup shown in above table, I find that the income from sale of goods / trading of goods falls in the Negative List as per Section 66D(e) of the Act. Hence, the appellant are not liable to pay service tax on the said amount of Rs. 1,47,76,464/- received by them during the F.Y. 2014-15. As regard to the remaining income of Rs. 8,81,312/- for the F.Y. 2014-15 for which the appellant contended that they were eligible for benefit of threshold limit of exemption as per the Notification No. 33/2012-ST dated 20.06.2012, I find that their taxable service income for the F.Y. 2013-14 was Rs. 8,82,435/-, which is also below the threshold limit and therefore the Appellant is eligible for taking the benefit of threshold exemption on income of Rs. 8,81,312/- for the F.Y. 2014-15 and therefore not liable to pay Service tax in terms of Notification No. 33/2012-ST dated 20.06.2012 for F.Y. 2014-15. For ease of reference Section 66D (e) of the Act and Notification No. 33/2012-ST dated 20th June, 2012 are produced, which read as under:

“SECTION 66D. Negative list of services



The negative list shall comprise of the following services, namely :-

(a)

(e) *trading of goods;*"

Notification No. 33/2012 - Service Tax

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 Finance Act), and in supersession of the Government of India in the Ministry of Finance (Department of Revenue) notification No. 6/2005-Service Tax, dated the 1st March, 2005, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide G.S.R. number 140(E), dated the 1st March, 2005, except as respects things done or omitted to be done before such supersession, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts taxable services of aggregate value not exceeding ten lakhs rupees in any financial year from the whole of the service tax leviable thereon under section 66B of the said Finance Act:

(i).....

(ii)-----

(viii) the aggregate value of taxable services rendered by a provider of taxable service from one or more premises, does not exceed ten lakhs rupees in the preceding financial year.

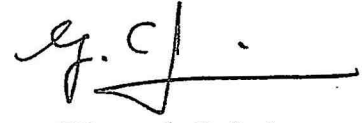
12. From reading the above provision I find that the Appellant are exempted from tax and are not liable to pay service tax in respect of service provided in F.Y. 2014-15. I find that the adjudicating authority has erred in confirming the demand of service tax amounting to Rs. 2,48,961/-for F.Y. 2014-15. 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.

13. 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.

14. अपीलकर्ता द्वारा दायर अपील का निपटान उपरोक्त तरीके से किया जा



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

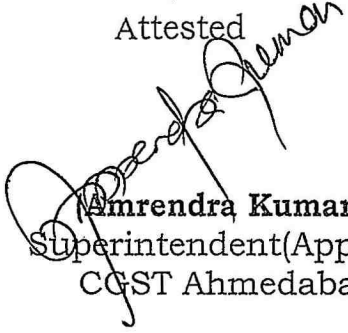


(Gyan Chand Jain)

Commissioner (Appeals)

Date : 26.10.2023

Attested



(Amrendra Kumar)
Superintendent(Appeals)
CGST Ahmedabad.



By RPAD / SPEED POST

To,

M/s. Hasinaben Nanabhai Contractor,
Proprietor of M/s Shine Engineers,
D-10 & 11, Bharat Small Industrial Estate,
B/h. Gujarat Offset, Railway Station Road,
Vatva, Ahmedabad 382 445.

Appellant

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