



सत्यमेव जयते

आयुक्त का कार्यालय  
Office of the Commissioner  
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय  
Central GST, Appeals Ahmedabad Commissionerate  
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी, अहमदाबाद-380015  
GST Bhavan, Ambawadi, Ahmedabad-380015  
Phone: 079-26305065 - Fax: 079-26305136  
E-Mail : [commrappl1-cexamd@nic.in](mailto:commrappl1-cexamd@nic.in)  
Website : [www.cgstappealahmedabad.gov.in](http://www.cgstappealahmedabad.gov.in)



आजादी का  
अमृत महोत्सव

**By SPEED POST**

DIN:- 20240264SW0000313381

(क)	फाइल संख्या / File No.	GAPPL/COM/STP/4432/2023 / 1766-1770
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-EXCUS-001-APP-259/2023-24 and 09.02.2024
(ग)	पारित किया गया / Passed By	श्री ज्ञानचंद जैन, आयुक्त (अपील) Shri Gyan Chand Jain, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	13.02.2024
(ङ)	Arising out of Order-In-Original No. MP/358/DC/Div-IV/2022-23 dated 31.03.2023 passed by The Deputy Commissioner, Central GST, Division IV, Ahmedabad South.	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s. Bharat Apparels, 1st Floor, Ratan Shopping Centre, Behind Sardar Co-operative Bank, Isanpur cross Road, N H 8, Narol, Ahmedabad-382443

कोई व्यक्ति इस अपील-आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील अथवा पुनरीक्षण आवेदन प्रस्तुत कर सकता है, जैसा कि ऐसे आदेश के विरुद्ध हो 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 :-

A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4<sup>th</sup> 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 :-

(क) 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 किसी भण्डागार में हो माल की प्रकिया के दौरान हुई हो।

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.



(ख) 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 मामले में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

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.

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

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

(घ) 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।

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.

(2) 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.

(3) 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 :-

(2) उक्तलिखित परिच्छेद 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 2<sup>nd</sup> माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद-380004।

To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2<sup>nd</sup> floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad: 380004. In case of appeals other than as mentioned above para.

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-8, prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public

sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

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

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

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची -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 का न्यायालय 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.

(6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) एके प्रति अपील 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)।

- (1) खंड (Section) 11D के तहत निर्धारित राशि;
- (2) लिया गलत सेनवैट क्रेडिट की राशि;
- (3) 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.

(6) (i) 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. Bharat Apparels, 1<sup>st</sup> Floor, Ratan Shopping Centre, Behind Sardar Co-operative Bank, Isanpur cross Road, N H 8, Narol, Ahmedabad-382443 (hereinafter referred to as "*the appellant*") against Order-in-Original No. MP/358/DC/Div-IV/2022-23 dated 31.03.2023 (hereinafter referred to as "*the impugned order*") passed by the Deputy Commissioner, Central GST, Division IV, Ahmedabad South (hereinafter referred to as "*the adjudicating authority*").

2. Briefly stated, the facts of the case are that the appellant are holding PAN No. AAMFB4001E. On scrutiny of the data received from the Central Board of Direct Taxes (CBDT) for the Financial Years 2015-16 and 2016-17, it was noticed that the appellant had earned an income of Rs. 12,18,397/- during the FY 2015-16 and 2016-17, which was reflected under the heads "Sales / Gross Receipts from Services (Value from ITR)" filed with the Income Tax department. Accordingly, it appeared that the appellant had earned the said substantial income by way of providing taxable services but had neither obtained Service Tax registration nor paid the applicable service tax thereon. The appellant were called upon to submit copies of Balance Sheet, Profit & Loss Account, Income Tax Return, Form 26AS, for the said period. However, the appellant had not responded to the letters issued by the department.

2.1 The appellant were issued Show Cause Notice No. from File No. IV/Div-IV/SCN-109/2020-21 dated 21.12.2020 during the period 2015-16 and 2016-17, wherein:

a) Demand and recover an amount of Rs. 4,57,596/- under the provision to Sub Section (1) of Section 73 of the Act along with interest under section 75 of the Finance Act, 1994



(hereinafter referred to as "the Act")

b) Imposed penalty under Section 77(1), 77(2) and 78 of the Act.

3. After considering the submission of the appellant the adjudicating authority vide the impugned order passed the impugned order, wherein:

a) The demand of service tax amounting to Rs. 4,57,596/- was confirmed under section 73(1) of the Act by invoking extended period along with interest under section 75 of the Act.

b) 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.

c) Penalty amounting to Rs. 4,57,596/- was imposed under 78 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:-

- That the Manufacturing of Goods is not subject tot Service Tax.
- Activity undertaken by the appellant falls under entry No. 30(a) of Mega Exemption Notification No. 25/2012-ST.
- Issuing SCN and cofirmingin demand based on ITR and 26As is liable to be quashed.
- Charge of suppression and invoking extended period no applicable.



5. The appellants were given opportunities for Personal Hearing on 22.01.2024. Shri Keyur Kamdar, Chartered Accountant, appeared on behalf of the appellants for personal hearing. He stated that the client is engaged in job-work which is exempted under Mega exemption No. 25/2012-ST dated 20.06.2012. It is also covered under 66D(f) of the Finance Act, 1994. He stated that stitching of textiles products amounts to manufacturing.

6. The appellants submitted following documents in their submission (1) copy of Income Tax Returns during the F.Y. 2015-16 to F.Y. 2016-17, (2) copy of 26AS (TDS Certificate) for F.Y. 2015-16 to F.Y. 2016-17, (3) sample copy of invoices, (4) copy of job-work income ledgers for F.Y. 2015-16 and 2016-17, (4) copy of P & L Account and Balance Sheet for the F.Y. 2015-16 and 2016-17. The appellants also cited the judgment in the case of M/s Amrish Rameshchandra Shah Vs. UoI and Ors. (TS-77-HC-2021 Bom.-ST).

7. I have carefully gone through the facts of the case, grounds of appeal, submissions made in the Appeal Memorandum 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 appellants 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 Financial Years 2015-16 and 2016-17.

8. I find that the following issues are required to be decided by me (1) whether the Service Tax has been correctly demanded vide the Show Cause Notice dated 21.12.2020, (2) whether the contention of the appellants that the services provided by them are exempted is sustainable or not.

1c

9. I find that the appellant have declared the nature of business as 'Garment Stitching Work' in the Income Tax Return (ITR). They also booked income in the head of 'Garment Jobwork income' in P & L Account. Additionally, they have also furnished Certificates from principal manufacturers confirming that the appellant had provided stitching services on a job-work basis for trousers in F.Y. 2015-16 and 2016-17 with payment based on the number of pieces stitched of various sizes.

9.1. In view of the above information, it is evident that the appellant are engaged in the business of garment stitching activities, qualifying them for entitlement for exemption under Sr. No. 30(a) of Notification No. 25/2012-ST as amended dated 20.06.2012.

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

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

1...

2... ..

**30. Services by way of carrying out -**

(i) .....; or

(ii) any intermediate production process as job work not amounting to manufacture or production in relation to:-



- (a) *agriculture, printing or textiles processing*
- (b) *cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986);*
- (c) *any goods excluding alcoholic liquors for human consumption, on which appropriate duty is payable by the principal manufacturer; or*
- (d) *processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;"*

10. Moreover, a review of sample invoices issued by the appellant confirms their involvement in garment stitching, which is categorized as manufacturing rather than a service. Consequently, the appellant's activities fall within the manufacturing process, exempted under the Negative List of services as per Section 66D(f) of the Finance Act, 1994. For the reference Section 66(D)(f) is reproduced as under:

**SECTION 66D. Negative list of services.**

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

*(a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere—*

- i. ....
- ii. ....
- iii. ....
- iv. ....





(b) services by the Reserve Bank of India;

(c) services by a foreign diplomatic mission located in India;

(d) services relating to agriculture or agricultural produce by way of-

(e) .....

(f) Any process amounting to manufacture or production of goods

10.1. In view of the above provision of Negative List of Service, it appears that the activity/service made by the appellant falls under the definition of Section 66(D)(f) of the Finance Act, 1994, hence the appellant are not liable to pay the service tax. Consequently the question of interest and penalties also does not arise.

11. In view of above, I hold that the impugned order passed by the adjudicating authority confirming demand of Service Tax, in respect of job work income received by the appellant during the Financial Years 2014-15, is not legal and proper and deserve to be set aside. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.

12. अपील कर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है ।

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



ज्ञानचंद जैन  
आयुक्त (अपील्स)

Date : 09.02.2024



Attested

*(Signature)*  
 (अभिरेंद्र कुमार)  
 अधीक्षक (अपील्स)  
 सी.जी.एस.टी, अहमदाबाद



**By RPAD / SPEED POST**

M/s. Bharat Apparels,  
 1<sup>st</sup> Floor, Ratan Shopping Centre,  
 Behind Sardar Co-operative Bank,  
 Isanpur cross Road,  
 N H 8, Narol, Ahmedabad-382443

Copy to :

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone
2. The Principal Commissioner, CGST, Ahmedabad South
3. The Deputy/Assistant Commissioner, Central GST, Division-IV, Ahmedabad South.
4. The Sudd. (Appeal), CGST, Ahmedabad South (for uploading the OIA)
- ✓ 5. Guard File
6. PA file

