



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
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आज़ादी का
अमृत महोत्सव

By SPEED POST

DIN:- 20240364SW0000666B9A

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| (क) | फ़ाइल संख्या / File No. | GAPPL/COM/STP/4925/2023 / 3107-3111 |
| (ख) | अपील आदेश संख्या और दिनांक / Order-In -Appeal and date | AHM-EXCUS-001-APP-305/2023-24 and 15.03.2024 |
| (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 | 20.03.2024 |
| (ङ) | Arising out of Order-In-Original No. 435/WS08/AC/KSZ/2022-23 dated 27.03.2023 passed by The Assistant Commissioner, Central GST, Division VIII, Ahmedabad South. | |
| (च) | अपीलकर्ता का नाम और पता / Name and Address of the Appellant | M/s Travel Global, C-924, Siddhi Vinayak Tower, B/h Adani Gas Pump, Vejalpur Ahmedabad--380051 |

कोई व्यक्ति इस अपील-आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील 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:

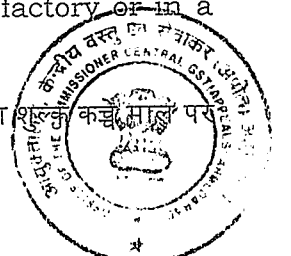
(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली: 110001 को की जानी चाहिए :-

A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 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 :-

(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 या किसी भण्डागार में हो माल की प्रक्रिया 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 के कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों 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 रूपये 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.

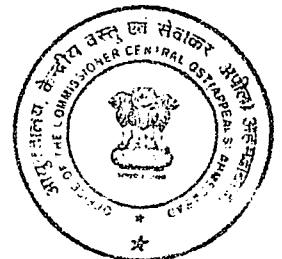
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद-380004।

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 above para.

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



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

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

(4) न्यायालय 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 अपीलो 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."



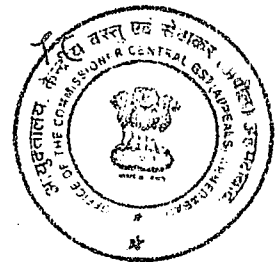
ORDER-IN-APPEAL

The present appeal has been filed by M/s. Travel Global, C-924, Siddhi Vinayak Tower, B/h Adani Gas Pump Vejalpur Ahmedabad--380051 (hereinafter referred to as "appellant") against Order-in-Original No. 435/WS08/AC/KSZ/2022-23 dated 27.03.2023 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner, Central GST, Division VIII, Ahmedabad South (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, the facts of the case are that the appellant, a service tax assessee and holding Service Tax Registration No. AAFFT5560MSD001 was declared different values 14,14,650/- in their Service Tax Return (ST-3) and Income Tax Return (ITR/ Form 26AS) for the Financial Year 2015-16. Despite being asked to provide explanations and supporting documents, they failed to do so. Consequently, the service tax liability for 2015-16 was calculated based on the values from the Income Tax Department.

2.1 Subsequently, the appellant were issued Show Cause Notice bearing F.No. CGST/WS0801/O&A/TPD(15-16)AAFFT5560M/2020-2021 demanding Service Tax amounting to Rs. 2,05,124/- for the period from F.Y. 2014-15, under proviso to Sub-Section (1) of Section 73 of the Finance Act, 1994. The SCN also proposed recovery of interest under Section 75 of the Finance Act, 1994; imposition of penalties under Section 77 of the Act and penalty under Section 78 of the Finance Act, 1994.

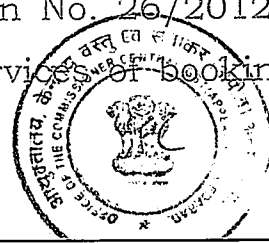
2.2 The Show Cause Notice was adjudicated, ex-parte, vide the impugned order by the adjudicating authority wherein the demand of Service Tax amounting to Rs. 2,05,124/- was confirmed under proviso to Sub-Section (1) of Section 73 of the Finance Act, 1994 along with Interest under Section 75 of the Finance Act, 1994 for the period FY 2015-16. Further (i) Penalty of Rs. 2,05,124/- was



imposed on the appellant under Section 78 of the Finance Act, 1994; and (ii) Penalty of Rs. 10,000/- under Section 77(2) of the Finance Act, 1994.

3. 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 hereby submitting herewith that they have not received any notice either show cause notices or personal hearing notices as mentioned in the order They only come to know about the matter first once they received the order in question and then consult the consultant and file this appeal so the appellant. has not change to file their submission in this regards and clarify the matter.
- The appellant is providing tour operator services and more specifically providing of accommodation only, in fact the appellant has registered under service tax under tour operator services",
- Since he has not cross 10 lacs limit he has not changed service tax on ball. Once we cross the limit we have charge and issued invoice with service tax
- The Appellant is not verse with the service tax provision and they are selling their our package and booking of accommodation including Service tax rate and hence there is no separate service tax. They use to give details to their person who handling the service tax matters but the concern clerk inadvertently file nil return.
- However, the services provided by the appellant covered under abatement vide notification No. 38/2007-ST. dated 23.8.2007 amending Notification no. 1/2006- ST, dated 1.3.2006 wherein 75 % of abatement on tour operating services as provided by the appellant. And cover under Notification No. 26/2012-ST, dated 20 June 2012 in case providing services of booking of



accommodation only and 90% abatement available to the appellant

➤ Further, the appellant are enclosing herewith the relevant copies of the Income tax return for the F.Y. 2014-15 (Asst year 2015-16) wherein it can be seen that there were no taxable services provided in F.Y. 2014-15 and hence no taxable services provided by the appellant, in excess of Rs. 10 lacs for F.Y. 2014-15. So in FY. 2015-16 the appellant has crossed Rs. 10 Lacs taxable services first time the copy of the relevant pages of Income tax return is also filed herewith along with Profit and loss and Balance sheet and capital account where it can be seen that new capital introduced by both the partners for business before that there were practically no capital which indicate that the business is start in the FY. 2015-10 only and even the Service tax certificate is also applied for end of March 2015 So F.Y. 2015-16 is the first year wherein the taxable service cross Rs. 10 lac and hence the appellant has entitle for Rs. 10 Lacs exemption Notification N 33/2012-Service Tax, Dated-20th June, 2012.

➤ So the Service tax charged on entire receipt is not correct. The appellant are enclosing the copy of the ledger of tour operating service income that of 14,14,650/-, form said ledger it can be seen that till 28-10-15 the limit of Rs. Lacs has not been crossed and thereafter the service tax payable.

4. Personal hearing in the case was held on 08.03.2024. Shri D.K. Sukhadia, Advocate, appeared on behalf of the appellant for personal hearing. He stated that that the client is eligible for Notification No. 33/2012-ST and 26/2012-ST. Hence, the client is not liable for service tax.

5. 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 (1) whether the impugned order passed by the



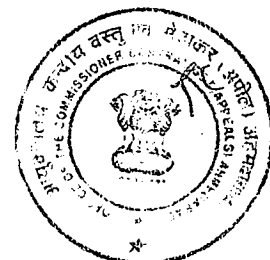
adjudicating authority, confirming the demand of service tax against the appellant along with interest and penalty, in the facts and circumstance of the case, is legal and proper or otherwise, (2) whether the appellant indeed qualifies for Notification No. 26/2012-ST dated 20.06.2012 and 33/2012-ST dated 20.06.2012. The demand pertains to the period from F.Y. 2015-16.

6. Upon reviewing the appellant's written submission during the filing of Appeal Memorandum, oral submission and additional submission filed during the time of personal hearing, it is found that the appellant contended that their total turnover Rs. 14,14,650/- during the impugned period included income received from providing hotel accommodation booking service and Tour Booking Service, apart from the income being exempted under 33/2012-ST dated 20.06.2012. The appellant submitted reconciliation of service income shown in the table below:

TABLE-A

| Description | Amount (in Rs.) |
|---|--------------------|
| Services provide below basic limit up to 28-10-15 | 990523 |
| Hotel Accommodation booking service | 289250 |
| Tour Booking service | 134877 |
| Total | 14,14,650/- |

6.1. In view of the above table it has been observed that the taxable services provided by the appellant exceeded Rs. 10 Lakhs during the Financial Year 2015-16, whereas they remained below 10 lakhs in the F.Y. 2014-15. The Appellant relies on Notification No. 33/2012-Service Tax, dated 20th June 2012, which grants exemption to taxable services up to Rs. 10 Lakhs in turnover. They further contend that as their taxable services for the Financial Year 2014-15 did not exceed this threshold limit; the imposition of service tax for F.Y. 2015-16 is unwarranted in the light of Notification No. 33/2012-ST dated 20.06.2012.



6.2. The Appellant have furnished copies of relevant Income Tax Returns for the Financial Year 2014-15, highlighting the absence of taxable services provided during that period. The appellant have also submitted the ledger in respect of tour operating service income, reflecting a total of Rs. 14,14,650/-, and analysing the same it clearly shows that until 28th October 2015, the threshold of Rs. 10 Lakhs had not been crossed. Hence, the Appellant are entitled to the exemption under Notification No. 33/2012-Service Tax.

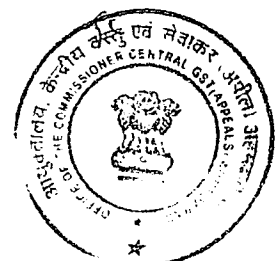
7. As regards to the income exceeding 10 lakhs it is found that the appellant contended that that they were covered under Notification No. 26/2012-ST, dated 20 June 2012, in the case of providing services of booking of accommodation only, where 90% abatement is available to the appellant.

7.1. Additionally, the appellant also argued that they were covered under Notification No. 38/2007-S.T. dated 23.8.2007 which is amended by Notification No. 1/2006- S.T., dated 1.3.2006 wherein 75% of abatement on tour operating services provided by the appellant.

TABLE-B

| Description | Total Amount (in Rs.) | Abatement (in Rs.) | Taxable Services (in Rs.) | Tax payable @ 14.5% |
|---|-----------------------|--------------------|---------------------------|---------------------|
| (1) | (II) | (III) | (IV) | (V) |
| Hotel accommodation booking services where in 90% abatement and on 10 % service tax will be charged | 289250 | 260325 | 28925 | 4194 |
| Tour Booking Services 75% abatement and on 25% Tax Payable | 134477 | 101158 | 33719 | 4889 |
| Total | 427727 | 361483 | 62644 | 9083 |

7.2. I find that the appellant's services shown under the Column (I) of the above Table-B fall under the purview of the aforementioned



Notifications, which make them entitled to the abatements. The appellant have provided copy of invoices and ledger in support of their claim of eligibility for the abatements mentioned in the Notifications. Hence, I find that the appellant are liable for the payment of service tax of Rs. 9,083/- only to extent of abated value Rs. 62,644/-.

8. In view of the above discussion, the order-in-appeal is passed as under:

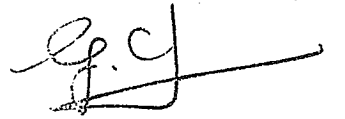
8.1. The impugned order is upheld in respect of service tax of the amount of Rs. 9,083/- along with interest under section 75 of the Act.

8.2. I uphold the penalty equal to the service tax liability under section 78 of Act as per para 8.1 hereinabove.

8.3. I uphold the penalty of Rs. 10,000/- under section 77(2) of the Act.

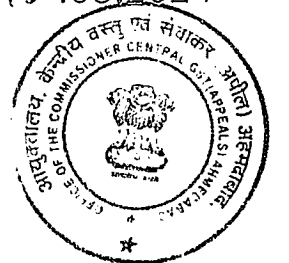
9. अपील कर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है |

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

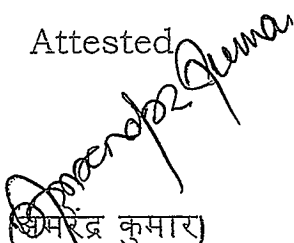


ज्ञानचंद जैन
आयुक्त (अपील्स)

Date : 15.03.2024



Attested



अनंद कुमार

अधीक्षक (अपील्स)

सी.जी.एस.टी, अहमदाबाद

By RPAD / SPEED POST

To,
M/s. Travel Global, C-924,
Siddhi Vinayak Tower,
B/h Adani Gas Pump Vejalpur,
Ahmedabad—380051.

Copy to:-

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Principal Commissioner Central GST, Ahmedabad South.
3. The Deputy/Assistant Commissioner, CGST, Division VIII, Ahmedabad South
4. The Supdt. (Appeals) Central GST, Ahmedabad South (for uploading the OIA).
5. Guard File.
6. P.A. File.

