



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:- 20240464SW0000000FBB

(क)	फ़ाइल संख्या / File No.	GAPPL/COM/STP/1698/2023 / 4618 - 22
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-EXCUS-001-APP-02/2024-25 and 19.04.2024
(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	24.04.2024
(ङ)	Arising out of Order-In-Original No. 104/AC/Div-I/HKB/2023-24 dated 31.05.2023 passed by The Assistant Commissioner, CGST, Division-I, Ahmedabad South.	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s. Sums Corpsolutions LLP, <b>(New Address)</b> B-301, 3 <sup>rd</sup> Floor, Shivanch Green, B/s. Panchavati Residency, Opp. Jay Ranchhod Park, Vastral, Ahmedabad - 382418

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 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 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 दो 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-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 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. Narendrakumar Shyamrao Karankot B-301,3<sup>rd</sup> Floor, Shivnach Green, B/s. Panchavati Residency, Opp. Jay Ranchod Park, Vastral, Ahmedabad -382418 (hereinafter referred to as the "appellant") against Order-in-Original No. 104/AC/Div-I/HKB/2023-24 dated 31.05.2023 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner Division-I, Central GST, Ahmedabad South (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, the facts of the case are that the appellant having PAN No BPVPK92768, did not obtain Service Tax registration despite substantial income from service and did not pay service tax thereon. The appellant were issued several letters requesting to submit documentary evidences regarding their income, however, the appellant did not comply with these requests. Additionally, the Income Tax Department shared data for the Financial Year 2015-16, indicating earnings of Rs. 13,49,958/- under the category "Service Others." With effect from 1<sup>st</sup> July, 2012, the negative list regime was implemented, wherein specific services became taxable, and only those listed in the negative list were exempted. The activities undertaken by the appellant seemed to fall within the definition of taxable services and did not qualify for exemption under the negative list provided in Section 66B of the Finance Act, 1994. Additionally, these services did not appear to be exempted under the Mega Exemption Notification No. 25/2012-ST dated 20<sup>th</sup> June 2012. As a result, it is inferred that the services provided by the appellant were liable for service tax under the provisions of Section 66B of the Finance Act, 1994. On the basis of the data provided by the Income Tax department, the detail in respect of income and service tax thereon for F.Y. 2015-16 is given as under:



Year	Taxable value as per IT Data i.e. Sales/Gross Receipts from service (From ITR) Rs.	Rate of service tax inclusive of EC & SHEC	Service Tax payable Rs.
2015-16	13,49,958/-	14.50%	1,95,743

2.1 Subsequently, the appellant were issued Show Cause Notice bearing File No. V/15-108/Div-I/Narendrakumar Shayamrao Karankot/20-21 dated 17.04.2021 wherein:

- a) Demand and recover an amount of Rs. 1,95,743/- during the F.Y. 2016-17 and 2017-18 (upto June 2017) under proviso to Sub Section (1) of Section 73 of the Act read with Rule 6 of Service Tax Rule, 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) and 78 of the Act.

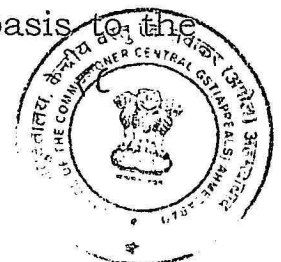
2.2 The Show Cause Notice was adjudicated ex-parte vide the impugned order by the adjudicating authority wherein:

- a) The demand of service tax amounting to Rs. 1,95,743/- 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..
- c) Penalty amounting to Rs. 1,95,743/- was imposed under 78 of the Act.

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:-



- Appellant being a freelance lecturer cum teacher, had worked with Liberty Career Academy, an educational organization during financial year 2015-2016 as visiting faculty and received Lecture fees on hourly basis paid for the period between 01-04-2015 to 31.03.2016.
- LIBERTY CAREER ACADEMY being run by SHRI JAGDISHBHAI ISHWARBHAI PATEL, is an Educational Institute which was registered as per Service Tax law vide Service Tax Registration number: AADHP7700DST001 with taxable service category "COMMERCIAL TRAINING & COACHING", has been charging service tax from the students and paying to the Government before stipulated time during financial year 2015-2016.
- Appellant was not required to raise the Invoice to the organization. He was not liable to collect any Service Tax. It was a small mistake on the part of consultant who filled Income Tax Return showing Nature of occupation/ Trade Name: OTHERS with Income Tax code: 0607-0607-Professionals-Others as Liberty Career Academy had deducted TDS under section 194J on Lecture Fees or Income from Teaching but as it was under professional category, the case from your good-office has considered Gross receipts from Services instead of Lecture Fees which has resulted into issue of notice and passing of order by learned officer with Service Tax Liability which is not correct. As observed and confirmed by Assistant Commissioner while issuing the said Notice that allegations leveled in the show-cause notice are quite unambiguous and as per the Notification No. 25/2012-Service Tax dated-20th June, 2012, as amended. Incorporating changes made till issuance of notification no 10/2017-Service Tax dated 8-3-2017, the appellant was not liable to collect Service Tax as he had delivered Lectures on Professional basis to the



students of esteemed educational institute "Liberty Career Academy" which was exempted as per Service Tax Notification.

4. Personal hearing in the case was held on 16.04.2024. Shri Kabir A. Mansuri, Chartered Accountant appeared for PH on behalf of the appellant. He reiterated the contents of the written submission and requested to allow their appeal.

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 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 Financial Year 2015-16.

6. I find that the appellant, registered under 'Commercial training or coaching' service submitted that they were a freelance lecturer cum teacher, had rendered services to Liberty Career Academy during the financial year 2015-2016 and received lecture fees on an hourly basis. The appellant contends that they provided professional services as a visiting faculty to Liberty Career Academy, which falls under the exempted category of services provided to educational institutions, as per Notification No. 25/2012-Service Tax dated 20<sup>th</sup> June, 2012 (w.e.f. 01<sup>st</sup> July 2012). Therefore, they claimed that they were not being held liable for service tax. The appellant has provided documentary evidence supporting his claim viz. Form 26AS for the F.Y. 2015-16 certificate, indicating the TDS was deducted under Section 194J on lecture fees or income from teaching, certificate issued by Liberty Career Academy and certificate of appreciation pertaining to 2022-23, their bank statement, income ledger,



6.1 For reference the excerpt of entry no. 9 under the Notification No. 25/2012-ST as amended is reproduced as under:

*9. Services provided to or by an educational institution in respect of education exempted from service tax, by way of,-*

*(a) auxiliary educational services; or*

*(b) renting of immovable property;*

6.2 The above provision under entry no. 9 of the Notification No. 25/2012-ST dated 20.06.2012 as amended defines the services exempted from service tax in relation to education. It covers auxiliary education services and renting of immovable property service.

*“Auxiliary educational services” means any services relating to imparting any skill, knowledge, education or development of course content or any other knowledge enhancement activity, whether for the students or the faculty, or any other services which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, including services relating to: admission to such institution, conduct of examination, catering for the students under any midday meals scheme sponsored by Government or transportation of students, faculty or staff of such institution;*

6.3 Reading the above definition, I am of the opinion that Auxiliary educational services refer to services that support the main educational activities provided by an educational institution. These include services such as transportation and catering among others. However, it is important to note that the aforesaid entry no. 9 of the Notification No. 25/2012-ST dated





20.06.2012 has been substituted vide the Notification No. 06/2014-ST dated 11.07.2014 and the entry no. 9 reads as under:

*"9. Services provided,-*

*(a) by an educational institution to its students, faculty and staff;*

*(b) to an educational institution, by way of,-*

*(i) transportation of students, faculty and staff;*

*(ii) catering, including any mid-day meals scheme sponsored by the Government;*

*(iii) security or cleaning or house-keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution;"*

7. After careful consideration of the submissions made by the appellant and upon perusal of the relevant provisions of law and supporting documents, it is observed that the appellant's services to Liberty Career Academy does not fall within the ambit of exempted services provided to educational institutions as per the Notification No. 06/2014-ST dated 11.07.2014. Hence the appellant is held liable to pay service tax along with interest and penalty.

8. In view of the above discussion, the order is upheld.

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.



ज्ञानचंद्र जैन

आयुक्त (अपील्स)

Date : 19.04.2024



Attested

*Narendra Kumar*  
(नरेंद्र कुमार)  
अधीक्षक (अपील्स)

सी.जी.एस.टी, अहमदाबाद

**BY RPAD/ SPEED POST**

To

M/s. Narendrakumar Shyamrao Karankot,  
B-301, 3<sup>rd</sup> Floor, Shivnash Green,  
B/s. Panchavati Residency,  
Opp. Jay Ranchod Park, Vastral,  
Ahmedabad -382418

**Copy to :**

1. The Principal Chief Commissioner, Central GST,  
Ahmedabad Zone.
2. The Commissioner Central GST, Ahmedabad  
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3. The Deputy Commissioner, CGST, Division I, Ahmedabad  
South
4. The Superintendent (Appeals) Ahmedabad (for uploading  
the OIA).
- ✓ 5. Guard File.
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