



**::आयुक्त (अपील-III) का कार्यालय,केंद्रीय उत्पाद शुल्क::**  
**O/O THE COMMISSIONER (APPEALS-III), CENTRAL EXCISE,**

द्वितीय तल, केन्द्रीय उत्पाद शुल्क, भवन / 2<sup>nd</sup> Floor, Central Excise, Bhavan,  
रेस कोर्स रिंग रोड, / Race Course Ring Road,  
राजकोट / Rajkot- 360001



सत्यमेव जयते

Tele Fax No. : 0281 - 2477952/2441142 Email cexappealsrajkot@gmail.com

**\* रजिस्टर्ड डाक ए. डी. द्वारा :-**

क	अपील / फाइल संख्या / Appeal / File No.	मूल आदेश सं / O.I.O. No.	दिनांक / Date
	V2/110 /BVR/2016	03/AC/STAX/DIV/2016-17	17.06.2016,

ख अपील आदेश संख्या (Order-In-Appeal No.):

**BHV-EXCUS-000-APP-001-2017-18**

आदेश दिनांक / Date of Order :	25.04.2017	जारी करने की तारीख / Date of issue:	27.04.2017
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**श्री उमा शंकर, आयुक्त (अपील-III) द्वारा पारित /**  
**Passed by Shri Uma Shanker, Commissioner (Appeals-III)**

ग अपर आयुक्त/ संयुक्त आयुक्त/ उपायुक्त/ सहायक आयुक्त, केन्द्रीय उत्पाद शुल्क/ सेवाकर, राजकोट / जामनगर / गांधीधाम। द्वारा उपरलिखित जारी मूल आदेश से सृजित :

Arising out of above mentioned OIO issued by Additional/Joint/Deputy/Assistant Commissioner, Central Excise / Service Tax, Rajkot / Jamnagar / Gandhidham :-

घ **अपीलकर्ता/ प्रतिवादी का नाम एवं पता / Name & Address of the Appellant/ Respondent :-**

**M/s. Madhav Ispat, Near GIDC Phase One, Bhavnagar Rajkot Road, Sihor, Bhavnagar-364002**

इस आदेश(अपील) से व्यक्ति कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी / प्राधिकरण के समक्ष अपील दायर कर सकता है।/  
Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.

(A) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील, केन्द्रीय उत्पाद शुल्क अधिनियम, 1944 की धारा 35B के अंतर्गत एवं वित्त अधिनियम, 1994 की धारा 86 के अंतर्गत निम्नलिखित जगह की जा सकती है।/  
Appeal to Customs, Excise & Service Tax Appellate Tribunal under Section 35B of CEA, 1944 / Under Section 86 of the Finance Act, 1994 an appeal lies to:-

(i) वर्गीकरण मूल्यांकन से सम्बन्धित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठ, वेस्ट ब्लॉक नं 2, आर. के. पुरम, नई दिल्ली, को की जानी चाहिए।/  
The special bench of Customs, Excise & Service Tax Appellate Tribunal of West Block No. 2, R.K. Puram, New Delhi in all matters relating to classification and valuation.

(ii) उपरोक्त परिच्छेद 1(a) में बताए गए अपीलों के अलावा शेष सभी अपीलों सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिक, ओ-20, न्यू मेन्टल होस्पिटल कम्पाउंड, मेघानी नगर, अहमदाबाद-380016, को की जानी चाहिए।/  
To the West regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Mental Hospital Compound, Meghani Nagar, Ahmedabad: 380016, in case of appeals other than as mentioned in para- 1(a) above

(iii) अपीलीय न्यायाधिकरण के समक्ष अपील प्रस्तुत करने के लिए केन्द्रीय उत्पाद शुल्क (अपील) नियमवाली, 2001, के नियम 6 के अंतर्गत निर्धारित किए गये प्रपत्र EA-3 को चार प्रतियों में दर्ज किया जाना चाहिए। इनमें से कम से कम एक प्रति के साथ, जहां उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना, रुपए 5 लाख या उससे कम, 5 लाख रुपए या 50 लाख रुपए तक अथवा 50 लाख रुपए से अधिक है तो क्रमशः 1,000/- रुपये, 5,000/- रुपये अथवा 10,000/- रुपये का निर्धारित जमा शुल्क की प्रति संलग्न करें। निर्धारित शुल्क का भुगतान, संबंधित अपीलीय न्यायाधिकरण की शाखा के सहायक रजिस्टार के नाम से किसी भी सार्वजनिक क्षेत्र के बैंक द्वारा जारी रेखांकित बैंक ड्राफ्ट द्वारा किया जाना चाहिए। संबंधित ड्राफ्ट का भुगतान, बैंक की उस शाखा में होना चाहिए जहां संबंधित अपीलीय न्यायाधिकरण की शाखा स्थित है। स्थगन आदेश (स्टे ऑर्डर) के लिए आवेदन-पत्र के साथ 500/- रुपए का निर्धारित शुल्क जमा करना होगा।/  
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.5000/-, Rs.10,000/- where amount of duty demand/interest/penalty/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 Asst. Registrar of branch of any nominated public sector bank of the place where the bench of any nominated public sector bank of the place where the bench of the Tribunal is situated. Application made for grant of stay shall be accompanied by a fee of Rs. 500/-.

(B) अपीलीय न्यायाधिकरण के समक्ष अपील, वित्त अधिनियम, 1994 की धारा 86(1) के अंतर्गत सेवाकर नियमवाली, 1994, के नियम 9(1) के तहत निर्धारित प्रपत्र S.T.-5 में चार प्रतियों में की जा सकेगी एवं उसके साथ जिस आदेश के विरुद्ध अपील की गयी हो, उसकी प्रति साथ में संलग्न करें (उनमें से एक प्रति प्रमाणित होनी चाहिए) और इनमें से कम से कम एक प्रति के साथ, जहां सेवाकर की मांग, ब्याज की मांग और लगाया गया जुर्माना, रुपए 5 लाख या उससे कम, 5 लाख रुपए या 50 लाख रुपए तक अथवा 50 लाख रुपए से अधिक है तो क्रमशः 1,000/- रुपये, 5,000/- रुपये अथवा 10,000/- रुपये का निर्धारित जमा शुल्क की प्रति संलग्न करें। निर्धारित शुल्क का भुगतान, संबंधित अपीलीय न्यायाधिकरण की शाखा के सहायक रजिस्टार के नाम से किसी भी सार्वजनिक क्षेत्र के बैंक द्वारा जारी रेखांकित बैंक ड्राफ्ट द्वारा किया जाना चाहिए। संबंधित ड्राफ्ट का भुगतान, बैंक की उस शाखा में होना चाहिए जहां संबंधित अपीलीय न्यायाधिकरण की शाखा स्थित है। स्थगन आदेश (स्टे ऑर्डर) के लिए आवेदन-पत्र के साथ 500/- रुपए का निर्धारित शुल्क जमा करना होगा।/  
The appeal under sub section (1) of Section 86 of the Finance Act, 1994, to the Appellate Tribunal Shall be filed in quadruplicate in Form S.T.5 as prescribed under Rule 9(1) of the Service Tax Rules, 1994, and Shall be accompanied by a copy of the order appealed against (one of which shall be certified copy) and should be accompanied by a fees of Rs. 1000/- where the amount of service tax & interest demanded & penalty levied of Rs. 5 Lakhs or less, Rs.5000/- where the amount of service tax & interest demanded & penalty levied is more than five lakhs but not exceeding Rs. Fifty Lakhs, Rs.10,000/- where the amount of service tax & interest demanded & penalty levied is more than fifty Lakhs rupees, in the form of crossed bank draft in favour of the Assistant Registrar of the bench of nominated Public Sector Bank of the place where the bench of Tribunal is situated. / Application made for grant of stay shall be accompanied by a fee of Rs.500/-.

(i) वित्त अधिनियम, 1994 की धारा 86 की उप-धाराओं (2) एवं (2A) के अंतर्गत दर्ज की गयी अपील, सेवाकर नियमावली, 1994, के नियम 9(2) एवं 9(2A) के तहत निर्धारित प्रपत्र S.T.-7 में की जा सकेगी एवं उसके साथ आयुक्त, केन्द्रीय उत्पाद शुल्क अथवा आयुक्त (अपील), केन्द्रीय उत्पाद शुल्क द्वारा पारित आदेश की प्रतियाँ संलग्न करें (उनमें से एक प्रति प्रमाणित होनी चाहिए) और आयुक्त द्वारा सहायक आयुक्त अथवा उपायुक्त, केन्द्रीय उत्पाद शुल्क/ सेवाकर, को अपीलीय न्यायाधिकरण को आवेदन दर्ज करने का निर्देश देने वाले आदेश की प्रति भी साथ में संलग्न करनी होगी। / The appeal under sub section (2) and (2A) of the section 86 the Finance Act 1994, shall be filed in Form ST.7 as prescribed under Rule 9 (2) & 9(2A) of the Service Tax Rules, 1994 and shall be accompanied by a copy of order of Commissioner Central Excise or Commissioner, Central Excise (Appeals) (one of which shall be a certified copy) and copy of the order passed by the Commissioner authorizing the Assistant Commissioner or Deputy Commissioner of Central Excise/ Service Tax to file the appeal before the Appellate Tribunal.

(ii) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय प्राधिकरण (सेस्टेट) के प्रति अपीलों के मामले में केन्द्रीय उत्पाद शुल्क अधिनियम 1944 की धारा 35एफ के अंतर्गत, जो की वित्तीय अधिनियम, 1994 की धारा 83 के अंतर्गत सेवाकर को भी लागू की गई है, इस आदेश के प्रति अपीलीय प्राधिकरण में अपील करते समय उत्पाद शुल्क/सेवा कर मांग के 10 प्रतिशत (10%), जब मांग एवं जुर्माना विवादित है, या जुर्माना, जब केवल जुर्माना विवादित है, का भुगतान किया जाए, बशर्त कि इस धारा के अंतर्गत जमा कि जाने वाली अपेक्षित देय राशि दस करोड़ रुपए से अधिक न हो।

केन्द्रीय उत्पाद शुल्क एवं सेवाकर के अंतर्गत "मांग किए गए शुल्क" में निम्न शामिल है

- धारा 11 डी के अंतर्गत रकम
- सेनवेट जमा की ली गई गलत राशि
- सेनवेट जमा नियमावली के नियम 6 के अंतर्गत देय रकम

- बशर्त यह कि इस धारा के प्रावधान वित्तीय (सं. 2) अधिनियम 2014 के आरंभ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विचाराधीन स्थगन अर्जी एवं अपील को लागू नहीं होगा।/

For an appeal to be filed before the CES

TAT, under Section 35F of the Central Excise Act, 1944 which is also made applicable to Service Tax under Section 83 of the Finance Act, 1994, 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, provided the amount of pre-deposit payable would be subject to a ceiling of Rs. 10 Crores,

Under Central Excise and Service Tax, "Duty Demanded" shall include :

- amount determined under Section 11 D;
- amount of erroneous Cenvat Credit taken;
- amount payable under Rule 6 of the Cenvat Credit Rules

- provided further that the provisions of this Section shall not apply to the stay application and appeals pending before any appellate authority prior to the commencement of the Finance (No.2) Act, 2014.

(C) भारत सरकार को पुनरीक्षण आवेदन :

**Revision application to Government of India:**

इस आदेश की पुनरीक्षण याचिका निम्नलिखित मामलों में, केन्द्रीय उत्पाद शुल्क अधिनियम, 1994 की धारा 35EE के प्रथम परंतुक के अंतर्गत अवर सचिव, भारत सरकार, पुनरीक्षण आवेदन ईकाई, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली-110001, को किया जाना चाहिए। /

A revision application lies to the Under Secretary, to the Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi-110001, 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:

(i) यदि माल के किसी नुकसान के मामले में, जहां नुकसान किसी माल को किसी कारखाने से भंडार गृह के पारगमन के दौरान या किसी अन्य कारखाने या फिर किसी एक भंडार गृह से दूसरे भंडार गृह पारगमन के दौरान, या किसी भंडार गृह में या भंडारण में माल के प्रसंस्करण के दौरान, किसी कारखाने या किसी भंडार गृह में माल के नुकसान के मामले में।/ In case of any loss of goods, where the loss occurs 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

(ii) भारत के बाहर किसी राष्ट्र या क्षेत्र को निर्यात कर रहे माल के विनिर्माण में प्रयुक्त कच्चे माल पर भरी गई केन्द्रीय उत्पाद शुल्क के छूट (रिबेट) के मामले में, जो भारत के बाहर किसी राष्ट्र या क्षेत्र को निर्यात की गयी 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.

(iii) यदि उत्पाद शुल्क का भुगतान किए बिना भारत के बाहर, नेपाल या भूटान को माल निर्यात किया गया है। / In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

(iv) सुनिश्चित उत्पाद के उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट इस अधिनियम एवं इसके विभिन्न प्रावधानों के तहत मान्य की गई है और ऐसे आदेश जो आयुक्त (अपील) के द्वारा वित्त अधिनियम (नं. 2), 1998 की धारा 109 के द्वारा नियत की गई तरीख अथवा समयावधि पर या बाद में पारित किए गए हैं।/ 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 such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec. 109 of the Finance (No.2) Act, 1998.

(v) उपरोक्त आवेदन की दो प्रतियां प्रपत्र संख्या EA-8 में, जो की केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001, के नियम 9 के अंतर्गत विनिर्दिष्ट है, इस आदेश के संघेषण के 3 माह के अंतर्गत की जानी चाहिए। उपरोक्त आवेदन के साथ मूल आदेश व अपील आदेश की दो प्रतियां संलग्न की जानी चाहिए। साथ ही केन्द्रीय उत्पाद शुल्क अधिनियम, 1944 की धारा 35-EE के तहत निर्धारित शुल्क की अदायगी के साक्ष्य के तौर पर TR-6 की प्रति संलग्न की जानी 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

(vi) पुनरीक्षण आवेदन के साथ निम्नलिखित निर्धारित शुल्क की अदायगी की जानी चाहिए। / जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- का भुगतान किया जाए और यदि संलग्न रकम एक लाख रुपये से ज्यादा हो तो रुपये 1000 -/ का भुगतान किया जाए। / The revision application shall be accompanied by a fee of Rs. 200/- where the amount involved in Rupees One Lac or less and Rs. 1000/- where the amount involved is more than Rupees One Lac.

(D) यदि इस आदेश में कई मूल आदेशों का समावेश है तो प्रत्येक मूल आदेश के लिए शुल्क का भुगतान, उपर्युक्त ढंग से किया जाना चाहिये। इस तथ्य के होते हुए भी की लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है। / In case, if the order covers various numbers 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 filed to avoid scripioria work if excising Rs. 1 lakh fee of Rs. 100/- for each.

(E) यथासंशोधित न्यायालय शुल्क अधिनियम, 1975, के अनुसूची-1 के अनुसार मूल आदेश एवं स्थगन आदेश की प्रति पर निर्धारित 6.50 रुपये 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 adjudicating authority shall bear a court fee stamp of Rs. 6.50 as prescribed under Schedule-I in terms of the Court Fee Act, 1975, as amended.

(F) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्य विधि) नियमावली, 1982 में वर्णित एवं अन्य संबन्धित मामलों को सम्मिलित करने वाले नियमों की और भी ध्यान आकर्षित किया जाता है। / Attention is also invited to the rules covering these and other related matters contained in the Customs, Excise and Service Appellate Tribunal (Procedure) Rules, 1982.

(G) उच्च अपीलीय प्राधिकारी को अपील दाखिल करने से संबंधित व्यापक, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलार्थी विभागीय वेबसाइट [www.cbec.gov.in](http://www.cbec.gov.in) को देख सकते हैं। / For the elaborate, detailed and latest provisions relating to filing of appeal to the higher appellate authority, the appellant may refer to the Departmental website [www.cbec.gov.in](http://www.cbec.gov.in)

**:: ORDER IN APPEAL ::**

The present appeal has been filed by M/s. Madhav Ispat, Near GIDC Phase One, Bhavnagar-Rajkot Road, Sihor, Bhavnagar (hereinafter referred to as "**the appellant**") against Order-in-Original No. 03/AC/S.Tax/Div./2016-17 dated 17.06.2016 (hereinafter referred to as "**the impugned order**") passed by the Assistant Commissioner, Service Tax Division, Bhavnagar (hereinafter referred to as "**the adjudicating authority**").

2. Briefly stated facts of the case are that during the course of audit, it was observed that the appellant has not paid service tax on Legal Consultancy Services and Security services in terms of Noti.No. 30/2012-ST dated 20.06.2012 during the FY 2012-13 & 2013-14. It has also been observed that the appellant had received the amount of Rs. 9,40,500/- during the FY 2008-09 to 2013-14 towards rent income on Oxygen Gas Cylinders which falls under purview of Supply of Tangible Goods services. Therefore, SCN No. V/15-01/Adj/ST/DIV/2013-14 dated 04.04.2014 was issued demanding recovery of Service Tax amounting to Rs. 1,57,925/- under provisions of Section 73 of the Finance Act, 1994 (hereinafter referred to as "the Act") alongwith interest under Section 75 of the Act and for imposition of penalty under Section 77/78 of the Act. The demand of recovery of service tax amounting to Rs. 42,436/- alongwith interest proposed under the SCN in respect of Legal Consultancy Service and Security Services, was confirmed by the adjudicating authority vide impugned order and have imposed penalty under Section 77(1)(a)/Section 78 of the Act, whereas demand of recovery of service tax on supply of tangible goods services has been dropped.

3. Being aggrieved with the impugned order, the appellant preferred the present appeal on the following grounds:-

(i) The taxable value of the taxable service has been taken only on the basis of the "Journal entry and date" mentioned in the respective Balance Sheet pertaining to the FY 2012-13 and 2013-14, is not correct. This act of the department is nothing but violating the statutory provisions under Rule 4A of the Service Tax Rules, 1994 in as much as the department has not disclosed the name of person who had provided the said taxable services and also not produced the evidence in the nature of "Bill or Invoice or Challan" as referred therein. The adjudicating authority has not taken the cognizance of the same which had also been submitted during the course of adjudicating the demand SCN dated 04.04.2014.

(ii) The appellant's Central Excise/Service Tax records were audited by the Central Excise officers for the period from Jan. 2013 to Dec. 2013 and issued Final Audit Report dated 03.03.2014. Also the said records were duly audited by the Central Excise Audit officers pertaining to the period from April-2006 to Dec-2012. During these, the audit officers carrying out the audit of the Balance Sheet of the respective financial years. Therefore, it is clearly proved that the appellant had not suppressed any facts and circumstances as alleged in the SCN in as much as such entries of the journal had been considered for determining the demand of service tax which was mentioned in the Balance Sheet of the respective FYs. The case laws cited by the adjudicating authority at para 5.7 which is pertaining to the availment of cenvat credit on 'input service' and not for levy of such service tax on such taxable service as provided under the Act and therefore not applicable in the present case. In view of the above, it is clearly established that the SCN was itself time barred as the appellant had not suppressed any facts and circumstances as we;; as the appellant was not liable for penal action under Section 78 of the Act.

(iii) The adjudicating authority has failed to give cognizance of the following case laws as cited by the appellant in the defense reply dated 25.04.2014.

- OK Play (India) – AIR 2005 SC 1023
- Aban Loyd Chiles Offshore Ltd. – 2006 (200) ELT 370 (SC)
- Larsen & Toubro – 2007 (211) ELT 513 (SC).

4. A personal hearing in the matter was fixed on 22.03.2017 which was attended by Shri N.K. Maru and U.H. Qureshi, Consultants on behalf of the appellant who reiterated the Grounds of Appeal.

5. I have carefully gone through the facts of the case, impugned order, grounds of appeal and submissions made by appellant. The limited issue to be decided in the present appeal is that whether the impugned order confirming levy of service tax under reverse charge mechanism on Legal Consultancy Services and Security Services availed by the appellant, is legal and proper or otherwise.

6. On going through the case records, I observe that, on verification of journal entries made in the Books of Accounts, the audit objection has been raised regarding non-payment of service tax under reverse charge mechanism under

Noti. No. 30/2012-ST dated 20.06.2012, on Legal Consultancy Services and Security Services availed by the appellant. The appellant has raised a plea that the taxable value of the taxable service has been taken only on the basis of the Journal entry and date mentioned in the respective Balance Sheet, is not correct and the department has not disclosed the name of person who had provided the said taxable services and also not produced the evidence in the nature of "Bill or Invoice or Challan". I find that the appellant has not challenged the authenticity of accounting entries which would have been made on the basis of source document in the form of invoice, bill or challan raised by the service provider. I also find that the appellant is registered as a manufacturer as well as service provider with the department and are well aware with the prevailing provisions. Therefore, such arguments cannot rescue them from the liability of payment of service tax casted upon them through the statute. The adjudicating authority has categorically addressed the same plea vide paras 5.3 & 5.5 of the impugned order. Since I concur with the findings of the adjudicating authority, I do not want to reiterate the same. I further find that the adjudicating authority has also relied upon the copy of certain Bills issued by the service providers, as referred therein, while holding that the appellant has received the Legal Consultancy Services and Security Services. Therefore, the appellant's plea does not have any merit and cannot be sustained.

7. The appellant has further contended that the SCN is time barred since their records were also previously audited upto the month of Dec.-2012. I find that barely producing the records before the Audit officers, does not mean that the matter relating to the present proceedings being disclosed by them. The audit is being conducted on selective criteria and mere production of records before the departmental officer for audit can not tantamount to disclosure of facts. The departmental officers carry out test checks of the records with selective & limited purposes and therefore, it can not be said that all the records are audited. My views are supported by the decision of Hon'ble Tribunal in the case of Agrico Engg. Works (India) Pvt. Ltd. Vs CCE-2000(122) ELT891 (Tribunal) wherein it was held that visit of departmental officer for limited purpose can not tantamount to disclosure of facts. In the circumstances, I do not think that the Assessee can derive any benefit by mere raising technical point of earlier Audit. I find that in the present case, the appellant has suppressed the facts and had never informed to the department about receiving of Legal Consultancy services and Security Services and therefore, the extended period has rightly been invoked. Further, the case laws relied upon by the appellant are on different footing and has no relevancy to the present case and therefore cannot be made applicable. Thus, I do not find any merit in the appeal filed by the appellant and uphold the impugned

order. Accordingly, I am of the considered view that the appellant is liable for payment of service tax under reverse charge/partial reverse charge mechanism alongwith interest under Section 73/75 of the Act. The penalty imposed under Section 77(1)(a)/78 of the Act is also upheld in view of discussions held above.

8. In view of the above, I uphold the impugned order and reject the appeal filed by the appellant.

९. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

9. The appeals filed by the appellant stands disposed off in above terms.



(उमा शंकर)

आयुक्त (अपील्स - III)

By Speed Post.

To,  
M/s. Madhav Ispat,  
Near GIDC Phase One,  
Bhavnagar-Rajkot Road,  
Sihor, Bhavnagar

**Copy to:**

1. The Chief Commissioner, Central Excise & Service Tax, Ahmedabad.
2. The Commissioner, Central Excise & Service Tax, Bhavnagar.
3. The Assistant Commissioner, Service Tax Division, Bhavnagar
4. The Superintendent, Service Tax, Rural Range, Bhavnagar..
5. PA to Commissioner (Appeals- III), Central Excise, Ahmedabad.
6. Guard file.