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::आयुक्त (अपील्स) का कार्यालय, वस्तु एवं सेवा कर और केन्द्रीय उत्पाद शुल्क::
O/O THE COMMISSIONER (APPEALS), GST & CENTRAL EXCISE,

द्वितीय तल, जी एस टी भवन / 2nd Floor, GST Bhavan,
रेस कोर्स रिंग रोड, / Race Course Ring Road,

राजकोट / Rajkot - 360 001

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



सत्यमेव जयते

रजिस्टर्ड डाक ए. डी. द्वारा :-

क अपील / फाइल संख्या /
Appeal / File No. मूल आदेश सं /
O.I.O. No. दिनांक /
Date
V2/11/RAJ/2017 25/ST/2016 11.11.2016
63186 & 6319
26 & 27

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

RAJ-EXCUS-000-APP-128-2017-18

आदेश का दिनांक / जारी करने की तारीख /
Date of Order: 01.12.2017 Date of issue: 04.12.2017

कुमार संतोष, आयुक्त (अपील्स), राजकोट द्वारा पारित /
Passed by Shri Kumar Santosh, Commissioner (Appeals), Rajkot

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. Saurashtra Gramin Bank,, 1st Floor, S.J.Palace,, Opp. Andh Mahila Vikas
Gruh,,Dhebar Road, Gopalnagar,Rajkot

इस आदेश(अपील) से व्यथित 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 पीठिका, , द्वितीय तल, बहुमाली भवन असावा अहमदाबाद- 360016 को की जानी चाहिए। /

To the West regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at, 2nd Floor, Bhaumali Bhawan,
Asarwa 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) नियमावली, 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, व्याज 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 नियमावली, 1994, के नियम 9(1) के तहत
निर्धारित प्रपत्र S.T.-5 में चार प्रतियों में की जा सकती 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, व्याज 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 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 नियमवाली, 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 For 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, बशर्ते 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
(i) धारा 11 डी के अंतर्गत रकम
(ii) सेनवेट जमा की ली गई गलत राशि
(iii) सेनवेट जमा नियमावली के नियम 6 के अंतर्गत देय रकम
- बशर्ते यह कि इस धारा के प्रावधान वित्तीय (सं. 2) अधिनियम 2014 के आरंभ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विधायीन स्थगन अर्ज़ी एवं अपील को लागू नहीं होगा।
For an appeal to be filed before the CESTAT, 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 :
(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
- 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-35B 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 तारीख अथवा समावधि 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 संश्लेषण 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 पट्टी 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, not withstanding 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 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 टिकिट 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-1 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 ओर 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 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

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:: ORDER-IN-APPEAL ::

M/s. Saurashtra Gramin Bank, 1st Floor, S. J. Palace, Opp.: Andh Mahila Vikas Gruh, Dhebar Road, Gopalnagar, Rajkot (hereinafter referred to as 'the appellant') has filed the present appeal against the Order-In-Original No. 25/ST/2016 dated 11.11.2016 (hereinafter referred to as 'the impugned order'), passed by the Assistant Commissioner, Service Tax Division, Rajkot (hereinafter referred to as "the lower adjudicating authority").

2. The brief facts of the case are that the appellant is registered with Service Tax and holding STC No. AAHAS2116HSD001 under the category of "Banking and other Financial Services". The audit of records of the appellant for the period from May, 2011 to March, 2015 revealed that they had paid Service Tax on the Insurance Premium related to the Accidental Insurance Policy and Gratuity Scheme extending the benefits to their employees and accordingly, availed Cenvat credit to the extent of fifty percent of the total Service Tax paid by them, treating them as input services on the strength of the invoices issued during the period from 2013-14 to 2014-15. It was found that Cenvat credit involved on the Insurance Premium paid on the Accidental Insurance Policy and Gratuity Scheme were out of the purview of the input services and therefore, the appellant was not entitled to avail Cenvat credit of the same. The appellant had continued such practice of availing Cenvat credit and availed and utilized Cenvat Credit of Rs. 1,99,736/- during 2015-16, being fifty percent of the total service tax amount.

3. The Show Cause Notice No. VI(a)6-21/SCN/AC-21/ST/2016-17 dated 06.10.2016 proposed to disallow wrongly availed Cenvat Credit of Rs. 1,99,736/- and recover under Rule 14 of the Cenvat Credit Rules, 2004 (hereinafter referred to as "the Rules") read with Section 73(1) of the Finance Act, 1994 (hereinafter referred to as "the Act"), alongwith interest. It was also proposed to impose penalty upon the appellant under Section 77(2) of the Act and under Section 15(3) of the Rules read with Section 78 of the Act.

4. The above mentioned Show Cause Notice was adjudicated by the lower adjudicating authority vide impugned order, wherein he confirmed demand of Rs. 1,99,736/- under Rule 14 of the Rules read with Section

73(2) of the Act alongwith interest. Penalty of Rs. 10,000/- was imposed under Section 77(2) of the Act. Penalty of Rs. 1,99,736/- was imposed under Rule 15(3) of the Rules read with Section 78 of the Act. The lower adjudicating authority extended benefit of reduced penalty as envisaged under proviso (ii) to Section 78 of the Act.

5. Being aggrieved with the impugned order, appellant preferred the present appeal, wherein they, inter-alia stated that the lower adjudicating authority erred in computing Service Tax liability as they were eligible for availing input credit; that he erred in disallowing input Service Tax credit of Rs. 1,99,736/- which they have paid to various insurance companies; that the lower adjudicating authority erred in imposing interest liabilities as well as penalties on them.

6. A personal hearing in the matter was held, wherein Shri G. N. Acharya appeared and reiterated grounds of appeal. He submitted that the insurance service is necessary input for providing output services by them. The Hon'ble CESTAT, Mumbai has allowed Cenvat Credit of Service Tax paid on insurance premium in the case of Reliance Industries reported as 2015 (11) TMI 969-CESTAT, Mumbai.

FINDINGS:

7. I have carefully gone through the facts of the case, the impugned order, the appeal memorandum and submission made during the personal hearing.

8. I find that the appellant has filed the present appeal late by five days and for this they have requested to condone delay on the ground that their tax consultant was out of town for some period. I condone delay of 05 days in filing appeal and proceed to decide the appeal on merits.

9. The issue to be decided in the present case is as to whether the appellant was eligible for 50% of Cenvat credit of Service Tax paid on accident policy for employees, group personal policy of employees, group gratuity scheme of employees, staff accident insurance premium and fund management charge of gratuity scheme of LIC for staff or not.

9.1 I find that the appellant has availed 50% of Cenvat credit of Service Tax

AB
1/12/2017

paid on accident policy for employees, group personal policy of employees, group gratuity scheme of employees, staff accident insurance premium and fund management charge of gratuity scheme of LIC for staff treating same as input service for providing output service i.e. banking and other financial services. I would like to examine definition of input service, which is reproduced below for ready reference:

“(l) “input service” means any service,-

- (i) used by a provider of output service for providing an output service; or*
- (ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal,*

and includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;”.

But excludes

- (A) service portion in the execution of a works contract and construction services including services listed under clause (b) of section 66E of the Finance Act (hereafter referred to as specified services) in so far as they are used for -
 - (a) construction or execution of works contract of a building or a civil structure or a part thereof; or
 - (b) laying of foundation or making of structures for support of capital goods,

except for the provision of one or more of the specified services; or
- (B) services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which is not a capital good; or
- (BA) service of general insurance business, servicing, repair and maintenance, in so far as they relate to a motor vehicle which is not a capital goods, except when used by -
 - (a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person ; or
 - (b) an insurance company in respect of a motor vehicle insured or reinsured by such person;
- (C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption by any employee.

9.2 I find that the exclusion part of the above mentioned definition has been introduced vide Notification No. 03/2011-C.E.(N.T.) dated 01.03.2011 made effective from 01.04.2011, as amended. The period covered in the present appeal is post 01.04.2011. I also find that the appellant is a bank and they are not required to follow the Workmen’s Compensation Act, 1923 as well as the Employees’ State Insurance Act, which specifically cast an obligation on the

employer to provide insurance to the employees. The appellant is not a manufacturing unit and thus they have no obligation to follow Workmen's Compensation Act. Therefore, the Cenvat credit of Service Tax availed by the appellant on the services mentioned hereinabove is not an input service in or in relation to providing output service.

9.3 I find that accident policy for employees, group personal policy of employees, group gratuity scheme of employees, staff accident insurance premium and fund management charge of gratuity scheme of LIC taken by the appellant for staff are used for personal use or consumption by employees of the appellant. Therefore, these services has no relation, whatsoever, with the output service provided by the appellant and clause (C) of Rule 2(l) of the Rules specifically excludes such services.

9.4 The appellant has relied upon a decision passed by Hon'ble CESTAT, Mumbai in the case of M/s. Reliance Industries Ltd. reported as 2015 (38) STR 217 (Tri.Mumbai) wherein it has been held that the Cenvat credit of insurance premium paid in respect of group insurance/insurance of employees covered under the definition of 'input services' and have a nexus. I find that this decision is delivered in a case for period prior to 01.04.2011 i.e. before amendment made to the definition of 'input service' w.e.f. 01.04.2011 bringing exclusion clause. Therefore, this decision relied upon by the appellant is of no help to them.

10. In view of above factual position, the appellant is not entitled to avail Cenvat credit of Service Tax of Rs. 1,99,736/- paid on the aforesaid services. As far as extended period is concerned, I find that the appellant has not disclosed these facts to the Department about availment and utilization of Cenvat credit on these services. The matter came to knowledge of the department only when the information was called for from the appellant. Therefore, the extended period has rightly been invoked against the appellant. Once the availment of Cenvat credit stands ineligible and liable to be recovered, payment of interest and imposition of penalty will follow.

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

[Handwritten Signature]
11/12/2017

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

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


 (कुमार संतोष)
 आयुक्त (अपील्स)

By R.P.A.D.

To,

M/s. Saurashtra Gramin Bank, 1 st Floor, S. J. Palace, Opp.: Andh Mahila Vikas Gruh, Dhebar Road, Gopalnagar, Rajkot	मे. सौराष्ट्र ग्रामीण बैंक, पहली मंज़िल, एस.जे. पेलेस, अंध महिला विकास गृह के सामने, डेबर रोड, राजकोट.
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Copy to:

- 1) The Chief Commissioner, GST & Central Excise, Ahmedabad Zone, Ahmedabad.
- 2) The Commissioner, GST & Central Excise, Rajkot.
- 3) The Assistant Commissioner, GST & Central Excise, Division - I, Rajkot.
- 4) The Superintendent, GST & Central Excise, Range, Rajkot.
- 5) Guard File.