

.. ORDER IN APPEAL ..

The appeals listed below have been filed by the following appellants no. 1 to appellant no. 3 (hereinafter referred to as "the appellants") against Orders-in-Original No. BIV EXCUS 001 ADC 16 2010 16 dated 27 03 2019 (hereinafter referred to as "the impugned order") passed by the Additional Commissioner (COS) HQ, Bhavnagar (hereinafter referred to as "the adjudicating authority").

Sr. No.	Appel File No.	Appellant	Appellant No.
01	W2150217/2015	Mrs. Perfect Auto Services, G. D.C. Plot No.91 82,82, Dastpara, Rajol Road, Junagadh	Appellant No.1
02	W2150217/2015	Shri Suryakant H. Patel, Director of Mrs. Perfect Auto Services, G.D.C. 1, Plot No.91 82,82, Dastpara, Rajol Road, Junagadh	Appellant No.2
03	W2151897/2015	Shri Kanchi S. Patel, Director of Mrs. Perfect Auto Services, G.D.C. 4, Plot No.91 82,82, Dastpara, Rajol Road, Junagadh	Appellant No.3

2 Brief facts of the case are that an inquiry was initiated against the Appellant No.1 by Arch-Envoision Section, Central Excise, Hd. Bhavnagar which revealed that the Appellant No.1 was having "authorized service station" for their principal viz. Maruti Suzuki and Tata etc; that the Appellant No. 1 was collecting handling charges from their customers to whom they were selling car but was not paying service tax on the cargo handling service rendered in the form of handling charges, that the Appellant No.1 received incentive and discount from their principals for promoting the sale and provided service under the category of Business Auxiliary Services but had not paid service tax, that the Appellant No. 1 paid commission to their Directors i.e. Appellant No. 2 and Appellant No. 3 during the period from 2008-09 to 2012-13, in addition to the remuneration; that the Appellant No. 1 was liable to pay service tax for the year 2012-13, under reverse charge mechanism in terms of Notification No. 35-2012-ST dated 20.08.2012 as amended by Notification No. 49-2012-ST dated 07.09.2012. However, the Appellant No. 1 has not paid service tax, that the Appellant No. 2 and Appellant No. 3, were liable to pay service tax on the commission for the period from 2009-09 to 2011-12, however, the Appellant No. 2 and Appellant No. 3 failed to discharge service tax.

2.1 The Show Cause Notice No. W15-0475M-ST/HQ/2014-15 dated 27 04 2014 was issued for recovery of service tax of Rs. 62,36,804/- from Appellant No.1 under provision to Section 73(1) of the Finance Act, 1994 (herein after referred to as "Act") read with Rule 7(2) of the Service Tax Rules, 1994 (herein after referred to as "Rules") along with interest under Section 75 of the Act and proposing penalty under Section 77, Section 77 (a) and Section 78 of the Act on Appellant No. 1 for recovery of service tax Rs. 24,92,500/- each from Appellant No. 2 & Appellant No. 3 under provision to Section 73(1) of the Act read with Rule 7(2) of the Rules along with interest under Section 75 of the Act and proposing penalty under Section 77, Section 77 (a), Section 77 (b), Section 77 (c) and Section 78 of the Act on each of Appellant No. 2 & Appellant No. 3.



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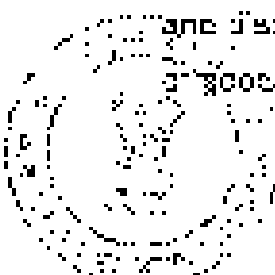
2.3 The adjudicating authority vide impugned order has adjudicated the above GDN and confirmed recovery of the demand of service tax of Rs. 65,39,604/- from the Appellant No. 1 under Section 73(2) of the Act read with Rule 1(2) of the Rules by invoking extended period along with interest under Section 75 of the Act, imposed penalty Rs. 10,000/- under Section 77 of the Act, penalty Rs. 10,000/- under Section 77(c) of the Act, penalty Rs. 80,38,804/- under Section 75 of the Act on the Appellant No. 1; confirmed recovery of the demand of service tax of Rs. 24,92,600/- from each of Appellant No. 2 and Appellant No. 3 under provision Section 73(1) of the Act along with interest under Section 75 of the Act, imposed penalties on each of them Rs. 10,000/- under Section 77 of the Act, Rs. 12,000/- under Section 77(a) of the Act, Rs. 10,000/- under Section 77 (a) of the Act, Rs. 10,000/- under Section 77(c) of the Act and Rs. 24,92,600/- under Section 75 of the Act.

3. Aggrieved, the appellant preferred these appeals, inter-alia, on the grounds as under:

Appellant No.1

(i) that the handling charges were included in the value of vehicle on which they paid VAT/lesee tax; that handling charges are collected for the parts and components used while repairing or servicing of vehicles which are produced from the warehouse/depots of their Principal that since the Appellant No. 1 have to incur cartage and other local taxes, freight, loading and unloading charges etc. on procuring such parts and components, they charge handling charges from their customers, that in terms of Master Circular of CBEC bearing No. 087/0607-6T no service tax to be levied on transaction value of sale of goods and they placed reliance on decision in case of Kelar Motors Ltd. recorded as 2014 (33) STR 155 (Tri. Mum.), that since being an authorized service station of automobile companies they can provide services for the vehicles manufactured by a particular automobile company, in view of the above, services provided in respect of the vehicle cannot be held to be taxable services and they placed reliance on case law of Dynamic Wotls reported as 2012 (26) STR 145 (Tri-Del.); that the handling charges are collected as part of value of goods in composite activity of sale and services and the invoice issued is for sale of goods as well as for collection of service charges, no service tax can be levied, especially when the goods are made subject to payment of sales tax/VAT on the value inclusive of handling charges that they relied upon the judgment in the case of Automotive Manufacturers Pvt. Ltd. recorded 2015 (38) STR 115 (Tri. Dum.)

(ii) that incentive and discount are in the nature of trade discount given by their Principal for meeting or exceeding sales target set out by them; that in agreement with the Principal, there is no specific provision showing exact quantum of the incentive and discount, that early payment incentive received by the Distributor on distribution of goods of the Principal and retained by them is not liable to service tax as there is



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no service involved; that they relied upon case law of P. Gauram & Co. reported as 2011 (24) STR 447 (Tri-Mum.) that the Appellant No. 1's authorized service center of the manufacturer and the incentives are offered as per rates fixed by such manufacturer. In that case service tax demand on the sale of incentive on sale of vehicles and spare parts was unsustainable and they placed reliance on the judgment in the case of Sal Service Station Ltd. reported as 2014 (35) STR (325) (Tri-Mum.).

(iii) that the amounts received by the Directors are their share of profit and not for any service, the same cannot be made liable to service tax. That service tax confirmed on the profit share received by the Directors who are nothing but employees of the Appellant No. 1 that on remuneration paid to directors, no service tax shall be payable if there is employer-employee relationship between the parties. They relied upon the judgment in the case of Allied Blenders & Distillers Pvt. Ltd. reported as 2019 (1) TMI 452-CES TA, Mumbai that as per provisions of the Companies Act 2013 'who is the director of any company is nothing but an employee of the said company and any remuneration / commission etc. paid to them is salary only; that a whole-time director can be compensated by way of not only remuneration but also by way of commission based on net profits of the company; that they placed reliance on the judgment in the case of Ramahar A. Thangavel vs Jyoti Ltd. & Ors. reported as AIR 1953 Bom 214, (1957) 58 BOM LR 371. That it is a well-settled position in law that the Act would prevail over the Rules or Notifications issued thereunder. When the activity of employment itself is excluded from the definition of 'service' under the Finance Act, 1994 there is no question of taxability of such service under Notification No. 30/2012-S.T., dated 20.06.2012 that the whole-time managing executive directors are under a contractual employment. Hence, it cannot be considered as a service and the question of taxability under reverse charge mechanism does not arise.

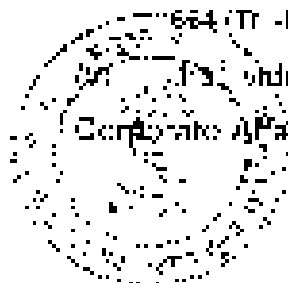
(iv) that Section 17 (1) of the Income Tax Act, 1961 defines the word 'salary' in the said sub-section (1) of section 17, at clause (iv). It has been provided that salary includes any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages' and therefore, commission paid to any director is nothing but a part of salary only. That in a number of judicial pronouncements under the Income tax law, it has been held that commission paid to directors for the work done in their capacity as whole-time directors is to be treated as an incentive in addition to salary and the same do not come within the purview of commission / or brokerage or fee for professional or technical services; that they relied upon following case laws:

Nashik Mills (P) Ltd. Vs. Income Tax Officer, Ward 2, Pune - [2014] 50 taxman 257 (30) (Pune - Tri.)

Jahangir Bhai Farley (P) Ltd. Vs. DC (2009) 125 TTJ 107 (MUM.)

Ram Mohan Inaia Pvt. Ltd. v. Commissioner of Central Excise, Mumbai - 2016 (4) S.T. 664 (Tri-Mumbai)

In the General Circular No. 24/2012 dated 06.05.2012 of the Ministry of Corporate Affairs it was clarified that only in respect of payments made to non-whole



Director General of Taxation

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time directors (who are not employees of the company working regularly for the company), service tax liability arises to the companies; that as long as there is an employer-employee relationship, mode of payment will not alter the nature of service provided by a director; that they placed reliance on Circular No. 115/096/02-S.T dated 31.07.2009, which clarified that remuneration / commission paid to whole time directors, being compensation for their performance, would not be liable to service tax. The clarification would apply even w.e.f. 31.07.2012 and the impugned order, demanding service tax on the profit share of the Directors, is liable to be set aside, being against the provisions of Section 89A (44) read with Section 89B of the Act.

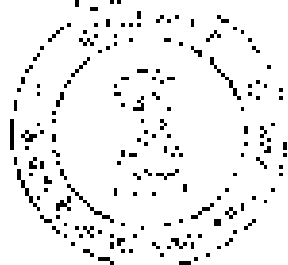
(vi) that the extended period of limitation is not invocable in the present case as there was no suppression of facts with an intent to evade payment of service tax since, they filed ST 3 returns regularly and the department carried out audit, true, all the activities carried out by the Appellant No. 1 is well within the knowledge of the department; that it is not proper to allege suppression/wilful misstatement on the part of the Appellant No. 1. When the assessee is audited by the service tax authorities suppression etc. cannot be alleged on the assessee, they placed reliance on the following case laws:

- Tropic Concrete Products - Para 11 - 2015 (22) 117 (S.C)
- Rakshak Pragas Ltd - 2013 (262) 117 (S.C)
- Baldevdas Ltd - 2006 (117) 117 (S.C)
- Signaflex Ltd - 2007 (212) 117 (S.C)

(vii) that no penalty can be imposed under Section 77 of the Act as none of the conditions specified therein have been met; that the allegation that the Appellant No. 1 failed to provide any information to the department or produce documents or appear before the department on inquiry appears to be not tenable. In fact, there is no allegation in the show cause notice to this effect; that there is also no allegation that the Appellant No. 1 has issued invoices not in accordance with the provisions of the Act or the Rules made there under. Thus, clause (e) is also not applicable. Thus, it is clear that none of the conditions of Section 77 are satisfied and therefore the proposal to levy penalty under Section 77 is without basis and does not stand.

(viii) that in view of above submissions penalty under section 78 is not sustainable and they relied on case law of the Hon'ble Supreme Court in case of Akbar Badruddin Jiwari reported as 1996 (347) 117 (S.C).

(ix) that there was a bonafide belief on part of the Appellant No. 1 that the activities of loading/unloading and handling do not form part of the GTA service, therefore, there was reasonable cause for failure, if any, on part of the Appellant No. 1 to pay service tax and to file service tax returns; that Section 50 of the Act is not invocable in the present case and penalties cannot be imposed under Sections 75, 77, 78 of the Act.



A

Appellant No 2 & 3

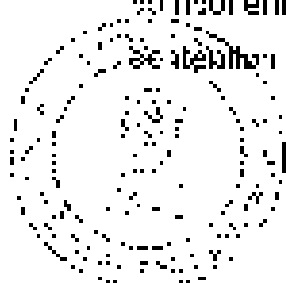
(i) That the amounts paid by the Appellant No. 1 to Appellant No. 2 & 3 (Directors) as their share Profit, that service provided by the directors and in the nature of service provided by an employee to the employer and same is excluded from the ambit of service tax act, that even if the service tax is levied, the liability thereof shall be on service recipient under reverse charge mechanism. In the present case, service tax has been confirmed on the profit share received by the Appellant No. 2 & 3 who are employees of the Company. The Appellant No. 2 & 3 submit that on remuneration paid to them, no service tax shall be payable if there is employer-employee relationship between the parties. They relied upon the judgment in the case of *Alus Blenders & Distillers Pvt. Ltd. vs. CCEST, Aurangabad* 2019 (1) TM 453-CESTAT Mumbai that Appellant No.2 & 3 also contended the allegation of penalty & invocation of extended period on the same ground as submitted above by the Appellant No.1.

4. Personal Hearing In the matter was attended by Shri Sanjay Gupta, Advocate on behalf of the Appellants, he reiterated the submissions of appeal memo and stated that the commission paid to the directors is part of salary under Income Tax also and therefore the service tax is not chargeable and accordingly the penalty and interest on the firm and as well as the directors are not imposable and therefore appeal may be allowed.

5. I have carefully gone through the impugned order, appeal memoranda records of personal hearing and written as well as oral submissions made by the appellants. The issue to be decided in the present appeal is whether on the facts and circumstances of the case the impugned order passed by the adjudicating authority confirming the demand & levy with interest and imposing penalty is correct, legal and proper or not.

6. On going through the records I find that the Appellant No. 1 was authorized dealer and having authorized service station of Maruti Suzuki India Limited (hereinafter referred to as MSIL) and purchased vehicles, accessories thereto parts & components from MSIL on principal to principal basis. I find that the adjudicating authority held that the Appellant No. 1 had collected handling charges from their customer to whom they sold the car and the said handling charges have been shown in the invoices raised by the Appellant No. 1.

6.1 The appellant argued that they collected handling charges for the parts and components used while repairing or servicing of vehicles which amounted from the warehouse/depot of the principal dealer since, the Appellant No. 1 has to incur expenses for octroi, other local taxes, freight, loading & unloading etc. on procuring such parts and components. They charged handling charges from the customers. I find that the contention of the Appellant No. 1 appears to be contrary to facts. I find that Shri Hitesh




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Kotak, Accounts Manager/Chief Accountant of the Appellant No. 1 in his Statement dated 18.4.2014 deposed as under:

Q. No. 2. On going through the audit and the accounts of your company for last few years, it has been observed that the company has shown income under heading "Handling charges". Please clarify what is the meaning of Handling charges? How are such charges levied on the name and style of Handling charges?

Ans. No. 2. With regard to handling charges, I state that we are collecting handling charges from our customers to whom we are selling the cars. I do not have any other bills issued by our company for selling the cars which shows handling charges.

5.2 Thus, as deposed by the Accounts Manager of the Appellant No. 1, the handling charges collected by the Appellant No. 1 pertained to services rendered in connection with delivery of cars to customers. Thus, the said handling charges were in no way connected with selling of parts and accessories used for repairing of cars as contended by the Appellant No. 1. Once consideration is charged and recovered over and above price of vehicle, it cannot be said that the activity carried out by them is only for sale of vehicles. I find that the Appellant No. 1 rendered services related to handling of vehicles and collected handling charges from the customers and therefore relation of 'service provider' and 'service receiver' stands established and amount so charged was consideration for providing such services. The Appellant No. 1 is truly liable to pay service tax on said handling charges under the category of 'Cargo Handling Service' as rightly held in the impugned order.

5.3 The Appellant No. 2 has contended that the recovery of handling charges are part of sales and any expenditure incurred by a dealer before sale is part and parcel of the taxable turnover liable to sales tax/VAT, therefore no service tax can be levied, especially when the goods are made subject to payment of sales tax/VAT on the value inclusive of handling charges and they relied on case law of M/s. Dynamic Motors reported as 2012 (26) STR 145 (Tri-Bom.), M/s. Katan Motors Ltd. reported as 2014 (33) STR 185 (Tri-Bom.) and M/s. Automotive Manufacturers Pvt. Ltd. reported as 2015 (38) STR 1161 (Tri-Bom.). I find that the Appellant No. 1 argues that they paid the VAT on entire amount of sale, inclusive of handling charges. I find that the impugned SCN alleged that the Appellant No. 1 had separately mentioned handling charges in their invoice issued to the customer but they have not added handling charges while calculating VAT. I find that the adjudicating authority also held that the Appellant No. 1 failed to produce substantial documents that they are paying VAT on handling charges. I have examined the said case law of M/s. Automotive Manufacturers Pvt. Ltd. wherein the Honble Tribunal relied on case law of M/s. Dynamic Motors and M/s. Katan Motors Ltd. After examining the facts and circumstances of the present case I am of the considered opinion that the facts of the case of M/s. Automotive Manufacturers Pvt. Ltd. are not similar to the facts and circumstance of the present case. I find that the demand of service tax in that case was on 'handling charges' incurred in connection with arrangement of goods, which are included in the value of the goods sold and sales



tax/VAT liability was discharged by the assessee on the value inclusive of the handling charges whereas, in the present case VAT/Service Tax is not assessed on value inclusive of handling charges recovered by the Appellant No.1. Thus, facts of said case laws are different and distinguishable from the facts of the present case and hence, the said case laws are not applicable.

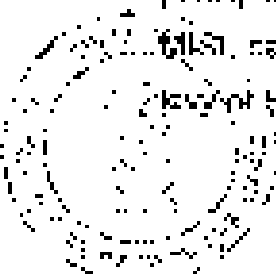
5.4 In view of the above, I find that the Appellant No. 1 has provided taxable services for which they charged/received consideration in form of handling charges. , therefore, find that the adjudicating authority has correctly held that the Appellant No. 1 is liable to pay service tax on handling charges along with interest.

7 Regarding confirmation of demand on commission paid to Directors on reverse charge basis, the Appellant No. 1 contended that as per Income Tax provisions, commission paid to directors for the work done in their capacity as whole-time directors is to be treated as an incentive in addition to salary and the same didn't come within the purview of commission; that as per provisions of the Companies Act, 2013 the whole-time director is nothing but a whole-time employee of the company and commission/ remuneration paid to them is salary only. I find that the directors i.e. Appellant No. 2 & 2 of the Appellant No. 1 were whole-time directors of the company, for which remuneration were paid to them by the Appellant No. 1. The Appellant No. 1 also paid commission to the directors during the period from 2008-09 to 2012-13. I find that the Central Government has expanded the provisions of payment of service tax under reverse charge mechanism to include services rendered by a director vide Notification No. 50/2012-S.T. dated 20.06.2012 as amended by Notification No. 45/2012-S.T. dated 07.08.2012, which is reproduced below:

Sr. No.	Description of service	Percentage of payable by the provider of the service	Percentage of service payable by the receiving the service
1	Commission provided to agree to be provided by a director of a company to such company	Nil	100%

7.1 I find that it is clearly provided in the Notification supra that the services provided or agrees to be provided by a director of a company to the said company is chargeable to service tax on reverse charge mechanism and therefore, the Appellant No. 1 is liable to pay service tax on the commission paid to their Directors on reverse charge basis with effect from 07.08.2012.

8. I find that MSIL has given discount/incentive to the Appellant No. 1 for achieving his sales target, as per dealer's agreement. I also find that the discount passed on by MSIL is directly concerned with volume of sale and since the transactions are on principal to principal basis, the discount/incentive received by the Appellant No. 1 from MSIL cannot be considered as commission income and same is not subject matter of payment Service Tax in view of negative list of services specified under Section 68D(e) of



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The Act since this is nothing but marketing of goods. Further amount received by the Appellant No. 1 from MSIL in the form of incentive/discount in achieving the targeted sale is not to be considered to be amount received towards performing any service as defined under Section 65B (44) of the Act since discount concerns with sale of goods and ownership of the goods transferred from MSIL to the Appellant No. 1 is at the time of sale of goods i.e. the Appellant No. 1. Hence, in view of the considered view that amount received by the Appellant No. 1 in the form of incentive/discount from MSIL as per the contractual terms towards achieving the targeted sales of products of MSIL is considered as trade discount and cannot be considered as amount received towards promotion or marketing of goods on behalf of MSIL and therefore, the Appellant No. 1 is not liable to pay service tax of Rs. 10,98,257/- on the incentive/discount received by the Appellant No. 1 under the category of "Business Auxiliary Service". My views are supported by the Hon'ble CESTAT, Mumbai in similar case of Sai Service Station recorded as 2014 (35) STR 225 (Tr. - Mumbai), wherein it has been held as under:

14. In respect of the incentive in nature of cash/credit/discount/percentage/withholding and transfer of sale of goods made by a system, and marketing the products of MSIL, the contention is that these incentives are in the form of trade discount. The goods are manufactured by the authorized dealer of the manufacturer by MSIL and are quality certified/checked/accepted and hence sold by the manufacturer. The incentives are as per the contract entered by MSIL. Hence these incentives are treated as business auxiliary service.

15. In respect of sales target incentive, the Revenue wants to apply under the category of business auxiliary service. We have done through the similar goods but not when it comes certain incentives in respect of sale sold by the assessee respondent. These incentives are in the form of trade discount in these circumstances and not in the nature of the incentive given when the manufacturer auxiliary discount to the dealer. Hence, the appeal filed by the Revenue is allowed.

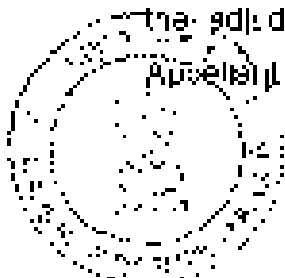
(Emphasis supplied)

9. In view of above I have no option but to set aside the impugned order confirming demand of service tax of Rs. 10,98,257/- issuing order for recovery of interest and imposition of penalty of Rs. 15,39,257/-.

10. The Appellant No. 2 and 3 have contended that amounts received by them is their share Profit that service provided by the directors are in the nature of service provided by an employee to the employer and same is excluded from the ambit of service tax net; that even if the service tax is levied, the liability should rest on assesse recipient under reverse charge mechanism.

11. I find that the Appellant No. 1 acts as director to their directors during the period from 2008-09 to 2012-13 apart from salary. For the period from 07.08.2012 to March, 2013, the Appellant No. 1 is liable to pay service tax on commission paid to Appellant No. 2 and 3 on reverse charge basis as held by me in para supra. For confirmation of demand on Appellant No. 2 and 3 for the period from 2008-09 to 03.03.2012, I find that

the adjudicating authority at para 37 of the impugned order has found that the Appellant No. 2 and 3 have provided advisory/consultancy services to the Appellant



[Signature]
 Date: 10/11/2014

No.1. In backdrop of said findings I examine Board's Circular No. 110/M/2009 ST dated 31.07.2009 relied upon by the Appellant No. 2 and 3 relevant parts of the said Circulars as under:

2. Both the orders have been considered by the Board and my confirmation is as under:

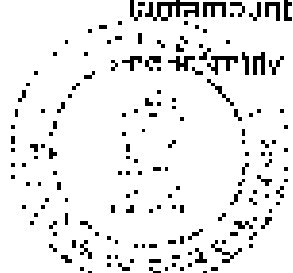
3. The Managing Director/Directors (Whole time or independent) being part of Board of Directors perform management function and they do not perform consultancy or advisory function. The definition of management consultant service under section 67(1)(c) which is envisaged term a consultant or advisory service and not for actual performance of the management function. The payments made by Companies to Directors cannot be treated as payments for providing management consultancy service. Therefore, it is clarified that the amount paid to Director (Whole time or independent) is not chargeable to service tax under the category Management Consultancy Service. However, in case any Director provides any advice or consultancy to the company, for which they are being compensated separately, such service shall become chargeable to service tax.

(Emphasis added)

4. As can be seen from the above clarification, payment made to Director of a Company for performance of management function is not liable to service tax. However, if any advice or consultancy is provided by such directors to the Company for which they are compensated separately then they are liable to service tax. In the present case as held by the adjudicating authority, the Appellant No. 2 and 3 provided advisory/consultancy services to the Appellant No. 1. Under the circumstances I concur with the findings of the adjudicating authority that the Appellant No. 2 & 3 are liable to pay service tax on commission received by them from the Appellant No. 1 during the period from 25.09.08 to 06.06.2012 under the category of 'Management Consultancy Service'. I therefore, uphold confirmation of service tax demands upon Appellant No. 2 and 3.

12. As regards imposition of penalties, I find that the Appellant No. 1 is an established company managed by professionals and always had knowledge by virtue of routine Tax laws that their Directors can work for other companies as well by rendering them their services as Directors and are statutorily treated as distinct persons from the employer-employee relationship. I find that negative list regime is very unequivocal, and except the categories mentioned therein, no activity is entitled for exemption from levy of service tax leaving no scope to harbor any doubt whatsoever. Therefore, it transpires that though there was no ambiguity in law, the Appellants on their own interpreted the law and not brought the relevant material facts to the notice of the department at any point of time. Hence required ingredients of suppression of these facts and statement etc for imposing penalty under Section 73 of the Act is found to be existing in the case of Appellant No. 1 to 3 and such suppression was not without intention to evade the tax. I place reliance upon case law of the Hon'ble CESTAT Chennai, in the case of TVS Motor Co. Ltd reported as 2012 (28) S.T.R. 127 (Trib. Chennai). Thus in such cases where assessment did not declare the correct facts and deliboratory mis-stated the facts leading to evasion of service tax on their part tantamount to suppression of facts with an intent to evade service tax. Therefore, I find no fault in the impugned order invoking extended period and imposing penalty under

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Section 78 of the Act on the Appellants No. 1 to 3 along with applicable interest under Section 76 of the Act.

10.1 I find that the Appellant No. 1 failed to disclose the correct information in their S.T-1 returns and Appellant No. 2 & 3 failed to file their S.T-3 returns for taxable services provided by them for the relevant period and therefore imposition of penalty on the Appellants under Section 77 of the Act is also justified.

10.2 I find that the Appellant No. 2 & 3 provided taxable services but failed to obtain registration under Section 69 of the Act. They failed to keep and maintain records for such taxable services in terms of Rule 5 of the Service Tax Rules, 1994 and failed to issue invoices for the such taxable services in terms of Rule 4A of the Service Tax Rules, 1994 and therefore imposition of penalties under Section 77(a), 77(b) and 77(c) of the Act on the Appellant No. 2 & 3 are also justified.

11 In view of above, penalty allowed against Appellant No. 1 and set aside the service tax demands of Rs. 15,58,257/- and penalty of Rs. 15,58,257/- imposed under Section 78 of the Act and uphold the impugned order to the extent of confirmation of service tax demand of Rs. 47,35,347/- along with interest and penalty of Rs. 47,35,347/- imposed under Section 78 of the Act. I also uphold the impugned order in respect of Appellant No. 2 and 3 and reject the appeals filed by the Appellant No. 2 & 3.

12 अपीलकर्ता द्वारा दर्जकी गई अपीलका जोर अपीलकर्ताके लिये लिया जाता है।

11.1 The appeals filed by the appellants are set aside as stated in above terms.

(G.O.P. NATAR)
Commissioner (Appeals)

By Regd. Post AD.

13.

01	M/s Perfect Auto Services, G.I.D.C. Plot No. 81, 82, 82, Dolatpara, Rajkot Road Junagadh	श्री. प्रदीप कर्णिक एंडी प्रविसिज. जो आइ.टी.सी. - 1, प्लॉट नं. 8, 82, 82 डोलतपारा, राजकोट रोड, जुनागढ़
02	Shri Suryakant H. Mehta Director of M/s. Perfect Auto Services, G.I.D.C. Plot No. 81, 82, 82, Dolatpara, Rajkot Road, Junagadh	श्री. सुर्यकांत हनुमंत चंद, श्री. प्रदीप कर्णिक एंडी प्रविसिज. जो आइ.टी.सी. - 1, प्लॉट नं. 8, 82, 82 डोलतपारा, राजकोट रोड, जुनागढ़
03	Shri Kevu S. Fandi, Director of M/s. Perfect Auto Services G.I.D.C. Plot No 81 82 82 Dolatpara Rajkot Road, Junagadh	श्री. कवु स. फान्डी, श्री. प्रदीप कर्णिक एंडी प्रविसिज. जो आइ.टी.सी. - 1, प्लॉट नं. 8, 82, 82 डोलतपारा, राजकोट रोड, जुनागढ़



शक्ति.

- (१) प्रधान गुरुगण आयुक्तों, वि. वि. व. संस्थानों व सेवा कर एवं वार्षिक उत्पाद शुल्क, महाराष्ट्र राज्य में अहमदाबाद को जतनासी हेतु।
- (२) आयुक्त, वि. वि. व. संस्थानों व सेवा कर एवं वार्षिक उत्पाद शुल्क, महाराष्ट्र को आवश्यक कार्यवाही हेतु।
- (३) अपर आयुक्त, केंद्रीय बरतु व सेवा कर एवं वार्षिक उत्पाद शुल्क, महाराष्ट्र को आवश्यक कार्यवाही हेतु।
- (४) नाइफाइल
- (५) F. No. V2/32/BVF/02019
- (६) F. No. V2/33/BVF/02019

