

दवितीय तल,जी एस टी भवन / 2nd Floor, GST Bhavan

रेस कोस रिंग रोड / Race Course Ring Road



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रिवस्टर्ड डाक ए.डी.दवारा:-

DIN-20220464SX000000C8C5

अपीस / फाइससंख्या/ Appeal /File No.

मृत आदेश सं /

दिनांक/

O.I.O. No.

Date

V2/33-36/EA2 /GDM /2021

49 to 53/ST-TPD/AC/2020-21

19-03-2021

अपीस आदेश संख्या(Order-In-Appeal No.):

KCH-EXCUS-000-APP-004 TO 007-2022

आदेश का दिलांक /

Date of Order:

27.04.2022

जारी करने की तारीख /

28.04.2022

Date of issue:

औं अविकेश कुमार, आयुक्त (अपील्स), राजकोट द्वारा पारित /

Passed by Shri Akhilesh Kumar, Commissioner (Appeals), Rajkot.

अपर आयुक्त/ संयुक्त आयुक्त/ उपायुक्त/ सहायक आयुक्त, केन्द्रीय उत्पाद शुक्क/ सेवाकर/यस्त एवंसेवाकर,राजकोट / जामनगर / गांधीधाम) द्वारा उपरलिखित जारी मूल आदेश से सुजितः /

Arising out of above mentioned OIO issued by Additional/Joint/Deputy/Assistant Commissioner, Central Excise/ST / GST, Rajkot / Jamnagar / Gendhidham:

अपोलकर्ता/प्रतिवादी का नाम एवं पता /Name & Address of the Appellant/Respondent :-**प** 🤾

> 1. M/s. Gurtej Singh Harnek Singh Mitheru, House No. 15, Bagsahree Township-6, Survey No. 476/1 Varsamedi, Anjar - 370 110 2. Me Qurjitkaur Tolaram Randhawa, Plot No. 313, Bhattnagar, NU 4, Gandhidham, Dietrict- Kutch. 3. M/e Bikarmeingh Pritameingh Randhawa, Plot No. 313, Bhattnegar, NU 4, Gandhidhem, District- Kutch. 4. M/e Pritametrigh Baggaetrigh Randhawa (HUF), Plot No. 313, Bhattnagar, NU 4, Gandhidham, District- Kutch.

इस आदेश(अपील) से क्यंबित कोई व्यक्ति निम्निसित तरीके में उपयुक्त प्रधिकारी / प्राधिकरण के समझ 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.

सीमा शुरुक ,केन्द्रीय उत्पाद शुरुक एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील, केन्द्रीय उत्पाद शुरुक अधिनियम ,1944 की धारा 35B के अंतर्गत एवं विस अधिनियम, 1994 की धारा 86 के अंतर्गत निम्नलिखित जगह की या सकती है ।/ (A)

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:

Œ वर्गीकरण मूल्योकन से सम्बन्धित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपेलीय न्यायोधिकरण की विशेष पीठ, वेस्ट क्सॉक हें 2,आर. के. पुरंस, नई दिस्ती, 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.

उपराबत परिष्क्रेद 1(a) में बताएं गए अपालों के अलावा शेष सभी अपास सीमा शुरूक,केंद्रीय उत्पाद शुरूक एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट)की परिचर्न क्षेत्रीय पीठिका,द्वितीय तस, बहुमाली भवन असावा अहमदाबाद- ३८००१६को की जानी चाहिए ।/ (ii)

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 office than as mentioned in para-1(a) above अपोलीय न्यायाधिकरण के समझ अपील प्रस्तुत करने के लिए केन्द्रीय उत्पाद शुरूक (अपील)नियमावती, 2001, के नियम 6 के अंतर्गत निर्धारित किए गये प्रपन्न EA-3 की चार प्रतियों में दर्ज किया जाना चाहिए। इनमें से कम एक प्रति के साथ, जहां उत्पाद शुरूक की माँग ,ब्याज की माँग 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 क्रमश: 1,000/- रुपये, 5,000/- रुपये अथवा 10,000/- रुपये का निर्धारित जमा शुरूक की प्रति संस्थन करें। निर्धारित शुरूक का भुगतान, संबंधित अपीलीय न्यायाधिकरण की शाखा के सहायक रजिस्टार के नाम से किसी भी सार्वजिनक को में बैंक द्वारा जारी रेखांकित बैंक प्रूपट द्वारा किया जाना चाहिए। संबंधित अपीलीय न्यायाधिकरण की शाखा स्थित है। स्थमन आदेश (स्ट ऑर्डर) के सिए अधिदन पत्र के साथ 500/- रुपए का निर्धारित शुरूक जमा करना होगा।/ Ш

The appeal to the Appellate Tribunal shall be filed in the first in form EA-3 / as prescribed under Rule 6 of Central Excise (Appeal) Rules, 2001 and shall 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 Eac 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/-

अपीतीय न्यायाधिकरण के समक्ष अपील, वित अधिनियम, 1994 की धारा 86(1) के अंतर्गत सेवाकर नियमवाली, 1994, के नियम 9(1) के तहत निर्धारित प्रपत्न 8.T.-5 में घार प्रतियों में की जा सकेगी एवं उसके साथ जिस आदेश के विश्वय अपील की गयी हो, उसकी प्रति साथ में संलग्न कर (उनमें से एक प्रति प्रमाणित होनी चाहिए) और इनमें से कम से कम एक प्रति के साथ, जहां सेवाकर की माँग ,क्याज की माँग और लगाया गया जुमीला, रूपए 5 लेकि या उससे कम, 5 लाख रूपए या 50 लोख रूपए तक अथवा 50 लाख रूपए से अधिक है तो क्रमक्ष: 1,000/- रूपये, 5,000/- रूपये आया 10,000/- रूपये का निर्धारित जमा शुल्क की प्रति संलग्न करें। निर्धारित शुल्क का भुगतान, संबंधित अपीलीय न्यायाधिकरण की शांखा के सहायक रिजस्टार के नाम से किसी मी साविजिनक क्षेत्र के बैंक द्वारा जसी रेखांकित बैंक ब्राप्ट द्वारा किया जाना चाहिए। संबंधित इाफ्ट का भुगतान, बैंक की उस शांखा में होना चाहिए जहां संबंधित अपीलीय न्यायाधिकरण की शांखा रिश्त है। स्थगन आदेश (स्ट ऑर्डर) के लिए का मुगतान, बैंक की उस शांखा में होना चाहिए जहां संबंधित अपीलीय न्यायाधिकरण की शांखा रिश्त है। स्थगन आदेश (स्ट ऑर्डर) के लिए का स्थाप 500/- रूपए का निर्धारित शुल्क जमा करना होगा।/

file appeal under sub section (1) of Section 86 of the Finance Act, 1994, to the Appellate Tribunal Shall be filed in deadruplicate in Form S.T.5 as prescribed under Rule 9(1) of the Service Tax Rules, 1994, and Shall be consequently by a copy of the order appealed against (one of which shall be certified copy) and should be occurred by a fees of Rs. 1000/- where the amount of service tax is interest demanded to penalty levied of a first lakins or less Rs.5000/- where the amount of service tax is interest demanded to penalty levied is more han fifty lakins but not exceeding Rs. Fifty Lakins, Rs.10,000/- where the amount of service tax is interest demanded to penalty levied is more han fifty Lakins rupees, in the form of crossed bank draft in favour of the sentence of the bench of nominated Public Sector Bank of the place where the bench of Tribunal is put to the form of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the bench of Tribunal is put to the first of the place where the place where the place where the place of the place where the place wher

(B)

वित्त अधिनियम, 1994 की धारा 86 की उप-धाराओं (2) एवं (2A) के अंतर्गत दर्ज की गयी अपील, सैवाकर नियमवाली, 1994, के नियम 9(2) **(1)** एवं 9(2A) के तहत निर्धारित प्रपत्र 8.T.-7 में की जा सकेगी एवं उसके साथ आयुक्त, केन्द्रीय उत्पाद शुक्क अथवा आयुक्त (अपील), केन्द्रीय उत्पाद शुक्क द्वारा पारित आदेश की प्रतियाँ संसन्न करें (उनमें से एक प्रति प्रमाणित होनी चाहिए) और आयुक्त द्वारा सहायक आयुक्त अथवा उपायुक्त, केल्द्रीय उत्पाद शुल्का 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, सीमा शुल्क, केन्द्रीय उत्पाद शुल्क पर सेवाकर अपीलीय प्राधिकरण (सेस्टेट) के प्रति अपीली के मामले में केन्द्रीय उत्पाद शुल्क अधिनियम 1944 की प्राप्त के किया के विकास अधिनियम 1944 की प्राप्त के किया के विकास अधिनियम 1944 की प्राप्त के किया के विकास अधिनियम

1944 की धारा 35एफ के अंतरोत, जो की वितीय 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 अपीक्षत देय राशि दस करोड़ रूपए 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

(ii)

ध्वस् वत

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(ii) सेनवेट जमा की ली गई गलत राशि

सेनवेट जमा नियमावसी के नियम 6 के अंतर्गत देय रकम (iii)

- बशर्त यह कि इस धारा के प्रावधान वितीय (सं. 2) अधिनियम 2014 के आरंभ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष

- बशर्ते यह कि इस धारा के प्रावधान वितीय (सं. 2) अधिनियम 2014 के आरंभ से पूर्व किसी अधिलीय प्राधिकारों के समझ विधाराधीन स्थान अर्जी एवं अपीस को साग नहीं होगे।/
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.

श्राप्त सरकार केपूनरीक्षण आवेदन :
Revision application to Government of India:
इस आदेश के पूनरीक्षण मिन्निसिंद नामलों में, केंद्रीय उत्पाद शुक्क अधिनियम,1994 की धारा 35EE के प्रथमपरंतुक के
अंतर्गतअवर सर्चिव, मारत सरकार, पूनरीक्षण आवेदन ईकाई, वित मंत्रालय, राजस्व विभाग, घौथी 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 Delhi110001, under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to subsection [1] of Section-35B ibid: (C)

यदि माल के किसी नुकसान के मामले में, जहां नुकसान किसी माल को किसी कारखाने से मंझर गृह के पारगमन के दौरान या किसी अन्य कारखाने या फिर किसी एक मंझर गृह से दूसरे मंझर गृह पारगमन के दौरान, या किसी मंझर गृह में या मंझरण में माल के प्रसंस्करण के दौरान, किसी कारखाने या किसी मंझर गृह में माल के नुकसान के मामले में। किसी कारखाने या किसी मंझर गृह में माल के नुकसान के मामले में। किसी कारखाने या किसी मंझर गृह में माल के नुकसान के मामले में। प्रति कारखाने या किसी मंझर में माल के नुकसान के दौरान, किसी माल के प्रति कारखान के दौरान, विकार गृह में प्रति कारखान के दौरान, विकार गृह में या मंझर गृह में या मंझर माल के दौरान के प्रति कारखान के दौरान के दौरान, विकार गृह में या माल के प्रति कारखान के दौरान या किसी अन्य माल के दौरान या किसी अन्य के दौरान या किसी अन्य माल के दौरान के प्रति कारखान माल के दौरान के प्रति के माल के प्रति के माल के प्रति कारखान के दौरान के प्रति कारखान के प्रति कारखान के प्रति कारखान के दौरान के प्रति कारखान कारखान के प्रति कारखान के प्रति कारखान के प्रति कारखान के प्रति कारखान कारखान के प्रति कारखान कार (i)

भारत के बाहर किसी राष्ट्र या क्षेत्र को निर्यात कर रहे माल के विनिर्माण में प्रयुक्त कच्चे माल पर भरी गई केन्द्रीय उत्पाद शुक्क के छुट (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. (ii)

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

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 विव अधिनियम (ब. 2),1998 की धारा 109 के द्वारा नियत की गई तारीख अथवा समायाविधि पर या बाद में पारित किए गए हैं। Стефіt 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. (iv)

(v)

पुनरीक्षण आवेदन के साथ निम्ननिखित निर्धारित शुल्क की अदायगी की जानी चाहिए। जहाँ संलयन रकम एक लाख रूपये या उससे कम हो तो रूपये 200/- का भुगतान किया जाए और यदि संतयन रकम एक लाख रूपये से ज्यादा हो (vi) तो रूपये 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.

यदि इस आदेश में कई मूल आदेशों का समावेश हैं तो प्रत्येक मूल आदेश के लिए शुल्क का भुगतान, उपर्युक्त ढंग से किया जाना चाहिये। इस तुथ्य के होते हुए भी की लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय नयाधिकरण को एक अपील या केंद्रीय सरकार को एक आवेदन (D) क्षिया जाता है। / In case, if the order covers various umbers 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 lakh fee of Rs. 100/- for each.

यथासंशोधित न्यायालय शुल्क अधिनियम, 1975, के अनुसूची-। के अनुसार मूल आदेश एवं स्थागन 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-I in terms of the Court Fee Act, 1975, as amended. (E)

सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपौलीय न्यायाधिकरण (कार्य विधि) नियमावती, 1982 में वर्णित एवं अन्य संबन्धित मामलों को सन्मिलित करने वासे नियमों की और मी 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. Œ

हिंदू ज़रीलीय प्राधिकारी को अपील दाखिल करने से संबंधित व्यापक, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलायीं विभागीय वेबसाइट फेक्स (c) ec.govin को देख सकते हैं ! / For tig claborate, detailed and latest provisions relating to filing of appeal to the higher appellate authority, the appellets may refer to the Departmental website www.cbec.gov.m.

:: ORDER-IN-APPEAL ::

The Deputy Commissioner, CGST, Gandhidham Urban Division, Gandhidham has filed following appeals on behalf of the Commissioner, Central GST & Central Excise, Gandhidham (hereinafter referred to as "Appellant Department") in pursuance of the direction and authorization issued under Section 84 of the Finance Act, 1994 (hereinafter referred to as 'Act') against Order-in-Original No. 49-53/ST-TPD/AC/2020-21 dated 19.3.2021 (hereinafter referred to as 'impugned order') passed by the Assistant Commissioner, CGST Gandhidham Urban Division, Gandhidham (hereinafter referred to as 'adjudicating authority') in the case of parties mentioned in Table below (hereinafter referred to as 'Respondents'):

Sl.	Appeal No.	Name of party	Show Cause	Service Tax
No.		(M/s)	Notice No. and	involved
	•		date	(Amount in Rs.)
1	2.	3.	4.	5.
1.	V2/33/EA2/	Gurtej Singh	SCN/504/TPD/	26,44,686/-
	GDM/2021	Harnek Singh	2020-21 dated	
. [Mitharu	3.12.2020	
2.	V2/34/EA2/	Gurjitkaur	SCN/505/TPD/	26,40,808/-
	GDM/2021	Tolaram Randhawa	2020-21 dated	·
		<u>'</u>	3.12.2020	
3.	V2/35/EA2/	Bikramsingh	SCN/508/TPD/	22,34,139/-
	GDM/2021	Pritamsingh	2020-21 dated	
		Randhawa	3.12.2020	
4.	V2/36/EA2/	Pritabsingh	SCN/515/TPD/	16,61,768/-
	GDM/2021	Baggasingh	2020-21 dated	
		Randhawa (HUF)	3.12.2020	

- 1.1 Since issue involved in above appeals is common, all appeals are taken up together vide this common order.
- 2. The facts of the case, in brief, are that the Respondents were engaged in providing services. On scrutiny of information received from the Income Tax Department, it was found that the Respondents had earned income for providing services during the F.Y. 2014-15. However, the Respondents were not found registered with Service Tax Department. To ascertain whether the services provided by the Respondents were liable to service tax or not, the Respondents were asked to furnish relevant information / documents. Since, no response was received from Respondents, service tax was determined on the participation received from the Income Tax Department.

- 2.1 The Show Cause Notices, as mentioned in Column No. 4 of Table above, were issued to the Respondents for demand and recovery of service tax mentioned in Column No. 5 of Table above under proviso to Section 73(1) of the Act, along with interest under Section 75. It was also proposed for imposition of penalty under Sections 77 and 78 of the Act.
- 2.2 The above Show Cause Notices were adjudicated by the adjudicating authority vide the impugned order who dropped the demand. The Adjudicating authority, after scrutiny of Form 26AS, Transportation bills and Transportation ledgers for the FY 2014-15, came to conclusion that the Respondents had rightly availed the benefit of Notification No. 25/2012-ST dated 20.6.2012 and Notification No. 30/2012-ST dated 20.6.2012.
- 3. The impugned order was reviewed by the Appellant Department and appeal has been filed on the grounds that,
 - (i) The impugned order passed by the adjudicating authority is not correct, legal and proper.
 - (ii) The adjudicating authority simply drawn conclusion that benefit of exemption notification No. 25/2012-ST dated 20.6.2012 and Notification No. 30/2012-ST dated 20.6.2012 were available to parties without giving any finding and without specifically mentioning who were GTA and who had provided only vehicle on hire to GTA and whether the service recipients were falling under specific person mentioned under Rule 2(d)(1)(B) of the Service Tax Rules, 1994 and under the persons mentioned at para 1A(ii) of Notification No. 30/2012-ST dated 20.6.2012 or otherwise.
 - (iii) The impugned order is not specific and non speaking order and therefore the same is not legal and proper and relied upon judgement of the Hon'ble Supreme Court passed in the case of M/s Tata Engineering & Locomotive Co. Ltd 2006 (203) ELT 360 (S.C.).
- 4. The Respondent filed Cross Objection vide letter dated 26.8.2021, inter alia, contending that,
 - (i) They had made detailed submission to the adjudicating authority to prove that they were not liable to service tax. They had provided service



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of supplying vehicles on hire to other GTA. Hence, they were not liable to pay service tax and submitted copy of reply submitted to the adjudicating authority.

- 5. Personal Hearing in the matter was conducted in virtual mode through video conferencing on 25.3.2022. Shri Jagdevsingh Gurtejsingh Mitharao, authorized person, appeared on behalf of all the Respondents. He stated that the firms had supplied trucks to GTA. He reiterated the submission made in cross objection to appeals.
- 6. I have carefully gone through the facts of the case, the impugned order, appeal memorandum, Cross Objection filed by the Respondents as well as oral submission made at the time of hearing. The issue to be decided in the present appeal is whether the adjudicating authority has correctly dropped the proceedings initiated against the Respondents or not.
- 7. On perusal of the records, I find that proceedings were initiated against the Respondents on the basis of information received from the Income Tax Department, which indicated that the Respondents had earned income for providing services during the F.Y. 2014-15 but were not registered with service tax Department. The adjudicating authority verified Form 26AS, Transportation bills and Transportation ledgers submitted by the Respondents and held that the Respondents had rightly availed the benefit exemption Notification No. 25/2012-ST dated 20.6.2012 and Notification No. 30/2012-ST dated 20.6.2012 and dropped the demand raised in the SCNs.
- 7.1 The Appellant Department has contended that the impugned order is not specific and non-speaking order inasmuch as the adjudicating authority simply drawn conclusion that benefit of Exemption Notification No. 25/2012-ST dated 20.6.2012 and Notification No. 30/2012-ST dated 20.6.2012 were available to parties without giving any finding and without specifically mentioning who were GTA and who had provided only vehicles on hire to GTA and whether the service recipients were falling under specific person mentioned under Rule 2(d)(1)(B) of the Service Tax Rules, 1994 and under the persons mentioned at para 1A(ii) of Notification No. 30/2012-ST dated 20.6.2012 or otherwise.
- 7.2 The Respondents pleaded that they had made detailed submission to the adjudicating authority to prove that they were not liable to service tax. It has



been further pleaded that they had provided service of supplying vehicles on hire to other GTA and hence, they were not liable to pay service tax.

- I find that the adjudicating authority has adjudicated 5 Show Cause 8. Notices issued to 5 different entities under common order. As narrated at Para 21 of the impugned order, the adjudicating authority had verified Form 26AS, Transportation bills and Transportation ledgers for the F.Y. 2014-15 submitted by the Respondents and came to conclusion that the Respondents had rightly availed the benefit of exemption Notification No. 25/2012-ST dated 20.6.2012 and Notification No. 30/2012-ST dated 20.6.2012 and consequently, the Respondents were not liable to pay service tax. The Appellant Department has not brought on record any evidences indicating that the Respondents were not eligible for the benefit of said notifications. Though the adjudicating authority has not specifically mentioned about Respondents who had provided only vehicles on hire to GTA and whether the service recipients were falling under specified person mentioned at para 1A(ii) of Notification No. 30/2012-ST dated 20.6.2012 or otherwise, however, this cannot be a ground to nullify entire proceedings considering the fact that the adjudicating authority had allowed the benefit of said exemption notifications only after verification of documents submitted by the Respondents, which is not disputed by the Appellant Department.
- 8.1 I also take note of the Instruction dated 26.10.2021 issued by the Board, wherein it has been directed to the field formation to issue Show Cause Notice only after proper verification of facts. The adjudicating authorities were also advised to pass a judicious order after proper appreciation of facts and submission of the notice. The relevant portion of the said Instruction is reproduced as under:

"Representations have been received from various trade bodies and associations regarding instances of indiscriminate issuance of demand notices by the field formations on the basis of ITR-TDS data received from Income Tax Department.

2. In this regard, the undersigned is directed to inform that CBIC vide instructions dated 01.04.2021 and 23.04.2021 issued vide F. No. 137/47/2020-ST, has directed the field formations that while analysing ITR-TDS data received from Income Tax, a reconciliation statement has to be sought from the





taxpayer for the difference and whether the service income earned by them for the corresponding period is attributable to any of the negative-list services specified in Section 66D of the Finance Act, 1994 or exempt from payment of Service Tax, due to any reason. IT was further reiterated that demand notices may not be issued indiscriminately based on the difference between the ITR-TDS taxable value and the taxable value in Service Tax Returns.

- 3. It is once again reiterated that instructions of the Board to issue show cause notices based on the difference in ITR-TDS data and service tax returns only after proper verification of facts, may be followed diligently. Pr. Chief Commissioner/Chief Commissioner (s) may devise a suitable mechanism to monitor and prevent issue of indiscriminate show cause notices. Needless to mention that in all such cases where the notices have already been issued, adjudicating authorities are expected to pass a judicious order after proper appreciation of facts and submission of the notice."
- 8.2 I find that the impugned order passed by the adjudicating authority is in consonance with the Instruction dated 26.10.2021 supra issued by the Board. After examining the contentions raised by the Appellant Department vis-à-vis facts emerging from records, I am of the considered opinion that impugned order does not require any interference.
- 9. In view of above, I uphold the impugned order and reject the appeals filed by the Appellant Department.
- 10. अपीलकर्ता द्वारा दर्ज की गई अपीलों का निपटारा उपरोक्त तरीके से किया जाता है।
- The appeals filed by the Appellant stand disposed off in above terms.

सत्यापित,

विपुल शाह अक्षीक्षक (अवस्ति)

By RPAD

To,
1. M/s Gurtej Singh Harnek Singh Mitharu
15, Bageshree Township-6,
Survey No. 476/1,
Varsamedi, Anjar - 370110,

सेवा में, मेसर्स गुरतेज सिंह हरनेक सिंह मिथारू 15, बागेश्री टाउनशिप-6, सर्वेक्षण संख्या 476/1, वर्सामेदी, अंजार - 370110,

Commissioner (Appeals)



		जिला कच्छ।
2.	M/s Gurjitkaur Tolaram Randhawa	मेसर्स गुरजीतकौर तोलाराम रंथावा
	Plot No. 313, Bhattnagar,	प्लॉट नंबर ३१३, भट्टनगर,
	NU 4, Gandhidham.	एनयू 4, गांधीधाम।
	District Kutch.	जिलों कच्छ।
3.	M/s Bikramsingh Pritamsingh Randhawa	मेसर्स बिक्रमसिंह प्रीतमसिंह रंधावा
	Plot No. 313, Bhattnagar,	प्लॉट नंबर ३१३, भट्टनगर,
	NU 4, Gandhidham.	एनयू ४, गांधीधाम।
	District Kutch.	जिला कच्छ।
4.	M/s Pritabsingh Baggasingh Randhawa	मेसर्स प्रीताबसिंह बग्गासिंह रंधावा
	(HUF)	प्लॉट नंबर ३१३, भट्टनगर,
	Plot No. 313, Bhattnagar,	एनयू 4, गांधीधाम।
	NU 4, Gandhidham.	जिलों कच्छ।
	District Kutch.	· · · · · · · · · · · · · · · · · · ·

प्रतिलिपि :-

- 1) मुख्य आयुक्त, वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क, गुजरात क्षेत्र, अहमदाबाद को जानकारी हेतु।
- 2) आयुक्त, वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क,गांधीधाम आयुक्तालय,गांधीधाम को आवश्यक कार्यवाही हेतु।
- 3) सहायक आयुक्त, वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क, गांधीधाम (शहरी) मंडल को आवश्यक कार्यवाही हेतु।

🎶 गार्ड फ़ाइल।

