

	<b>::आयुक्त (अपील्स) का कार्यालय, वस्तु एवं सेवा कर और केन्द्रीय उत्पाद शुल्क::</b> <b>O/O THE COMMISSIONER (APPEALS), GST &amp; CENTRAL EXCISE</b>	
	<b>द्वितीय तल, जी.एस.टी. भवन / 2<sup>nd</sup> Floor, GST Bhavan.</b> <b>रेस कोर्स रिंग रोड / Race Course Ring Road</b> <b>राजकोट / Rajkot - 360 001</b> Tele Fax No. 0281 - 2477952/2441142 Email: commrappl3-cexamd@nic.in	

DIN20221264SX0000003E04

अपील / फाइल संख्या / Appeal / File No. V2/52/BVR/2022	मूल आदेश सं / O.I.O. No. BHV-EXCUS-000-JC-LD-026- 2021-22	दिनांक / Date 21-03-2022
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अपील आदेश संख्या (Order-In-Appeal No.):

**BHV-EXCUS-000-APP-125-2022**

आदेश का दिनांक /

Date of Order:

26.12.2022

जारी करने की तारीख /

Date of issue: 28.12.2022

श्री शिव प्रताप सिंह, आयुक्त (अपील्स), राजकोट द्वारा पारित /

Passed by Shri Shiv Pratap Singh, Commissioner (Appeals), Rajkot.

ग अपर आयुक्त/ संयुक्त आयुक्त/ उपायुक्त/ सहायक आयुक्त, केन्द्रीय उत्पाद शुल्क/ सेवा कर/ वस्तु एवं सेवा कर, 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/ST / GST, Rajkot / Jamnagar / Gandhidham :

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

**M/s. Kamleshkumar Shankarlal Patel, A-301, Avadh Dream Land, Besides Dev Shrushti Apartments, Sola Science City, Ahmedabad-380060**

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 सेवा कर अपील 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 मामलों सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपील 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 सेवा कर अपील न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, द्वितीय तल, बहुमाली भवन असावा अहमदाबाद- 380016 को की जानी चाहिए /

To the West regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2<sup>nd</sup> Floor, Bhaumali Bhawan, Asarwa Ahmedabad-380016 in case of appeals other than as mentioned in para- 1(a) above

(iii) अपील 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, ब्याज की मांग और लगाया गया जुर्माना, रुपये 5 लाख या उससे कम, 5 लाख रुपये या 50 लाख रुपये तक अथवा 50 लाख रुपये 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 अपील न्यायाधिकरण की शाखा के सहायक रजिस्ट्रार के नाम से किसी भी सार्वजनिक क्षेत्र के बैंक द्वारा जारी रेखांकित बैंक ड्राफ्ट द्वारा किया जाना चाहिए। संबंधित ड्राफ्ट का भुगतान, बैंक को उस शाखा में होना चाहिए जहां संबंधित अपील न्यायाधिकरण की शाखा स्थित है। स्वगन आदेश (स्टे ऑर्डर) के लिए आवेदन-पत्र के साथ 500/- रुपये 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) अपील न्यायाधिकरण के समक्ष अपील वित्त अधिनियम, 1994 की धारा 86(1) के अंतर्गत सेवा कर नियमावली, 1994 के नियम 9(1) के तहत निर्धारित प्रपत्र S.T.-5 में चार प्रतियों में की जा सकती है एवं उसके साथ जिस आदेश के विरुद्ध अपील की गयी है, उसकी प्रति साथ में संलग्न करें (उनमें से एक प्रति प्रमाणित होनी चाहिए) और इनमें से कम से कम एक प्रति के साथ, जहां सेवा कर की मांग, ब्याज की मांग और लगाया गया जुर्माना, रुपये 5 लाख या उससे कम, 5 लाख रुपये या 50 लाख रुपये तक अथवा 50 लाख रुपये 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 अपील न्यायाधिकरण की शाखा के सहायक रजिस्ट्रार के नाम से किसी भी सार्वजनिक क्षेत्र के बैंक द्वारा जारी रेखांकित बैंक ड्राफ्ट द्वारा किया जाना चाहिए। संबंधित ड्राफ्ट का भुगतान, बैंक को उस शाखा में होना चाहिए जहां संबंधित अपील न्यायाधिकरण की शाखा स्थित है। स्वगन आदेश (स्टे ऑर्डर) के लिए आवेदन-पत्र के साथ 500/- रुपये 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 shall be accompanied by a fee of Rs. 1000/- where the amount of service tax & interest demanded & penalty levied is upto 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 88 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 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 अपील 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

- (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

- बशर्त यह कि इस धारा के प्रावधान वित्तीय (सं 2) अधिनियम 2014 के आरंभ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विचाराधीन स्थान 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 को पुनरीक्षणयाचिका निम्नलिखित मामलों में, केन्द्रीय उत्पाद शुल्क अधिनियम, 1994 की धारा 35EE के प्रथमपरंतुक 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, जहाँ 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 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.

- (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 झूटी केडीट 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 समायाविधि 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 संप्रेषण 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 साध्य 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 रूपये या उससे कम हो तो रूपये 200/- का भुगतान किया जाए और यदि संलग्न रकम एक लाख रूपये से ज्यादा हो 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.

- (D) यदि इस आदेश में कई मूल आदेशों का समावेश है तो प्रत्येक मूल आदेश के लिए शुल्क का भुगतान, उपरोक्त दूना से किया जाना चाहिये। इस तथ्य के हवाए हुए भी की लिखी पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाते हैं। / 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 Appellate 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 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 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, अपीलाधीन 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).



**:: अपील आदेश / ORDER-IN-APPEAL ::**

as "Appellant") has filed the present Appeal against Order-In-Original No. BHV-EXCUS-000-JC-LD-026-2021-22 dated 21.03.2022 (hereinafter referred to as 'impugned order') passed by the Joint Commissioner, Central GST, Bhavnagar (hereinafter referred to as 'adjudicating authority').

2. The facts of the case, in brief, are that the Income Tax Department provided data/ details of various persons, who declared in their Income Tax Returns for financial year 2014-15, 2015-16 & 2016-17 to have earned income by providing services classified under various service sectors. The Income Tax Department also provided data of Form 26AS showing details of total amount paid/ credited under Section 194C, 194H, 194I & 194J of the Income Tax Act, 1961 in respect of various persons which depicted that such persons had earned income from providing services. The said data also contained the details of the Appellant who had not obtained Service Tax Registration during the year 2014-15. However, the Appellant obtained Service Tax registration for Transport of Goods by road/goods transport agency service afterwards having No. AVWPP8855FSD001. No Service Tax returns were filed during the period April-2015 to March-2017 as per the details available. The jurisdictional Superintendent issued letters dated 26.08.2019 and 16.07.2020 followed by summons dated 16.07.2020 by post and also by email calling for the information/ documents for the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (upto June-2017). Since no reply/ response was given by them, the Service Tax was determined on the basis of data/ details provided by the Income Tax department.

3. The above investigation culminated into Show Cause Notice dated 26.08.2020 proposing to demand Service Tax of Rs. 1,59,25,739/- including all cess under Section 73(1) of the erstwhile Finance Act, 1994 (hereinafter referred to as 'the Act') by invoking extended period alongwith interest under Section 75 of the Act from the Appellant. It was also proposed to impose penalty under Section 77(2), 77 (1)(a), 77 (1)(c) and Section 78 of the Act.

4. The adjudicating authority vide the impugned order confirmed Service Tax demand of Rs. 2,58,198/- under Section 73(1) by invoking extended period of 5 years along with interest under Section 75 of the Act and dropped the demand of Rs. 1,56,67,541/-. The adjudicating authority imposed penalties of Rs. 10,000/- each under Section 77(2) and Section 77 (1)(c) of the Act. The penalty of Rs. 2,58,198/- was also imposed upon the Appellant under Section 78

of the Act.



*[Handwritten signature]*

5. Being aggrieved, the Appellant has preferred the present appeal on various grounds as stated below:

(i) The Adjudicating Authority not appreciated provisions of mega exemption Notification No. 25/2012-Service Tax dated 20.06.2012 as per which transportation of salt is exempted vide clause 21(d) from levy of Service Tax. They had provided transportation of salt except the service recipients categorically stated by them. The Adjudicating Authority failed to consider that the turnover amount of taxable services provided to individual proprietors was below the threshold exemption limit of Rs. 10 Lakh as per Notification No. 8/2008-Service Tax dated 01.03.2008 during the financial year 2014-15 and hence the entire demand of Service Tax is bad in law and liable to be dropped.

(ii) They moved to Ahmedabad and hence earlier notice or correspondence to his Bhavnagar address did not reach him and hence could not reply. He had no intention of not providing requisite details. Afterwards all the required documents like audit reports, income tax return acknowledgement and Form No. 26AS, copy of invoices were submitted during the adjudication process and hence penalty under Section 77(1)(c) of the Act is liable to be dropped. The Show Cause Notice issued invoking extended period is time barred and not in consonance with express provisions of law and thus not enforceable under the law.

6. Personal hearing in the matter was held on 30.11.2022. Shri Rajesh P. Langalia, CA appeared for personal hearing and reiterated the submissions in the Appeal. He submitted that the amount of Rs. 19,67,928/- on which lower authority has confirmed the demand includes an amount of Rs. 13,26,980/- in respect of transportation of salt, which is exempted from Service Tax under the Mega Exemption Notification. After its exclusion, the remaining amount of Rs. 6,40,948/- is below the limit of threshold exemption for levy of Service Tax. He handed over a paper-book containing written submissions and a set of invoices/bill showing transportation of vacuum salt. Therefore, he requested to set aside the Order-In-Original and drop the demand, interest and penalties.

6.1 The written submission produced at the time of personal hearing is akin to grounds of appeal and what is stated and reiterated by the CA at the time of personal hearing. They further submitted the copies of bills and copies of LRs for transportation of vacuum salt to various recipients.

7. I have carefully gone through the case records, impugned order, appeal memorandum and written submission filed during the course of personal hearing by the Appellant. I find that the only issue to be decided in the case on hand is whether the Appellant is liable for Service Tax on value of Rs. 19,67,928/-



*[Handwritten signature]*

during the year 2014-15 to 2016-17 or otherwise. The Appellant has produced copies of Bills supported by LRs for the period 2014-15 to 2016-17. On verification of the said documents, it is clear that they have transported the vaccum salt for the one and only consignor M/s. Nirma Ltd., whereas the consignee are different companies viz. M/s. S. R. Chemicals, M/s. Arihant Sales Corporation, M/s. Arihant Trade Chem Pvt. Ltd., M/s. Vinayak Enterprise & M/s. Shri Trading Company etc.. Therefore, it is seen that during the years 2014-15, 2015-16 & 2016-17 they had transported salt valued at Rs. 6,37,790/-, Rs. 6,46,550/- and Rs. 42,640/- respectively. Thus, out of total taxable value of Rs. 19,67,928/-, taxable value of Rs. 13,26,980/- is pertaining to transportation of salt which is exempt vide Notification No. 25/2012-Service Tax dated 20.06.2012 Sr. No. 21 of which is re-produced below for reference:

- "21. Services provided by a goods transport agency by way of transport in a goods carriage of,-**
- (a) agricultural produce;
  - (b) goods, where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; or
  - (c) goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed rupees seven hundred fifty;
  - (d) milk, salt and food grain including flours, pulses and rice;
  - (e) chemical fertilizer, organic manure and oilcakes;
  - (f) newspapers or magazines registered with the Registrar of Newspapers;
  - (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
  - (h) defence or military equipments;
  - (i) cotton, ginned or baled."

On plain reading of the provisions of above Notification, it is confirmed that the services provided by the Appellant were exempted from the Service Tax and accordingly, I hold so.

8. With regard to taxable value of Rs. 6,40,948/- during the year 2014-15, the same is transportation provided to individual recipients and taxable on forward charge basis, is covered by the threshold exemption Notification No. 8/2008-Service Tax dated 01.03.2008 amended vide Notification No.33/2012-Service Tax dated 20.06.2012. The relevant excerpts are re-produced below for reference:

**"In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Finance Act), and in supersession of the Government of India in the Ministry of Finance (Department of Revenue) notification No. 6/2005-Service Tax, dated the 1st March, 2005, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide G.S.R. number 140(E), dated the 1st March, 2005, except as respects things done or omitted to be done before such supersession, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts taxable services of aggregate value not exceeding ten lakh rupees in any financial year from the whole of the service tax leviable thereon under section 66B of the said Finance Act:**

**Provided that nothing contained in this notification shall apply to,-**

- (i) taxable services provided by a person under a brand name or trade name, whether



*Am*

registered or not, of another person; or

(ii) such value of taxable services in respect of which service tax shall be paid by such person and in such manner as specified under sub-section (2) of section 68 of the said Finance Act read with Service Tax Rules, 1994.

2. The exemption contained in this notification shall apply subject to the following conditions, namely:-

(i) .... ;

(ii) .... ;

(iii) .... ;

(iv) .... ;

(v).... ;

(vi).... ;

(vii).... ;

(viii).... ;

3. For the purposes of determining aggregate value not exceeding ten lakh rupees, to avail exemption under this notification, in relation to taxable service provided by a goods transport agency, the payment received towards the gross amount charged by such goods transport agency under section 67 of the said Finance Act for which the person liable for paying service tax is as specified under sub-section (2) of section 68 of the said Finance Act read with Service Tax Rules, 1994, shall not be taken into account.

Explanation.- For the purposes of this notification,-

(A).... ;

(B) "aggregate value" means the sum total of value of taxable services charged in the first consecutive invoices issued during a financial year but does not include value charged in invoices issued towards such services which are exempt from whole of service tax leviable thereon under section 66B of the said Finance Act under any other notification."

9. On plain reading of the Notification, it transpires that for determining aggregate value not exceeding ten lakh rupees, the value of reverse charge mechanism for goods transport agency and value of exempted services should not be included. On verification of Transportation Freight (others) ledger for the year 2013-14, it is on record that the total freight income during the F.Y. 2013-14 was Rs. 5,56,099/- which is below Rs. 10 lakh and thus they are eligible for threshold limit during the current year. Therefore, I find force in the argument advanced by the Appellant that the taxable supply of Rs. 6,40,948/- for the F.Y. 2014-15 on forward charge basis is covered by threshold exemption limit and hence not liable to Service Tax.

10. In view of discussions and finding, I set aside the impugned order and allow the appeal filed by the Appellant.

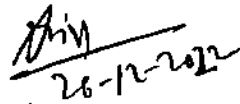
11. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है ।

11. The appeal filed by Appellant is disposed off as above.

सत्यापित / Attested



Superintendent  
Central GST (Appeals)  
Rajkot

  
26-12-2022  
(शिव प्रताप सिंह)/(Shiv Pratap Singh),  
आयुक्त (अपील)/Commissioner (Appeals)





