

::आयुक्त (अपील्स) का कार्यालय,वस्तु एवं सेवा करऔरकेन्द्रीय 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



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DIN20230264SX0000920812

अपील / फाइलसंख्या/ Appeal /File No. GAPPL/COM/STP/40/2023 मूल आदेश सं / O.I.O. No. 36/AC/NIS/SNR/2022-23 दिनांक/Date 11-02-2022

अपील आंदेश संख्या(Order-In-Appeal No.):

BHV-EXCUS-000-APP-066-2023

आदेश का दिनांक / Date of Order: 22.02.2023

जारी करने की तारीख / Date of issue:**22.02.2023**

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/ सेवाकर/वस्तु एवंसेवाकर,राजकोट / जामनगर / गांधीधाम। दवारा उपरत्निखित जारी मूल आदेश से मुजित: /

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

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

M/s. M/s. Shivam Security Services, Manish Market, Dallmill Road, Surendranagar-363001

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 निम्निलिखित 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 अपीलें सीमा शुल्क,केंद्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट)की पश्चिम क्षेत्रीय पीठिका,,द्वितीय तल, बहुमाली भवन असार्वा अहमदाबाद- ३८००१६को की जानी चाहिए ।/

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

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 dutydemand/interest/penalty/refund is upto 5 by a fee of Rs. 1,000/- St. Lac respectively in the form of crossed bank draft in favour of Asst. Registrar 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/-

अपीलीय न्यायाधिकरण के समक्ष अपील, वित अधिनियम, 1994 की धारा 86(1) के अंतर्गत सेवाकर नियमवाली, 1994, के नियम 9(1) के अपीलीय न्यायाधिकरण के समक्ष अपील, वित अधिनियम, 1994 की धारा 86(1) के अंतर्गत सेवाकर नियमवाली, 1994, के नियम 9(1) के तहत निर्धारित प्रपत्र S.T.-5 में चार प्रतियों में की जा सकेगी एवं उसके साथ जिस आदेश के विरुद्ध अपील की गाँग, इयाज की माँग और लगाया गया करें (उनमें से एक प्रति प्रमाणित होनी चाहिए) और इनमें से कम से कम एक प्रति के साथ, जहां सेवाकर की माँग, इयाज की माँग और लगाया गया करें (उनमें से एक प्रति प्रमाणित होनी चाहिए) और इनमें से कम एक प्रति के साथ, जहां सेवाकर की माँग, इयाज की माँग और लगाया गया करें (उनमें से एक प्रति प्रमाणित होने चाहिए) अर्थ इपए तक अथवा 50 लाख रुपए से अधिक है तो कमश: 1,000/- रुपये, 5,000/- जुमीला, रुपए 5 लाख या उससे कम, 5 लाख रुपए या 50 लाख रुपए तक अथवा 50 लाख रुपए से अधिक है तो कमश: 1,000/- रुपये का निर्धारित जमा शुल्क की प्रति संलग्न करें। निर्धारित शुल्क का भुगतान, बेंक की उस शाखा में होना चाहिए जहां संबंधित अपीलीय न्यायाधिकरण की शाखा स्थित है। स्थगन आदेश (स्टे ऑर्डर) के लिए आदेदन-पत्र के साथ 500/- रुपए का निर्धारित शुल्क जमा करना होगा।/

प्राप्त के साथ 500/- रुपए का निधारत शुल्क जमा करनी होंगा।

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 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 Rs. 5 Eakhs or less, Rs.5000/- where the amount of service tax & interest the amount of service tax & interest the amount of service tax & interest than live 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/-.

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(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 श्ल्क द्वारा पारित आदेश की प्रतियाँ सलग्न करें (उनमें से एक प्रति प्रमाणित होनी चाहिए) और आयुक्त द्वारा सहायक आयुक्त अथवा उपायुक्त, केन्द्रीय उत्पाद शुल्क/ सेवाकर, को अपीलीय न्यायाधिकरण को आवेदन दुर्ज 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 Commissionerauthorizing the Assistant Commissioner or Deputy Commissioner of Central Excise / Service Tax to file the appeal before the Appellate Tribunal. 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 अंतर्गेत, 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 भ्गतान 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" मे निम्न शामिल है

(i) धारा 11 डी के अंतर्गत रकम

(ii)

सेनवेट जमा की ली गई गलत राशि (11)

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

- बशर्ते यह कि इस धारा के प्रावधान वितीय (सं. 2) अधिनियम 2014 के आरंभ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विचाराधीन स्थगन अर्ज़ी एवं अपील को लाग नहीं होगे।/

विचाराधीन स्थान अर्जी एवं अपील को लागू 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 be 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.

भारत सरकार कोपनरीक्षण आवेदन : (C) मारत सरकार कार्युवर्गका जाववन . Revision application to Government of India: इस आदेश की पुनरीक्षणयाचिका निम्नलिखित मामलों में, केंद्रीय उत्पाद शुल्क अधिनियम,1994 की धारा 35EE के प्रथमपरतक के अंतर्गतअवर 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 subsection (1) of Section-35B ibid:

यदि माल के किसी नुकसान के मामले में, जहां नुकसान किसी माल को किसी कारखाने से अंडार गृह के पारगमन के दौरान या किसी अन्य कारखाने या फिर किसी एक अंडार गृह से दूसरे अंडार गृह पारगमन के दौरान, या किसी अंडार गृह में या अंडारण में माल के प्रसंस्करण के दौरान, किसी कारखाने या किसी अंडार 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 (i)

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

सुनिश्चित उत्पाद के उत्पादन शुल्क के भुगतान के लिए जो इयूटी क्रेडीट इस अधिनियम एवं इसके विभिन्न प्रावधानों के तहत मान्य की गई है और ऐसे आदेश जो आयुक्त (अपील) के द्वारा वित्त अधिनियम (न. 2),1998 की धारा 109 के द्वारा नियत की गई तारीख अथवा समायाविधि पर या बाद में पारित किए गए है।/ 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.

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 सलग्न की जानी चाहिए। साथ ही केन्द्रीय उत्पाद शुल्क अधिनियम, 1944 की धारा 35-EE के तहत निर्धारित शुल्क की अदायगी के साध्य के (v) तौर पर TR-6 की प्रति संलग्न की जानी चाहिए। / तोर पर TR-6 का प्रांत सलग्न का जाना 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.

पुनरीक्षण आवेदन के साथ निम्नलिखित निर्धारित शुल्क की अदायगी की जानी चाहिए। जहाँ सलग्न रकम एक लाख रूपये या उससे कम हो तो रूपये 200/- का भुगतान किया जाए और यदि सलग्न रकम एक लाख रूपये से ज्यादा हो तो रूपये 1000 -/ का भुगतान किया जाए। (vi) 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 है तो प्रत्येक मूल आदेश के लिए शुल्क का भुगतान, उपर्युक्त ढंग से किया जाना चाहिये। इस तथ्य के होते हुए भी की लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय नयाधिकरण को एक अपील या केंद्रीय सरकार को एक आवेदन (D) किया 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-I 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-I in terms of the Court Fee Act,1975, as amended. (E)

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

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.

(F) शकी 157 (G)

:: अपील आदेश / ORDER-IN-APPEAL ::

M/s. Shivam Security Service, Surendranagar (hereinafter referred to as "Appellant") has filed the present Appeal against Order-in-Original No. 36/AC/NIS/SNR/22-23 dated 02.11.2022 (hereinafter referred to as 'impugned order') passed by the Assistant Commissioner, Central GST Division-Surendranagar, Bhavnagar (hereinafter referred to as 'adjudicating authority').

- 2. The facts of the case, in brief, are that the Appellant were engaged in activities of providing taxable services and were having Service Tax Registration No. ABOFS5081NSD001, ABOFS5081NSD002 & ABOFS5081NSD003. The Income Tax Department shared the third party information/ data based on Income Tax Returns/ 26AS for the Financial year 2016-17 of the Appellant. Letter dated 05.10.2021 was issued by the Jurisdictional Assistant Commissioner requesting the Appellant to provide information/documents viz. copies of I.T. Returns, Form 26AS, Balance Sheet (including P&L Account), VAT/ Sales Tax Returns, Annual Bank Statement, Contracts/ Agreements entered with the persons to whom services provided etc. for the Financial year 2016-17. However, no reply was received from the Appellant.
- 3. In absence of data/information, a Show Cause Notice dated 22.10.2021 was issued to the Appellant, demanding Service Tax and cess to the tune of Rs. 17,30,418/- under Section 73(1) of the Finance Act, 1994 (hereinafter referred to as 'the Act') alongwith interest under Section 75 of the Act. It was also proposed to impose penalties under Section 78 and 77(2) of the Act upon the Appellant.
- 4. The above Show Cause Notice was adjudicated by the adjudicating authority vide the impugned order confirmed Service Tax demand of Rs. 17,30,418/- under Section 73(1) along with interest under Section 75 of the Act, imposed penalty of Rs. 17,30,418/- under Section 78 of the Act, imposed penalty of Rs. 5,000/- under Section 77(2) of the Act.
- 5. Being aggrieved, the Appellant has preferred the present appeal on various grounds that they were holding Service Tax registration No. ABOFS5081NSD003 since 19.03.2013. They were providing security service and in some cases cleaning services to various educational institutes. The Show Cause Notice was issued on 22.10.2021 and they filed reply dated 11.11.2021 personally on 01.12.2021 at the office of the Adjudicating Authority which was duly acknowledged with date 01.12.2021 and office stamp and inward No. 663. After almost one year, the Adjudicating Authority hurriedly fixed the personal hearing on 17/19/21.10.2022 and issued the ex-parte impugned order on 02.11.2022 which is gross violation of the natural justice. As per Notification No.

06/2014-Service Tax dated 11.07.2014 by amending Notification No. 25/2012-Service Tax dated 20.06.2012, services rendered by them is exempt. In the Notification dated 11.07.2014 the Government has inserted service provided to an educational institute clause. Due to inadvertent mistake, their accountant had not mentioned exemption Notification in S.T.-3 returns and therefore, demand of Service Tax and penalty is not sustainable. Since the service provided by them to educational institution is exempted and thus tax and penalty should be removed and the impugned order should be set aside.

- 6. The matter was posted for hearing on 15.02.2023. Advocate Shri Pratik Purohit appeared for personal hearing and reiterated the submissions made in the appeals. He submitted that the appellant is providing security services to C U Shah Medical College. The same is exempted under Sr. No. 9(b)(iii) of the Notification No. 25/2012-Service Tax, as amended vide Notification No. 06/2014-Service Tax dated 11.07.2014. They had replied to the Show Cause Notice vide letter dated 11.11.2021, which was received in the office of the Adjudicating Authority on 01.12.2021. However, Adjudicating Authority has passed ex-parte order confirming demand without taking into account their submissions. He requested to set aside Order-In-Original and to allow the appeal.
- 7. I have carefully gone through the case records, impugned order and appeal memorandum filed by the Appellant. I find that the issue to be decided in the case on hand is whether the activity carried out by the appellant is liable to Service Tax or otherwise.
- 8. I find that Show Cause Notice had been issued without verifying any data or nature of services provided by the Appellant as the same had been issued only on the basis of data received from the Income Tax department and the Adjudicating Authority has confirmed the demand of Service Tax vide impugned order.
- 9. It is on record that the Appellant that they are engaged in providing services of security agency and cleaning/ housekeeping services. They are holding Service Tax registration number. On verification of sample copies of bills it is found that they have provided security guard to C. U. shah Medical College and Hospital, Surendranagar and C. U. Shah Institute of Nursing, Wadhwan. They have also provided cleaning/ housekeeping services to the said institute. On verification of Form 26AS, it transpires that the Appellant earned income from C. U. shah Medical College and C. U. Shah Institute of Nursing. The income booked in the Form 26AS is under Section 194C of the Income Tax Act which deals with payments to contractor. Thus, it is evident that they have provided services to educational institute which are covered under Notification No. 25/2012-Service Tax dated 20.06.2012, as amended vide Notification No. 6/2014



dated 11.07.2014. The relevant excerpts are as under:

- "9. Services provided
- (a) by an educational institution to its students, faculty and staff;
- (b) to an educational institution, by way of,-
 - (i)transportation of students, faculty and staff;
 - (ii)catering, including any mid-day meals scheme sponsored by the Government;
 - (iii)security or cleaning or house-keeping services performed in such educational institution;
 - (iv) services relating to admission to, or conduct of examination by, such institution;"

It is pertinent to note here that the services provided to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent were made taxable vide Notification No.10/2017-Service Tax dated 08.03.2017 with effect from 01.04.2017. Here in the case on hand the services provided by the Appellant to an education institution are other than institution providing services by way of pre-school education and education up to higher secondary school. However, since the said clause was made application w.e.f. 01.07.2017, the services provided by the Appellant were exempted for the year 2016-17. Thus, I of considered view that the Appellant is not liable to pay Service Tax for the services provided to educational institution during the year 2016-17 in terms of provisions of 9(b)(iii) of the Notification No. 25/2012-Service Tax dated 20.06.2012 as amended.

- In view of discussions and finding, I set aside the impugned order and allow the appeal filed by the Appellant.
- 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. 11.

सत्यापित / Attested

(शिव प्रताप सिंह)/(Shiv Pratap Singh),

आर. अस. बोरीचा / R. S. BORICH आयुक्त (अपील)/Commissioner (Appeals)

খ্রাধিক / Superintendent हर त्यील्स, राजकोट

By R.P.A.D. a. T.

Appeals, Rajkot

To. M/s. Shivam Security Service, Manish Market, Dal Mill Road, Surendranagar.

सेवा में. मे. शिवम सिक्य्रिटी सर्विस, मनीष मार्केट, दाल मिल रोड, स्रेन्द्रनगर ।

प्रतिलिपि:-

मुख्य आयुक्त, वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क, गुजरात क्षेत्र, अहमदाबाद को जानकारी हेत्।

2) आयुक्त, वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क, भावनगर आयुक्तालय,



8200/04/272/20/52 to ALO Remars A (Jasourba) Lagga (Jasourba) Lagga

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आवश्यक कार्यवाही हेतु।

- 4) सहायक आयुक्त, वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क मण्डल-सुरेन्द्रनगर को कार्यवाही हेतु।
- 3) अपर आयुक्त, वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क, भावनगर को आवश्यंक भावनगर को आवश्यक कार्यवाही हेतु।