

ः : आयुक्त (अपील्स) का कार्यालय , वस्तु एवं सेवा करऔर केन्द्रीय उत्पाद शुल्कः: 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,



Tele Fax No. 0281 - 2477952/2441142Email: commrappl3-cexamd@nic.in



रजिस्टर्डडाकए.डी. द्वारा :-

DIN-20230264SX00000D1AE

क अपील / फाइलसंख्या/ Appeal /File No.

GAPPL/COM/STP/2681/2022

मूलकादेशसं / OIO No.

58/AC/NS/2021-22

दिनांक/

30-03-2022

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

RAJ-EXCUS-000-APP-052-2023

आदेश का दिनांक /

23.02.2023

जारी करने की तारीख / Date of issue:

27.02.2023

Date of Order:

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। 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 :

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

M/s. Hansaben A. Sagpariya, Sur. No. 20, Sambhalpur Ind. Area, Nr. 25mt. Ouarters, Gondal road, Kothariya, Rajkot.

इस आदेश(अपील) से व्यथित कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी / प्राधिकरण के समक्ष अपील दायर कर सकता है।/ Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.

(A) सीमा शुल्क , केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील,केन्द्रीय उत्पाद शुल्क अधिनियम , 1944 की धारा 35B के अंतर्गत एवं वित्त अधिनियम , 1994 की धारा 86 के अंतर्गत निम्नलिखि+त 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॰ पुरेम, 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 असावी 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

(iii) अपीलीय न्यायाधिकरण के समक्ष अपील प्रस्तुत करने के लिए केन्द्रीय उत्पाद शुल्क (अपील) नियमावली, 2001, के नियम 6 के अंतर्गत निर्धारित किए गये प्रपत्र EA-3 को वार भे दर्ज किया जाना चाहिए। इनमें पर्ज एक प्रति के साथ, जहां उत्पाद शुल्क की मांग, ज्या और लगाया गया जुर्माना, रुपए 5 लाख या उससे कम, 5 लाख रुपए या 50 लाख रुपए तक अथवा 50 लाख रुपए से अधिक हैं तो क्रमश: 1,000/- रुपये, 5,000/- रुपये अथवा 10,000/- रुपये का निर्धारित जमा शुल्क की प्रति संलग्न करें। निर्धारित शुल्क का मगतान, संबंधित अपीलीय न्यायाधिकरण की शाखा के सहायक रिजस्टार के नाम से किसी भी सार्वजिनक क्षेत्र के बैंक द्वारा जारी रेखांकित बैंक ड्राफ्ट द्वारा किया जाना चाहिए। संबंधित ड्राफ्ट का मुगतान, बैंक की उसे शाखा में होना चाहिए जहां संबंधित अपीलीय न्यायाधिकरण की शाखा स्थित है। स्थगन आदेश (स्टे ऑर्डर) के लिए आवेदन-पत्र के साथ 500/- रुपए का निर्धारित शुल्क जमा करना होगा।/

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 / as prescribed under Rule 6 of Central Excise (Appeal) Rules, 2001 and shall be accompanied against one which at least should be accompanied by a fee of Rs. 1,000/- Rs.5000/-, Rs.10,000/- where amount of duty demand/interest/penalty/refund is upto 5 Lac., 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asst. Registrar of branch of any nominated public sector bank of the place where the bench of any nominated public sector bank of the place where the bench of the Tribunal is situated. Application made for grant of stay shall be accompanied by a fee of Rs. 500/-.

अपीलीय न्यायाधिकरण के समक्ष अपील, वित्त अधिनियम, 1994की धारा 86(1) के अंतर्गत सेवाकर नियमवाली, 1994, के नियम 9(1) के तहत निर्धारित प्रपत्र S.T.-5में चार प्रतियों में की जा सकेगी एवं उसके साथ जिस आदेश के विरुद्ध अपील की गयी हो, उसकी प्रति साथ में संलग्न करें (उनमें से एक प्रति प्रमाणित होनी चाहिए) और इनमें से कम से कम एक प्रति के साथ, जहां सेवाकर की मौग , ज्याज की मौग 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 शुल्क की प्रति संलग्न करें। निर्धारित शुल्क का भुगतान, संबंधित अपीलीय न्यायाधिकरण की शाखा के सहायक रजिस्टार के नाम से किसी भी सार्विजनक क्षेत्र के बैंक द्वारा जारी रेखांकित बैंक ब्राप्ट द्वारा किया जाना चाहिए। संबंधित अपीलीय न्यायाधिकरण की शाखा स्थित, है। स्थगन आदेश (स्टे ऑर्डर) के लिए आवेदन-पत्र के साथ 500/- रुपए का निर्धारित शुल्क जमा करना होगा।/

The appeal under sub section (1) of Section 86 of the Finance Act, 1994, to the Appellate Tribunal Shall be filed in quadruplicate in Form S.T.5 as prescribed under Rule 9(1) of the Service Tax Rules, 1994, and Shall be accompanied by a copy of the order appealed against (one of which shall be certified copy) and should be accompanied by a fees of Rs. 1000/- where the amount of service tax & interest demanded & penalty levied is more than five lakhs 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/-.

(B)



- वित्त अधिनियम,1994की द्वारा 86 की उप-द्वाराओं (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 शुक्क अथवा आयुक्त (अपील), केन्द्रीय उत्पाद शुक्क द्वारा पारित आदेश की प्रतियों संलग्न करें (उनमें से एक प्रति प्रमाणित होनी चाहिए) और आयुक्त द्वारा सहायक आयुक्त अथवा उपायुक्त, केन्द्रीय उत्पाद शुक्क / 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. (i)
- (ii)

- भारत सरकार कोपनरिक्षण वावेदन :
 Revision application to Government of India:
 इस आदेश की पुनरीक्षण वावेदन :
 स्वारंग सरकार, पुनरीक्षण वावेदन 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 sub-section (1)
 of Section-35B ibid: (C)
- यदि माल के किसी नुक्सान के मामले में, जहां नुक्सान किसी माल को किसी कारखाने से भंडार गृह के पारगमन के दौरान या किसी अन्य कारखाने या फिर किसी एक भंडार गृह से दूसरे मंडार गृह पारगमन के दौरान, या किसी मंडार गृह में या भंडारण में माल के नुक्सान के वौरान, किसी कारखाने या किसी भंडार गृह में या भंडारण में माल के नुक्सान के माल के में। ति किसी कारखाने या किसी पार कहे 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 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. (ii)
- यदि उत्पाद शुल्क का भुगतान किए बिना भारत के बाहर, नेपाल या भुटान 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 इस्ट्री केडीट 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. (iv)
- 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 अघिनियम, 1944 की धारा 35-EE के तहत निर्धारित शुल्क की अदायगी के साक्ष्य के तौर पर TR-6 की प्रति संलग्न की जानी (v) आद्म क सप्रथम क 3 भाइ क जाना का जाना ना जाना ना जाना ना जाना है। के तहत निर्धारित शुल्क की अदायगी के साक्ष्य क तार पर TR-6 का प्रात सलग्न का जाना ही के तहीय उत्पाद शुल्क अधिनियम, 1944 की धारों 35-EE के तहत निर्धारित शुल्क की अदायगी के साक्ष्य क तार पर TR-6 का प्रात सलग्न का जाना निर्दाश विलिए। /
 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.
- पुन्रीक्षण 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. (vi)
- 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 किया जाता है। / In cas, it 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 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. (D)
- 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 अपीतीय न्यायाधिकरण (कार्य विधि) नियमावली, 1982 में वर्णित एवं अन्य संबन्धित मामलों को सम्मित्त 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. (F)
- उच्च अपीलीय प्राप्तिकारी 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 (G)



अपील आदेश /ORDER-IN-APPEAL

M/s Hansaben A Sagpariya, Survey No.20, Sambhalpur Industrial Area, Gondal Road, Kothariya, Rajkot (hereinafter referred to as appellant) has filed appeal No. GAPL/COM/STP/2681/2022 against Order-in-Original No.58/AC/NS/2021-22 dated 30.03.2022 (hereinafter referred to as 'impugned order') passed by the Assistant Commissioner, Central GST, Division-II, Rajkot (hereinafter referred to as 'adjudicating authority').

- 2. Facts of the case, in brief, are that as per data received from the Income Tax department, the appellant appeared to have received various amounts as consideration for providing taxable service during the period 2015-16. It appeared that the appellant had not obtained Service tax registration and did not pay service tax. Therefore, a show cause notice dated 23.04.2021 was issued to the appellant demanding service tax of Rs.8,74,118/- and proposing penalties under Sections 77 and 78 of the Finance Act, 1994. The adjudicating authority, by the impugned order, confirmed the demand of Rs.8,74,118/- along with interest under Section 75 of the Finance Act 1994 and imposed penalty of Rs.8,74,118/- under Section 78 of the Finance Act 1994. He also imposed penalties of Rs.10,000/- under Section 77(1)(a), Rs.10,000/- under Section 77(1)(c) and Rs.10,000/- under Section 77(2) of the Finance Act, 1994
- 3.1 Being aggrieved, the appellant filed the present appeals wherein they, *inter alia*, contended that the show cause notice and consequential order has been issued without investigation and only based on the data provided by Income tax department as per TDS and IT return is not sustainable in law.
- 3.2 The appellant submitted that Income Tax authorities have shared the data for verification whether the income shown in their returns are taxable under Service Tax or otherwise. For that the department ought to have conducted inquiry in this regard. The CBIC in the letter dated 26.10.2021 has instructed that show cause notice should be issued only after proper verification of facts. They contended that High Court of Bombay in the case of *Amrish Rameshchandra Shah-2021-TIOL-583-HC-MUM-ST* had quashed identical show cause notice in which service tax was demanded without any verification and based only on the data provided by the Income Tax authorities. The appellant also submitted that Hon'ble Commissioner (Appeals), CGST & Central Excise, Rajkot in his Order-in-Appeal No.BHV-EXCUS-000-APP-022-2021-22 dated 31.03.2022 had also endorsed the same view.
- 3.3 The appellant also submitted that there was no mention of the nature of specific provided, no service wise and year-wise bifurcation of the income and

no whisper of any verification or investigation carried out by the department. The adjudicating authority has filed to recognize the name of the service and has not mentioned as to which service was provided by the appellant and how it was taxable. He had just mentioned that service tax is required to be paid as per Section 66B of the Finance Act, 1994.

- 3.4' The appellant submitted that the adjudicating authority had ignored the instruction issued by the Board and without verifying the facts and acting against the spirit and direction of the instruction issued by the Board had issued the impugned order. He had mentioned such facts and taken such grounds which was never a part of the show cause notice. Appellant submitted that there is an established principle that the facts ad allegations which have not been mentioned in the show cause notice should not be a part of the order. They relied upon the following case laws:
 - a) Huhtamaki PPL Ltd-2021 (50) GSTL.309 (Tri-Ahmd)
 - b) Ramadas-2021 (44) GSTL.258 (Mad)
 - c) Mackintosh Burn Ltd-2020 (35) GSTL.409 (Tri-Kol)
 - d) Swpne Nagari Holiday Resort-2019 (21) GSTL.559 (Tri-Mum)
- 3.5 The appellant submitted that they are engaged in activity of job work in which goods are produced using raw materials or semi-finished goods supplied by the clients and goods so produced are returned back to the said client for use in or in relation to manufacture of any other goods which is exempted from payment of service tax as per Sr.No.30 of notification No.25/2012-ST.
- 3.6 The appellant further contended that the value arrived for demand of service tax by resorting to Section 72 of the Finance Act, 1994 is in gross violation of the mandate and procedures mentioned in Section 72 itself. They relied upon the following case laws:
 - a) Creative Travel Pvt Ltd-2016 (45) STR.33 (Del)
 - b) Carlsberg India Pvt Ltd-2016 (42) STR.55 (Tri-Del)
 - c) Coca Cola (I) Pvt Ltd-2015 (40) STR.547 (Tri-Del)
 - d) NBC Corporation Ltd-2014 (33) STR.113 (Del)
- 3.7 The appellant submitted that the show cause notice and consequential order was issued on the basis of information and details filed by the appellant with Income Tax department and there was no suppression at all and as such the show cause notice was time barred. They relied upon the following case laws:
 - a) Oriental Insurance Co Ltd-2021-TIOL-307-CESTAT-DEL
 - b) Backstone Polymers-2014 (301) ELT.657 (Tri-Del)
 - c) Kirloskar Oil Engines Ltd-2004 (178) ELT.998 (Tri-Mumbai)
 - d) Hindalco Industries Ltd-2003 (161) ELT.346 (Tri-Del)
- 3.8 The appellant also relied upon Circular No.1053/02/2017-CX dated 10.03.2017 laying down guidelines for issuance of show cause notice.
- 3.9 The appellant further contended that in the case of interpretation of law,



no penalty is imposable considering several judgments of the Tribunal and High Courts. They contended that the matter of penalty is governed by the principles as laid down by the Hon'ble Supreme Court in the case of *Hindustan Steel Ltd-1978 ELT (J159)* wherein it is held that penalty should not be imposed merely because it was lawful to do so.

- 4. Shri R. C. Prasad, consultant appeared for personal hearing held on 16.02.2023 and submitted that the appellant is engaged in job work of various Central Excise registered assessees, who are paying duty on clearance of finished goods. Profit and loss account and few samples of invoices, job work certificate, etc are attached with the appeal which match with the income shown in Form 26AS. He submitted that the appellant replied to the show cause notice, acknowledgment of which is enclosed. However, adjudicating authority had completely overlooked the same and passed the impugned order ex-parte resulting in travesty of justice. He undertook to submit additional note with job work ledger within a week and requested to set aside the Order-in-Original.
- 5. I have carefully gone through the facts of the case, the impugned order, the appeal memorandum and written as well as oral submissions made by the Appellants. The moot question to be decided in the present appeal is whether the appellant is liable to pay service tax on the work carried out by them.
- have provided job work, which is exempt from service tax vide Notification No.25/2012-ST, Sr. No30(c). The adjudicating authority, did not consider the submission made by the appellant in this regard, and passed the order ex-parte. He has confirmed the demand without ascertaining the nature of service provided and without ascertaining whether the income received was from any taxable service. The appellant, on the other hand, submitted sample copies of job work challans, copy of profit and loss account which showed income as 'job work income' and names of manufacturers with their Central Excise Registration number for whom they carried out job work. From the perusal of the said documents, it is evident that the appellant has provided job work and the same is exempted from service tax vide Notification No.25/2012-ST, Sr. No30(c). Sr. No.30 of Notification No.25/2012-ST, as it stood at the relevant time, reads as under:

any goods excluding alcoholic liquors for human consumption on which appropriate duty is able by the principal manufacturer; or

[&]quot;30. Carrying out an intermediate production process as job work in relation to -

⁽a) agriculture, printing or textile processing;

⁽b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986);

- (d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;"
- 7. From the plain reading of the above notification, it derives that the exemption is granted for tarying out an intermediate production process as job work in relation to any goods on which appropriate duty is payable by the principal manufacturer. As the goods were received by the appellant under job work challans, it can be safely concluded that the principal manufacturer has used the materials in manufacture of finished goods on which Central Excise duty is payable. Thus, the appellant is eligible for benefit of Sr. No30(c) of Notification No.25/2012-ST and, accordingly, I hold that the demand is not sustainable on merits.
- 8. In view of the above, I set aside the impugned order and allow the appeal.
- ९. अपीलकरता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है ।
- 9. The appeal filed by the Appellant is disposed off as above.

सत्यापितं / Attested

Superintendent
Central CGT (Appeals)

Rajkot

(शिव प्रताप सिंह/ SHIV PRATAP SINGH) आयुक्त (अपील)/Commissioner (Appeals)

By R.P.A.D.

सेवा में मेस्सेर्स हनसाबेन ए सागपारिया सर्वे नू 20, सम्बलपुर इंडस्ट्रियल एरिया गोंडल रोड, कोठरिया राजकोट

To M/s Hansaben A Sagpariya, Survey No.20, Sambhalpur Industrial Area, Gondal Road, Kothariya, Rajkot

प्रतिलिपि :-

- 1) मुख्य आयुक्त,वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क, गुजरात क्षेत्र,अहमदाबाद
- 2) प्रधान आयुक्त,वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क, राजकोट आयुक्तालय, राजकोट
- 3) सहायक आयुक्त, वस्तु एवं भेवा कर एवं केन्द्रीय उत्पाद शुल्क मण्डल-II, राजकोट
- 4) गार्ड फ़ाइल।

