



::आयुक्त (अपील्स) का कार्यालय, वस्तु एवं सेवा कर और केन्द्रीय उत्पाद शुल्क::  
O/O THE COMMISSIONER (APPEALS), GST & CENTRAL EXCISE,

द्वितीय तल, जी एस टी भवन / 2<sup>nd</sup> Floor, GST Bhavan.  
रेस कोर्स रिंग रोड, / Race Course Ring Road,

राजकोट / Rajkot - 360 001

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सत्यमेव जयते

रजिस्टर्ड डाक ए.डी. द्वारा :-

DIN- 20230764SX0000222039

क	अपील / फाइल संख्या/ Appeal / File No.	मूल आदेश सं / OIONo	दिनांक/ Date
	GAPPL/COM/STP/966/2023	346/D/AC/2021-22	19-12-2022

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

**RAJ-EXCUS-000-APP-165-2023**

आदेश का दिनांक / Date of Order:	<b>22.06.2023</b>	जारी करने की तारीख / Date of issue:	<b>11.07.2023</b>
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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 एवं सेवाकर, 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. Dineshbhai Ukabhai Makadiya, Vasu, Street No. 2, Vallabh Vidhya Nagar Society, Nr. Balaji Hall, 150 Feet Ring Road, 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 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 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 अपीलों सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, द्वितीय तल, बहुमाली भवन असारवा 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) 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 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, रुपए 5 लाख या उससे कम, 5 लाख रुपए या 50 लाख रुपए तक अथवा 50 लाख रुपए 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 अपीलीय न्यायाधिकरण की शाखा के सहायक रजिस्टार के नाम से किसी भी सार्वजनिक क्षेत्र के बैंक द्वारा जारी रेखांकित बैंक ड्राफ्ट द्वारा किया जाना चाहिए। संबंधित ड्राफ्ट का भुगतान, बैंक की उस 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/-.

(B) अपीलीय न्यायाधिकरण के समक्ष अपील, वित्त अधिनियम, 1994 की धारा 86(1) के अंतर्गत सेवाकर नियमवली, 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 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 मांग, ब्याज की मांग 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 क्रमशः 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 सार्वजनिक क्षेत्र के बैंक द्वारा जारी रेखांकित बैंक ड्राफ्ट द्वारा किया जाना चाहिए। संबंधित ड्राफ्ट का भुगतान, बैंक की उस 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 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 fees of Rs. 1000/- 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/-.









**:: अपील आदेश ::**

M/s Dineshbhai Ukabhai Makadiya, Proprietor- Ajanta Grinding, Amarnagar main Road, Behind Ramrupa Farshan, Rajkot Gujarat-360004 (*hereinafter referred to as appellant*) has filed appeal against Order-in-Original No. 346/D/AC/2021-22 dated 19.12.2022 (*hereinafter referred to as 'impugned order'*) passed by the Deputy Commissioner, Central GST, Division Rajkot-I (*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 2016-17. It appeared that the appellant had not obtained Service tax registration and did not pay service tax. Therefore, a show cause notice dated 13.10.2021 was issued to the appellant demanding service tax of Rs.1,55,611/- under Section 73(1) 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.1,55,611/- along with interest under Section 75 of the Finance Act 1994 and imposed penalty of Rs.1,55,611/- 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. Being aggrieved, the appellant filed appeal wherein they, *inter alia*, submitted that Rs. 10,37,402/- held taxable in the impugned order is income earned by providing Job Work service to Excisable Manufacturing Unit and this job work are exempted as per Mega Exemption Notification No. 25/2012-ST dated 20.06.2012.

4. Shri Keyur Radia, Chartered Accountant, appeared for the Personal Hearing and submitted that the appellant provided job work service of grinding of textile spindles and power tools for the principals. The same is in negative list under Notification No. 25/2012-ST. Further, the taxable value is below threshold limit. He requested to allow one week for submission of a few additional documents and to set aside the Order-In-Original.

5. In the written submission, appellant submitted that appellant is an individual engaged in the business of job work service in the name of M/s Ajanta Grinding, to customer registered with Central Excise department. Mostly appellant has provided job service to units registered with Central Excise. During the year under consideration, total service rendered by the appellant was of Rs. 10,37,402/- and this service was rendered to customer paying excise duty on final product.

6. 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.



*Keyur Radia*



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.

7. Appellant has submitted 26AS, ledger of the job work income and copies of Central Excise registration of service recipients, wherein it is seen that appellant has rendered job work to customer having Central Excise registration number. Exemption contended by the appellant vide Entry No. 30(!!)(C) of Mega Exemption Notification No. 25/2012 dated 20.06.2012, said entry ibid reads as under:

**30. Services by way of carrying out,-**  
 (i) any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption; or  
 (ii) any intermediate production process as job work not amounting to manufacture or production 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);  
 (c) any goods excluding alcoholic liquors for human consumption, on which appropriate duty is payable by the principal manufacturer; or

8. In view thereof, I am of the considered view that, the amount of income earned from job work service rendered to Central Excise registered customer is exempted vide Entry No. 30(!!)(C) of Mega Exemption Notification dated 20.06.2012 and Service Tax is not leviable. As such, I hold that demand of service tax is not sustainable.

9. Total job work income received by the appellant during the F.Y. 2016-17 is Rs. 10,37,402/- out of which Rs. 4,63,431/- is earned through rendering job work to Central Excise registered customers. Detail of service provided by the appellant is given hereunder:

Particulars	Value of job work service provided by appellant	Value of job work service provided to unit registered with Central Excise	Value of remaining service
F.Y. 2016-17	10,37,402/-	4,63,431/-	5,73,971/-

10. Amount of remaining income of Rs. 5,73,971/- for F.Y. (is below threshold limit of Rs. 10 Lakhs. As per provisions of Notification No. 33/2012-Service Tax dated 20.06.2012, aggregate value of taxable services below 10 lakhs rupees is exempted from the whole of the Service Tax during a financial year. Relevant portion of Notification No. 33/2012-ST dated 20.06.2012 is reproduced hereunder:

**NOTIFICATION NO 33/2012-ST, Dated: June 20, 2012**

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:

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."

11. Appellant has also submitted financial documents of F.Y. 2015-16 wherein the income excluding interest income is below threshold limit, Therefore, benefit of threshold limit as per Notification No. 33/2012-ST dated 20.06.2012 is available to the taxable amount for the successive Financial Year i.e. 2016-17 (relevant period). Thus, income of Rs. 5,73,971/- is exempted from levy of Service Tax. Therefore, demand of Service Tax on this income is not sustainable.

12. I, therefore, set aside the confirmation of Service Tax demand. Since, the demand is set aside, recovery of interest under Section 75 and imposition of penalty under Section 77 and 78 are also required to be set aside and I order accordingly.

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

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

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

सत्यापित / Attested

बी. एस. राणा / B. S. RANA  
अधीक्षक / Superintendent  
कें. व. एवं सेवा कर अपील, राजकोट  
CGST Appeals, Rajkot

(शिव प्रताप सिंह)

(Shiv Pratap Singh)

आयुक्त (अपील)

Commissioner (Appeals)

By R.P.A.D.

सेवा में  
मेस्सर्स दिनेशभाई उकाभाई माकड़िया ,  
प्रो: अजंता ग्राइन्डिंग, अमरनगर मेईन रोड, रामकृपा  
फारसाण के पीछे, राजकोट गुजरात -360004.

To  
M/s Dineshbhai Ukabhai Makadiya,  
Proprietor- Ajanta Grinding, Amarnagar  
main Road, Behind Ramkrupa Farshan,  
Rajkot Gujarat-360004.

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) अपर/संयुक्त आयुक्त, वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क, राजकोट को आवश्यक कार्यवाही हेतु।
- 4) उप आयुक्त, वस्तु एवं सेवा कर एवं केन्द्रीय उत्पाद शुल्क, मण्डल -I राजकोट ।

5) गाई फाइल।

