



::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 / 2nd 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- 20230764SX000021212F

क	अपील / फाइल संख्या/ Appeal / File No.	मूल आदेश सं / OIONo.	दिनांक/ Date
	GAPPL/COM/STP/962/2023	180/DC/RD/2022-23	15-12-2022

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

RAJ-EXCUS-000-APP-170-2023

आदेश का दिनांक / Date of Order:	22.06.2023	जारी करने की तारीख / Date of issue:	18.07.2023
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श्रीशिवप्रतापसिंह, 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. Rajeshbhai Parshotambhai Dudhatra, Ramdev Trading/At: Kolithad/
Tal: Gondal/ Dist Rajkot, Gondal-360311**

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, आर० के० 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- 360016 को की जानी चाहिए। /

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 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। स्थान 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 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 नियमावली, 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। स्थान 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 should be accompanied by a fee of Rs. 1000/- where the amount of service tax & interest demanded & penalty levied is Rs. 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/-.



अपील आदेश /ORDER-IN-APPEAL

Rajeshbhai Parshotambhai Dudhatra, At Kolithad, Tal: Gondal, Rajkot (hereinafter referred to as appellant) has filed appeal No. GAPL/ COM/ /962/ 2023 against Order-in-Original No. 180/DC/RD/2022-23 dated 01.07.2022 (hereinafter referred to as 'impugned order') passed by the Assistant Commissioner, Central GST, Division-I, Morbi (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 08.10.2021 was issued to the appellant demanding service tax of Rs.6,41,070/- 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.6,41,070/- along with interest under Section 75 of the Finance Act 1994 and imposed penalty of Rs. 6,41,070/- 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 appeals wherein they, *inter alia*, submitted that they were providing service related to transport of goods by road. Appellant further submits that they have received consideration from respective proprietorship firms, partnership firms and other companies for providing GTA Services. As per clause 21 (c) of Notification No. 25/2012-ST dated 20.06.2012, as amended, service tax is applicable when taxable service provided or agreed to be provided by a goods transport agency in respect of transportation of goods above Rs. 750/- in single consignment or Rs. 1500/- in round trip. The relevant portion of the Notification is reproduced hereunder.

"Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services from the whole of the service tax thereon under Section 66B of the said Act, namely:

1...

21. Services provided by a goods Transport Agency by way of transport in a goods carriage of

(a)...

(b)...

(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.."



[Handwritten signature]

3.2 The Appellant submits that they have provided the transportation services to the various customers at the site for shifting the materials. In support, they have submitted the copies of bills of work which confirms the nature of service wherein, the value of each trip is less than Rs.750/- . Since, the value of each trip is less than Rs. 750/-, hence the same is exempt from service tax.

4.1 Chartered Accountant Dipen Gagliani appeared for personal hearing held on 19.06.2023 and handed over the additional written submissions. He submitted that the appellant provided transport services where per trip rate was Rs. 750/- or less. The same is exempt from Service Tax. Copies of Bills/ Invoices, ledger, Income Tax Return, form No. 26 AS, Balance Sheet, Profit & Loss Account etc. are enclosed. Therefore, he requested to set aside the O.I.O.

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.

6. The main contentions raised by the appellant in this appeal is that they have not received show cause notice and that they had provided the services of transportation of goods where per trip rate was Rs. 750/- or less and the same is exempt from Service Tax in view of clause (c) of Sr. No. 21 of Notification No. 25/2012-ST dated 20.06.2012, as amended.

7. As per the profit and loss account, Income ledger, Invoices etc., I observe, the appellant had earned income from Transportation of goods. I further find from the Bills and Statement of transport income that they have provided the services of transportation of goods wherein, the value of each trip is less than Rs. 750/- . In view of the above, the Service Tax on the said activity is exempt vide Notification No.25/2012, entry No.21(c). As per the evidences produced before me, the appellant has provided Transportation of Goods by road to various customers wherein, the value per trip is less than Rs. 750/- As such, the demand of service tax from the appellant is not sustainable on merits.

8. In view of the above, I set aside the impugned order and allow the

appeal.

(Signature)



९. अपीलकरता द्वारा दर्ज की गई अपीलका निपटारा उपरोक्त तरीकेसे किया जाता है।

9. The appeal filed by the Appellant is disposed off as above.

सत्यापित / Attested

Signature

Signature
21-6-23

के. जी. सावलाणी / K. G. SAVLANI
अधीक्षक / Superintendent

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

By R.P.A.D.

के. व. एवं सेवा कर अपील, राजकोट
CGST Appeals, Rajkot

सेवा में, राजेशभाई परशोतमभाई दुधात्रा, कोलीथाड में, ताल: गोंडल, राजकोट	To, Rajeshbhai Parshotambhai Dudhatra, At Kolithad, Tal: Gondal, Rajkot
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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 सेवा कर एवं केन्द्रीय उत्पाद शुल्क मण्डल-II, राजकोट
- 4) गार्ड फ़ाइल।





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