



आयुक्त का कार्यालय

OFFICE OF THE COMMISSIONER

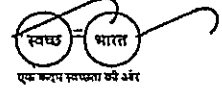
केंद्रीय वस्तु एवं सेवा कर तथा केंद्रीय उत्पाद शुल्क, अहमदाबाद उत्तर
CENTRAL GOODS & SERVICES TAX & CENTRAL EXCISE, AHMEDABAD NORTH

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निबन्धित पावती डाक द्वारा/By R.P.A.D

फा.सं./F.No. STC/15-103/OA/2020

आदेश की तारीख/Date of Order:- 12.01.2022

जारी करने की तारीख/Date of Issue :- 13.01.2022

DIN NO: 20220164WT0000555AA5

द्वारा पारित/Passed by:- आर गुलजार बेगम **IR. GULZAR BEGUM**

अपर आयुक्त / Additional Commissioner

मूल आदेश संख्या / Order-In-Original No. 45/ADC/GB/2021-22

जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसके/उनके निजी प्रयोग के लिए मुफ्त प्रदान की जाती है।

This copy is granted free of charge for private use of the person(s) to whom it is sent.

इस आदेश से असन्तुष्ट कोई भी व्यक्ति इस आदेश के विरुद्ध अपील, इसकी प्राप्ति से) 60 साठ (दिन के अन्दर आयुक्त) अपील, (केन्द्रीय वस्तु एवं सेवा कर एवं उत्पाद शुल्क, केन्द्रीय उत्पाद शुल्क भवन, अंबावाड़ी, अहमदाबाद-380015 को प्रारूप संख्या इ.ए. (1-A.E) 1-में दाखिल कर सकता है। इस अपील पर रू) 2.00 दो रुपये (का न्यायालय शुल्क टिकट लगा होना चाहिए।

Any person deeming himself aggrieved by this order may appeal against this order in form EA-1 to the Commissioner(Appeals), Central GST & Central Excise, Central Excise Building, Ambawadi, Ahmedabad-380015 within sixty days from the date of its communication. The appeal should bear a court fee stamp of Rs. 2.00 only.

इस आदेश के विरुद्ध आयुक्त के शुल्क गर्ये मांगे पहले से करने अपील में (अपील) 7.5% का भुगतान करना होगा, जहाँ शुल्क यानि की विवादग्रस्त शुल्क या विवादग्रस्त शुल्क एवं दंड या विवादग्रस्त दंड शामिल है।

An appeal against this order shall lie before the Commissioner (Appeal) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute. (as per amendment in Section 35F of Central Excise Act, 1944 dated 06.08.2014)

उक्त अपील, अपीलकर्ता द्वारा प्रारूप संख्या इ.ए 1-में दो प्रतियों में दाखिल की जानी चाहिए। उस पर केन्द्रीय उत्पाद शुल्क) अपील (नियमावली 2001 के नियम 3 के प्रावधानों के अनुसार हस्ताक्षर किए जाने चाहिए। उक्त अपील के साथ निम्नलिखित दस्तावेज संलग्न किए जाएं।

(1) - उक्त अपील की प्रति।

BRIEF FACTS OF THE CASE

M/s. Jigar Shaileshbhai Patel (HUF) (hereinafter referred to as "the said service provider") situated at "55, Bopal 444, Nr. Sun City Flats Sardar Patel Ring Road, Bopal, Ahmedabad, Gujarat, having PAN No. AAFHJ4077H being engaged in the business of providing services was found not registered with the Service Tax department.

2. An analysis of "Sales/Gross Receipts from Services (Value from ITR)", the "Total Amount Paid/Credited under 194C, 194H, 194I, 194J" and "Gross value of Services Provided" was undertaken by the Central Board of Direct Taxes (CBDT) for the F.Y. 2014-15 to 2016-17, and details of said analysis was shared by the CBDT with the Central Board of Indirect Taxes (CBIC). As per the information received from the Income Tax Department, the said service provider had earned substantial service income, however, they did not obtain service tax registration and did not pay service tax thereon.

3. Therefore, a letter dated letter/e-mail dated 31.07.2020 and followed by reminder dated 24.09.2020 was written to the said Service Provider with a request to submit the documentary evidence in respect to their income within a week time from the date of receipt of above referred letter. However, the said Service Provider failed to submit the required details / documents or offer any explanation / clarification regarding income earned by them. Since the said Service Provider had failed to submit the required details of services provided during the Financial Year 2014-15 to 2016-17, the service tax liability of the Service Provider was required to be ascertained on the basis of income mentioned in the ITR returns and Form 26-AS filed by the said Service Provider with the Income Tax Department. The figures/data provided by the Income Tax Department is considered as the total taxable value in order to ascertain the service tax liability under Section 67A of the Finance Act, 1994 as the said Service Provider failed to determine the correct taxable value.

4. The Service tax payable is calculated on the basis of value of "sales of services under Sales/Gross Receipts from Services (Value from ITR)" as provided by the Income Tax Department for the Financial Year 2014-15 to 2016-17. By considering the said amount as taxable income, and as the said Service Provider failed to submit the required details as per above referred letter, the service tax liability is calculated as under:-

Sr. No.	Financial Year	Sales/Gross Receipts from Services (ITR) (in Rs.)	Service Tax (in Rs.)
01	2014-15	4866787/-	601534/-
02	2015-16	6189539/-	863561/-
03	2016-17	36934239/-	5509272/-
	TOTAL	47990565/-	6974368/-

5. With effect from 01.07.2012, the negative list regime came into existence under which all services are taxable and only those services that are mentioned in the Negative list are exempted. The nature of activities carried out by the said Service Provider appears to be covered under the definition of service and appears that not covered under the Negative List as given in the Section 66D of the Finance Act, 1994 and also declared services given in

Section 66E of the Finance Act, 1994, as amended from time to time. These services also appears to be not exempted under Mega exemption Notification No. 25/ 2012-S.T. dated 20-06-2012, as amended from time to time, and hence the aforesaid services provided by the said Service Provider appears to be subjected to Service Tax under the provisions Section 66B of Finance Act, 1994.

6. The said Service Provider had neither obtained a Service Tax registration for the services provided by them for the period of F.Y. 2014-15 to F.Y. 2016-17, nor responded to correspondence made with them regarding actual services provided by them, concealed the value from the department, declared to the income tax department. Therefore, it was not found that the said Service Provider had not paid correct service tax by way of willful suppression of facts to the department in contravention of provision of the Finance Act, 1994 relating to levy and collection of service tax and the Rules made there under, with intent to evade payment of service tax. Therefore, the service tax amounting to Rs. 69,74,368/- is recoverable from them by invoking extended period of five years under first proviso to sub-section (1) of Section 73 of Finance Act, 1994 along with interest at the prescribed rate under Section 75 of the Finance Act, 1994 and also rendered himself liable for penal action under Section 78 of Finance Act, 1994.

7. Further, the said the said service provider has neither submitted the documents nor extended the cooperation in the matter although sufficient time was provided. This act of non-co-operation of the said service provider has contravened the provisions of Section 72 of the Finance Act, 1994 and thus rendered themselves liable for penal action under Section 77 of Finance Act, 1994.

8. In view of above, it appears that the said service provider have contravened the provisions of :

(a) **Section 66** of the Finance Act, 1994 in as much as they have failed to collect and pay the service tax as detailed above, to the credit of Central Government.

(b) **Section 68** of the Finance Act, 1994 read with Rule 6 of the Service Tax Rules, 1994, as amended, in as much as they have not paid the service tax as mentioned above to the credit of the Government of India within the stipulated time limit;

(c) **Section 70** of the Finance Act, 1994 read with Rule 7 of the Service Tax Rules, 1994, as amended, in as much as they had failed to properly assess their Service Tax liability under Rule 2(1)(d) of Service Tax Rules, 1994 and failed to declare correct value of taxable services as well as exempted services to the department in the prescribed return in Form ST-3.

9. Further, on account of all the above narrated acts of commission and omissions on the part of the said service provider, they have rendered themselves liable to penalty under the following proviso of the Finance Act, 1994 and Rules framed there under:-

➤ Section 70 and Section 77 of the Finance Act, 1994 as amended in as much as they failed to correctly self assess the tax due on the services provided and have not filed the correct ST-3 return and contravened the provisions of Service Tax laws and did not comply to the letter issued by the Department and did not provide the required information/documents.

➤ Section 78 of the Finance Act, 1994, in as much as they have suppressed the material facts from the department about service provided and value realized by them with intent to evade payment of service tax.

10. In view of discussion in the fore going paras, it appeared that all the above acts of suppression of facts, misstatement and contravention, omissions and commissions are on the part of said service provider that they have willfully suppressed the facts, nature and value of service provided by them by not assessing and paying due Service Tax liability, therefore, the above said amounts of Service Tax of Rs. 6974368/- (Non-payment of Service Tax for the period 2014-15 to 2016-2017 on Income from taxable service provided by them), and Late fee (Non filing of Service Tax returns) for the above period is required to be demanded and recovered from them under the proviso to Section 73(1) of the Finance Act, 1994 by invoking extended period of five years for the reasons stated herein foregoing paras.

11. All these acts of contravention of the provisions of Section 67, Section 68 and Section 70 of the Finance Act, 1994 read with Rule 6 & Rule 7 of the Service Tax Rules, 1994 appear to be punishable under the provisions of Section 76 and 77 of the Finance Act, 1994 as amended from time to time. In view of the above, it appears that the said the said service provider have contravened the provisions of Finance Act, 1994 and the rules made there under. All the contraventions and violations made by the said the said service provider appear to have rendered themselves liable to penalty under **Section 76 & Section 77** of the Finance Act.

12. Moreover, in addition to the contravention, omission and commission on the part of the said the said service provider as stated in the foregoing paras, it appears that the said the said service provider has willfully suppressed the facts, nature and value of service provided by them with an intent to evade the payment of service tax rendering themselves liable for penalty under Section 78 of the Finance Act, 1994.

13. Accordingly Show Cause Notice F.No. STC/15-103/O&A/2020 Dated:30.09.2020 was issued to M/s, JIGAR SHAILESHBHAI PATEL (HUF), called upon to show cause as to why :-

➤ The services rendered by them should not be considered as "taxable services" under Section 65 of the Finance Act, 1994, as amended, and the total/gross amount of Rs.47990565 received towards rendering such services should not be considered as taxable value of the said taxable services charged by them for the F.Y. 2014-15 to 2016-17 ;

➤ Service Tax of Rs. 6974368/- (Sixty Nine Lakh Seventy Four Thousand Three Hundred Sixty Eight Only) which was not paid for the F.Y.2014-15 to 2016-17 as per Table-A in para-11 above, should not be demanded and recovered from them under proviso to Sub-section (1) of Section 73 of Finance Act,1994; read with relaxation provisions of Section 6 of Chapter V of the Taxation and Other Laws(Relaxation of Certain Provisions) Ordinance, 2020(No. 2 of 2020) promulgated on 30.03.2020 by invoking extended period of time limit ;

➤ Interest at the prescribed rate should not be demanded and recovered from them for the period of delay of payment of service tax mentioned at (i) above under Section 75 of the Finance Act,1994 ;

➤ Prescribed late fee, should not be recovered from them for each S.T.-3 return filed late, for the relevant period, under Rule 7C of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994 ;

➤ penalty should not be imposed upon them under Section 76 of the Finance Act, 1994 for the failure to make payment of service tax payable by them within prescribed time-limit ;

➤ Penalty should not be imposed upon them under Section 77(1) of the Finance Act, 1994 for failure to take Service Tax registration as per the provisions of Section 69 of the Finance Act, 1994 ;

➤ Penalty should not be imposed upon them under Section 78 of the Finance Act, 1994, for non-payment of Service Tax by willfully suppressing the facts from the department with intent to evade the payment of Service Tax as explained herein above.

DEFENCE REPLY

14. The said service provider vide letter dated 08.10.2021 filed their reply to SCN wherein they submitted that they have filed ITR regularly for the F.Y.2014-15, 2015-16 and 2016-17 to the Income Tax Department and also submitted copies of ITRs. They are mainly engaged in the business of providing road and canal construction services to its clients and customers. During all the three financial years, the assessee has earned the income for providing Road and canal construction services for the Government and Govt. undertakings and Govt. authorities and undertaking for the work of road construction. They have provided statement showing the total income earned by the assessee as under :

Sl.No.	Particulars	2014-15	2015-16	2016-17
01	Contract Work Income	4209009	5964529	36829275
02	Machinery Rent Income	657778	173645	0
03	Interest Income	2221693	2718012	3275211

15. They further submitted that the assessee has earned three types of income. The first is works contract income which is earned on account of providing road construction services to Government and Government authorities and the same is exempted from the levy of service tax by Mega Exemption Notification No.25/2012 dt.20.06.2012 entry No.13. Apart from the same, the assessee earned interest income as details above. The third type of income earned by the assessee is on account of machinery rent on which service tax is not levied as the same is below the exemption limit of Rs. 10 lakhs.

16. From the above mentioned facts, it is very clear that the service which is provided by the assessee is either exempted or not subject to service tax levy. They in any of the financial year had not exceeded the said exemption limit and requested to accept the submission and process the notice. The assessee vide letter dated 28.12.2021 further submitted that they are providing works orders received by the client for providing contract services as a main contractor. The main contractor i.e clients of the assessee has further sub contracted the works of works contract service to the assessee and which is exempted vide entry No.29(h) of Notification No.25/2012-ST dated 20.06.2012 where it is mentioned as "sub contractor providing by way of works contract to another contractor are providing work contract services which are exempt". The

contractor are providing services which are exempt in nature and hence the service provided by the sub contractor would also fall under exemption vide the mage exemption notification. They have also provided copy of ledgers pertaining to works contract income, machinery rent income and interest income for the years 2014-15, 2015-16 and 2016-17 are annexed with their reply. In view of the above, they requested to accept the submission.

PERSONEL HEARING

Personnel Hearing was granted to the said assessee on 06.01.2021. Shri Ankit Parikh, CA, authroised representative of the said assessee attended the P.H. He contended that he has submitted all documents, reconciliation data etc and has clarified that SCN liability does not arise in their case and requested to drop further proceedings.

DISCUSSION AND FINDINGS

14. I have carefully gone through the records of the case, SCN, defence replies, reconciliation statement, tax audit report (Form 3CD, Form 3 CB, Balance Sheet, Profit & Loss Account, Schedules, Notes to accounts for the FY 2014-15 to 2016-17, as well as oral submissions made by the said assessee during the proceedings. In the instant case, Show Cause Notice has been issued to the noticee demanding Service Tax of Rs.69,74,368/- for the financial year 2014-15 to 2016-17 on the basis of data received from Income Tax authorities and finding that the noticee had not obtained Service Tax registration and also not filed the ST-3 Returns as stipulated in the Finance Act, 1994 and rules made thereunder. The Show Cause Notice alleged non-payment of Service Tax, not taking Service Tax registration and also their failure to furnish the requisite ST-3 Returns for the two years. The SCN also proposed charging of interest in terms of Section 75 of the Finance Act, 1994 and penalty under Section 76, 77 and 78 of the Finance Act, 1994. Accordingly, I find that the issue which requires determination as of now is whether the assessee is liable to pay service tax of Rs. Rs.69,74,368/- under proviso to section 73(1) of Finance Act, 1944 or not.

15. In reply to the show cause notice, the service provider has stated that they have filed ITR regularly for the F.Y.2014-15, 2015-16 and 2016-17 to the Income Tax Department and also submitted copies of ITRs. They are mainly engaged in the business of providing road and canal construction services to its clients and customers. During all the three financial years, the assessee has earned the income for providing Road and canal construction services for the Government and Govt. undertakings and Govt. authorities and undertaking for the work of road construction.

15. They further submitted that the service provider has earned three types of income. The first is works contract income which is earned on account of providing road construction services to Government and Government authorities and the same is exempted from the levy of service tax by Mega Exemption Notification No.25/2012 dt.20.06.2012 entry No.13. Apart from the same, the assessee earned interest income as details above. The third type of income earned by the assessee is on account of machinery rent on which service tax is not levied as the same is below the exemption limit of Rs. 10 lacs.

They vide letter dated 28.12.2021 further submitted that they are providing works orders received by their clients for providing contract services as a contractor. The main contractor i.e clients of the assessee has further sub contracted the allotted works to the assessee, the sub contractor and which is exempted vide entry No.29(h) of Notification No.25/2012-ST dated 20.06.2012 where it is mentioned as "sub contractor providing by way of works contract to another contractor are providing work contract services which are exempt". The contractors are providing works contract services which are exempt in nature and hence the service provided by the sub contractor would also fall under exemption vide the Mega Exemption Notification. They have also provided copy of ledgers pertaining to works contract income, machinery rent income and interest income for the years 2014-15, 2015-16 and 2016-17 which are annexed with their reply.

16. With reference to the service provider's contention that the works contract service rendered by them is exempted under Mega Notification No.25/2012-ST dated 20.06.2012, I have perused the exemption notification No. 25/2012-ST. Sr.No.13 of the said Notification reads as under:-

G.S.R. 467(E).- 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 Act) and in supersession of notification number 12/2012- Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 210 (E), dated the 17th March, 2012, the 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 leviable thereon under section 66B of the said Act, namely:-

13. *Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-*

(a) *a road, bridge, tunnel, or terminal for road transportation for use by general public;*

(b) *a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;*

"(ba) a civil structure or any other original works pertaining to the 'In-situ rehabilitation of existing slum dwellers using land as a resource through private participation' under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers." Inserted vide Notification 9/2016- Service Tax. To be in effect from 1 March 2016.

(bb) a civil structure or any other original works pertaining to the Beneficiary led individual house construction / enhancement under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;"; Inserted vide Notification 9/2016- Service Tax to be in effect from 1 March 2016. (c) a building owned by an entity registered under section 12 AA of the Income Tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public;

(d) a pollution control or effluent treatment plant, except located as a part of a factory; or

(e) a structure meant for funeral, burial or cremation of deceased;

Further the works contract service performed by the sub contractor is also exempted vide entry No.29(h) of Notification No.25/2012-ST dated 20.06.2012 which reads as follows:

29. *Services by the following persons in respective capacities -*

(a) sub-broker or an authorised person to a stock broker;

(b) authorised person to a member of a commodity exchange;

- (c) ****;
 (d) ****;
 (e) ****;
 (f) selling agent or a distributor of SIM cards or recharge coupon vouchers;
 (g) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;" substituted vide Notification 1/2017 -Service Tax
 (ga) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in clause (g);
 (gb) business facilitator or a business correspondent to an insurance company in a rural area; or
 (h) **sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;**

17. The said service provider is carried out road construction work on behalf of M/s.Shreeji Infraspace P.Ltd, Akshar Lift and Carry Corporation and Sadbhav Enginerring Ltd. as a sub contractor. Various road construction projects such as development of Thandla Limbdi section of SH 18 on Madhya Pradesh, cement concrete lining work lower Ganga canal in U.P, Development of sarangpur akodia sujalpur section of SH 41 in Madhya Pradesh, Jhambhuva-jobat-Bagh-kukshi road in Madhya Pradesh, widening and reconstruction of Harda Chakghat Road in Madhyapradesh, construction of High level bridge on vidisha kurwai road in Madhya Pradesh, construction of Bahuti canal etc were allotted by various governments to main contractors M/s.Shreeji Infraspace P.Ltd, Akshar Lift and Carry Corporation and Sadbhav Enginerring Ltd. These work contracts were initially allotted to the above referred main contractors and have furnished copies of work orders through which the works were allotted to them by Govt. And Govt. agencies. Subsequently these works and have been sub contracted to the said assessee company. Work allotment letters from the main contractors and copies of income ledgers were produced by the said assessee for the years 2014-15, 2015-16 & 2016-17. On perusal of the said records and documents, I find that the above refereed construction works related to road and canal are allotted to main contractors i.e M/s.Shreeji Infraspace P.Ltd, Akshar Lift and Carry Corporation and Sadbhav Enginerring Ltd. and subsequently they have been sub contracted to the said assessee. They have produced the documents such specimen copies of income ledger, invoices and other documents in support of their claim. In Notification No. 25/2012-ST dated 20.06.2012 as amended, serial No. 13 (a) provided exemption from payment of service tax to services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a road, bridge, tunnel, or terminal for road transportation for use by general public.

18. On perusal of copies of work orders and other records, I find that tenders in the instant case were issued by various government organisations Such as Chief Engineer, Madhya Pradesh Road Development Corporation Ltd, Superintending engineer Irrigation works, Aligargh, Uttar Pradesh etc. It is apparent that the above tender for construction of road were issued by various government authorities for construction of public roads and canal, bridge and thereby the activity carried out by the noticee is covered in exemption as provided at serial no. 13(a) of Notification No. 25/2012-ST dated 20.06.2012 as amended. Further, being a sub contractor further the said assessee a sub contractor to the main contracture providing services by way of works contract to another contractor providing works contract services , they are also

exempted from payment of service tax as per Sl.No. 29(h) of Notification No.25/2012 dated 20.06.2012. Hence the road /canal construction works carried out by the said assessee, being a sub contractor, is also squarely covered under the said exemption Notification.

19. Further the service provider claimed that they have income from renting of machinery of Rs.6,57,778/- during the year 2014-15 and Rs.1,73,645/- for the year 2015-16. On perusal of books of accounts and details of ledger, I find that the said assessee have income of Rs. Rs.6,57,778/- during the year 2014-15 and Rs.1,73,645/- for the year 2015-16 and as the said income is below the exemption limit of Rs.10 lacs and therefore they are not liable to pay service tax on this amount also. For the sake of clarity, the consolidated worksheet are tabulated and reconciled as under:

Description	2014-15	2015-16	2016-17
Total income as per ITR and SCN	4866787	6189539	36934239
Total income declared as per ST3	0	0	0
Differential value on which service tax as per SCN	4866787	6189539	36934239
Income from contract work as a sub contractor (exempted under Noti.No.25/2012 dt.20.06.2012 and Sl.No (a) & (h)	4209009	5964529	36829275
Difference	657778	225010	104964

20. On perusal of the records of the case, submissions of the assessee, Audited Balance Sheet, 26 AS, ITR, copies of ledger accounts and the above reconciliation statement provided by the said assessee for the year 2014-15, I find that the total income of the assessee for the year 2014-15 is Rs. 48,66,787/- as per ITR and service tax is demanded on the said value. However, on perusal of the above records, I find that the differential value of Rs. 42,09,009/- is the income earned by way of providing construction of public roads and thereby the activity carried out by the noticee is covered in exemption as provided at serial no. 13(a) and (h) of Notification No. 25/2012-ST dated 20.06.2012 as amended. and the service provider is not required to pay service tax on the said amount. Moreover, an income of Rs.6,57,778/- earned by way of renting out the machinery which is lower than the threshold limit of Rs.10 Lakhs during the year. In view of the above facts, the service tax demand of Rs.6,01,534/- for the period 2014-15 is not sustainable and is liable to be dropped.

21. Similarly on perusal of the records of the case, submissions of the assessee, Audited Balance Sheet, 26 AS, ITR, copies of ledger accounts and the above reconciliation statement provided by the said assessee for the year 2015-16, I find that the total income of the assessee for the year 2015-16 is Rs. 61,89,539/- as per ITR and service tax is demanded on the said value.

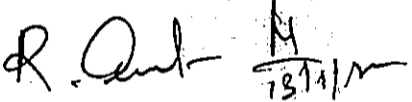
However, on perusal of the above records, I find that the differential value of Rs. 59,64,529/- is the income earned by way of providing construction of public roads and thereby the activity carried out by the noticee is covered in exemption as provided at Serial No. 13(a) and (h) of Notification No. 25/2012-ST dated 20.06.2012 as amended. Moreover, the assessee has an income of Rs.1,04,964/- which is lower than the threshold limit of Rs.10 lakhs during the year. In view of the above facts, the service tax demand of Rs.55,09,272/- for the period 2016-17 is also not sustainable and is liable to be dropped.

20. In view of the above discussion and on perusal of SCN, submissions made by the said assessee, duly audited Balance Sheet, ITR, reconciliation statement, I find that the service tax demand of Rs. 69,74,368/- for the period 2014-15 to 2016-17 is not sustainable and accordingly Show Cause Notice F.No.STC/15-103/OA/2020 dated 30.09.2020 is liable to be dropped. Further, as the SCN itself is not sustainable there is no reason to charge interest or to impose penalty upon assessee on this count.

Accordingly, I pass the following order;

ORDER

21. I hereby order to drop proceedings initiated for recovery of service tax of Rs.69,74,368/- along with interest and penalties vide SCN No. STC/15-103/OA/2020 dated 30.09.2020.



(R.GULZAR BEGUM)
Additional Commissioner
Central GST & Central Excise
Ahmedabad North

Dated 12.01.2022

F.No. STC/15-103/OA/2020

M/s Jigar Shaileshbhai Patel (HUF)
55, Bopal 444, Nr.Sun City Flats,
Sardar Patel Ring Road,
Bopal, Ahmedabad, Gujarat.

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1. The Commissioner of CGST & C.Ex., Ahmedabad North.
2. The Deputy Commissioner Division-VI, Central Excise & CGST, Ahmedabad North.
3. The Superintendent, Range-I, Division-VI, Central Excise & CGST, Ahmedabad North
4. The Superintendent(system) CGST, Ahmedabad North for uploading on website.
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