


System

आयुक्त का कार्यालय केंद्रीय वस्तु एवं सेवा कर एवं उत्पाद शुल्क ,अहमदाबाद उत्तर, कस्टम हाँउस(तल प्रथम) नवरंगपुरा- अहमदाबाद ,380009		Office of the Commissioner of Central Goods & Services Tax & Central Excise, Ahmedabad North, Custom House(1 st Floor) Navrangpura, Ahmedabad-380009
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निबन्धित पावती डाक द्वारा / By REGISTERED POST AD

फा .सं/ F.NO. STC/15-110/OA/2020

DIN :20220464WT000000F031

आदेश की तारीख /

Date of Order : 31.03.2022

जारी करने की तारीख /

Date of Issue : 04.04.2022

द्वारा पारित/Passed by -

उपेन्द्र सिंह यादव /

UPENDRA SINGH YADAV

आयुक्त /

COMMISSIONER

मूल आदेश संख्या /

ORDER-IN-ORIGINAL No. AHM-EXCUS-002-COMMR- 75 /2021-22

जिस व्यक्ति(याँ) को यह प्रति भेजी जाती है, उसे व्यक्तिगत प्रयोग के लिए निःशुल्क प्रदान की जाती है।

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2. इस आदेश से असंतुष्ट कोई भी व्यक्ति -इस आदेश की प्राप्ति से तीन माह के भीतर सीमा शुल्क ,उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण ,अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकता है। अपील सहायक रजिस्ट्रार ,सीमा शुल्क ,उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण , द्वितीय तल, बाहुमली भवन असरवा, गिरधर नगर पुल के पास, गिरधर नगर, अहमदाबाद, गुजरात 380004 को संबोधित होनी चाहिए।

Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan Asarwa, Near Girdhar Nagar Bridge, Girdhar Nagar, Ahmedabad, Gujarat 380004.

2.1 इस आदेश के विरुद्ध अपील न्यायाधिकरण में अपील करने से पहले मांगे गये शुल्क के 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 Tribunal 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)

3. उक्त अपील प्रारूप सं .इ.ए 3.में दाखिल की जानी चाहिए। उसपर केन्द्रीय उत्पाद शुल्क (अपील) नियमावली 2001 ,के नियम 3 के उप नियम (2)में विनिर्दिष्ट व्यक्तियों द्वारा

हस्ताक्षर किए जाएंगे। उक्त अपील को चार प्रतियाँ में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए। अपील से संबन्धित सभी दस्तावेज भी चार प्रतियाँ में अग्रहित किए जाने चाहिए।

The Appeal should be filed in Form No. E.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Central Excise (Appeals) Rules, 2001. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.

4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं चार प्रतियों में दाखिल, उसकी भी उतनी ही, की जाएगी तथा उसके साथ जिस आदेश के विरुद्ध अपील की गई हो उनमें से कम से कम एक प्रतियाँ संलग्न की जाएंगी। एक प्रमाणित प्रति होगी।

(The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)

5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरण के बिना अपील के कारणों के स्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।

The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.

6. अधिनियम की धारा 35बी के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहाँ के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठ के सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्ट के जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपील के प्रपत्र के साथ संलग्न किया जाएगा।

The prescribed fee under the provisions of Section 35 B of the Act shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.

7. न्यायालय शुल्क अधिनियम 1970, की अनुसूची, 1-मद 6 के अंतर्गत निर्धारित किए अनुसार संलग्न किए गए आदेश की प्रति पर 1.00रूपया का न्यायालय शुल्क टिकट लगा होना चाहिए।

The copy of this order attached therein should bear a court fee stamp of Re. 1.00 as prescribed under Schedule 1, Item 6 of the Court Fees Act, 1970.

8. अपील पर भी रु 4.00 का न्यायालय शुल्क टिकट लगा होना चाहिए।

Appeal should also bear a court fee stamp of Rs. 4.00.

विषय: -कारण बताओ सूचना:

Subject- Proceedings initiated vide Show Cause Notice No. STC/15-110/OA/2020 dated 21.10.2020 issued to M/s. Chartered Logistics Ltd., C-1, Jay Tower, Ankur Commercial Centre, Naranpura, Ahmedabad-380013

ORDER-IN-ORIGINAL No. AHM-EXCUS-002-COMMR- FS / 2021-22

M/s. Chartered Logistics Ltd., C-1, Jay Tower, Ankur Commercial Centre, Naranpura, Ahmedabad-380013 were issued SCN No. STC/15-110/OA/2020 dated 21.10.2020 by the Principal Commissioner, Central GST & Central Excise, Ahmedabad North, Ahmedabad.

BRIEF FACTS OF THE CASE PERTAINING TO THE SCN ISSUED TO M/S CHARTERED LOGISTICS LTD. ARE AS FOLLOWS:

1. M/s. Chartered Logistics Ltd., (hereinafter referred to as "M/s. CLL" for the sake of brevity) were engaged in providing taxable services, and are holding Service Tax Registration No. AAACC7939HST001.
2. 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" in respect of M/s. Chartered Logistics Ltd was undertaken by the Central Board of Direct Taxes (CBDT) for the F.Y. 2015-16, and details of said analysis were shared by the CBDT with the Central Board of Indirect Taxes (CBIC).
3. As per the records available with the Divisional office of Division-VII and on going through the Third Party Data provided by CBDT of the said M/s. CLL for the F.Y.2015-16, the total sales of service (Value from ITR/ Form 26) were found to be not tallying with Gross Value of Service Provided, as declared in ST-3 Return of the F.Y. 2015-16. Therefore, it appeared that the said M/s. CLL had declared less/not declared any taxable value in their Service Tax Returns (ST-3) for the F.Y. 2015-16 as compared to the Service related taxable value declared in their Income Tax Return (ITR)/Form 26AS for the F.Y. 2015-16. The difference in value as observed for FY 2015-16 was as under:

Sr. No.	F.Y.	Total Value (STR)	Gross provided	Sale of services (ITR)	Total Value for TDS (including) 194C, 194Ia, 194Ib, 194J, 194H	Higher Value (Value difference in ITR & STR) OR (Value Difference in TDS & STR)	Resultant Service Tax short paid (including cess)
1	2015-16	1,22,74,356		1,64,22,09,293	96,20,44,747	1,62,99,34,937	23,63,40,566

Therefore, it appeared that the said M/s. CLL had short paid service tax to the extent of Rs. 23,63,40,566/- (including Cess) on the differential value of Rs. 1,62,99,34,937/-.

4. A letter dated 06.10.2020 was issued to M/s. CLL to explain the difference and to submit documents in support thereof viz. Balance Sheet, Profit



and Loss Account, Income Tax Return, Form 26AS, etc. However, M/s. CLL neither submitted the details as requested nor submitted explanation for the vast difference noticed between Service Tax Return and Income Tax Return. Therefore, the service tax liability of M/s. CLL was worked out on the basis of income mentioned in ITR /Form 26AS, which were shared by Income tax Department. The said income was considered as the Total Taxable value in order to ascertain the service tax liability under Section 67 of the Finance Act, 1994.

5. As per Section 68 of the Finance Act, 1994 every person liable to pay service tax shall pay service tax at the rate specified in Section 66B in such manner and within such period which is prescribed under Rule 6 of the Service tax Rules 1994. Therefore, it appeared that the M/s. CLL had short paid the service tax as tabulated above.

6. As per the provisions of Section 70 (Furnishing of Returns) of the Finance Act, 1994 :

“(1) Every person liable to pay the service tax shall himself assess the tax due on the services provided by him and shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency and with such late fee not exceeding twenty thousand rupees, for delayed furnishing of return, as may be prescribed.

(2) The person or class of persons notified under sub-section (2) of section 69, shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.”

7. As per the provisions of Section 73(1) of the Finance Act, 1994 where any Service Tax has not been levied or paid or has been short levied or short paid by reasons of willful mis-statement or suppression of facts with intent to evade payment of Service Tax, the Central Excise Officer may within five years from the relevant date, serve a notice on the person chargeable with Service Tax which has not been levied or paid or which has been short levied or short paid requiring him to show cause why he should not pay the amount specified in the notice.

8. As per Rule 6 of the Service Tax Rules, 1994, the Service Tax shall be paid to the credit of the Central Government by 5th day of the month, immediately following the said calendar month in which the payments are received, towards the value of taxable service. Rule 7 of the Service Tax Rules, 1994 stipulates that M/s. CLL shall submit their Service Tax returns in the form ST-3 within the prescribed time.



9. From the documentary evidence available at the relevant time, it appeared that the said M/s. CLL had failed to pay/short paid/deposit Service Tax to the extent of Rs. 23,63,40,566/- (including Cess) which was arrived at on the basis of difference of taxable value declared in their ST-3 returns during the Financial Year FY 2015-16 vis-à-vis their ITR/Form 26AS. The said short payment appeared to have been done with intent to evade payment of Service Tax. Accordingly, it appeared that the said M/s. CLL had failed to discharge the Service Tax liability of Rs. 23,63,40,566/- (including Cess) worked out on value of Rs. 162,99,34,937/- and therefore, Service Tax was required to be demanded/recovered from them under Section 73(1) of the Finance Act, 1994 read with Section 68 of the Finance Act, 1994.

10. Therefore, it appeared that the said M/s. CLL had (i) Failed to declare correctly, assess and pay the service tax due on the taxable services provided by them and to maintain records and furnish returns, in such form i.e. ST-3 and in such manner and at such frequency, as required under Section 70 of the Finance Act, 1994 read with Rule 6 & 7 of the Service Tax Rules, 1994; (ii) Failed to determine the correct value of taxable service provided by them under Section 67 of the Finance Act, 1994; (iii) Failed to pay the Service Tax correctly at the appropriate rate within the prescribed time in the manner and at the rate as provided under the said provision of Section 66B and Section 68 of the Finance Act, 1994 and Rules 2 & 6 of the Service Tax Rules, 1994 in as much as they have not paid service tax as worked out in the Table for Financial Year 2015-16 (iv) contravened the provisions of Section 68, and 70 of the Finance Act, 1994 read with rule 6, and 7 of Service Tax Rules, 1994 which appeared to be punishable under the provisions of Section 78 of the Finance Act, 1994 as amended from time to time; (vi) made themselves liable to pay interest at the appropriate rates for the period from due date of payment of service tax till the date of actual payment as per the provisions of Section 75 of the Finance Act, 1994; (vii) also contravened Section 77 of the Finance Act, 1994 in as much as they did not provide required data /documents as called for, from them.

11. It had been noticed that at no point of time, M/s. CLL had disclosed full, true and correct information about the value of the services provided by them or intimated to the Department regarding receipt/providing of Services of the differential value, that had come to the notice of the Department only after going through the Third Party CBDT data generated for the Financial Year 2015-16. From the evidences gathered/ available at the relevant time, it appeared that the said M/s. CLL had knowingly suppressed the facts regarding receipt



of/providing of services by them, and thereby not paid/short paid/not deposited Service Tax thereof to the extent of Rs. 23,63,40,566/-. Thus, it appeared that there was a deliberate withholding of essential and material information from the department about service provided and value realized by M/s. CLL which were in direct contradiction with the spirit of self assessment and faith reposed in the service provider by the government.

12. As per Section 75 ibid every person liable to pay the tax in accordance with the provisions of Section 68, or rules made there under, who fails to credit the tax or any part thereof to the account of the Central Government within the period prescribed, is liable to pay simple interest (at such rate not below ten per cent and not exceeding thirty six per cent per annum, as is for the time being fixed by the Central Government, by Notification in the Official Gazette) for the period by which such crediting of the tax or any part thereof is delayed. It appeared that the said M/s. CLL had short paid/not-paid Service Tax of Rs. 23,63,40,566/- on the actual value received towards taxable services provided which appeared to be recoverable under proviso to Section 73(1) of the Finance Act, 1994 along with interest under Section 75 ibid not paid by them under Section 68 of the Finance Act read with Rule 6 of Service Tax Rules, 1994 inasmuch as the said M/s. CLL had suppressed the facts from the department and had contravened the provisions with an intent to evade payment of Service Tax. The said M/s. CLL had not discharged their Service tax liability and hence was liable to pay interest under Section 75 of the Finance Act.

13. No data was shared by the CBDT, for the period FY 2016-17 & 2017-18 (upto June-2017) and the M/s. CLL had failed to provide any information regarding rendering of taxable service for this period, therefore, at the time of issuance of SCN it was not possible to quantify short payment of Service Tax, if any, for the period FY 2016-17 & 2017-18 (upto June-2017).

Unquantified demand at the time of issuance of SCN.

Para 2.8 of the Master Circular No. 1053/02/2017-CX dated 10.03.2017 issue by the CBEC, New Delhi clarified that:

'2.8 Quantification of duty demanded: It is desirable that the demand is quantified in the SCN, however if due to some genuine grounds it is not possible to quantify the short levy at the time of issue of SCN, the SCN would not be considered as invalid. It would still be desirable that the principles and manner of computing the amounts due from the noticee are clearly laid down in this part of the SCN. In the case of Gwalior Rayon Mfg. (Wvg.) Co. Vs .UOI, 1982 (010) ELT 0844 (MP), the Madhya Pradesh High Court at Jabalpur affirms the same position that merely because necessary particulars have not



been stated in the show cause notice, it could not be a valid ground for quashing the notice, because it is open to the petitioner to seek further particulars, if any, that may be necessary for it to show cause if the same is deficient.'

14. The "Total Amount Paid/Credited Under Section 194C,194H,194I,194J OR Sales/Gross Receipts From Services (From ITR)" for the FY 2016-17 & 2017-18 (upto June-2017) had not been disclosed thereof by the Income Tax Department, nor the reason for the non disclosure was made known to this department. M/s. CLL had also failed to provide the required information even after the issuance of letters and summons from the Department and the assessable value for the FY 2017-18 (upto June-2017) was not ascertainable at the time of issuance of this Show Cause Notice. If any other amount was to be disclosed by the Income Tax Department or any other sources/agencies, against the said M/s. CLL, action was to be initiated against the said M/s. CLL under the proviso to Section 73(1) of the Finance Act 1994 read with para 2.8 of the Master Circular No. 1053/02/2017-CX dated 10.03.2017, in as much as the Service Tax liability arising in future, for the FY 2016-17 & 2017-18 (upto June-2017) covered under subject Show Cause Notice, was to be recovered from the M/s. CLL.

15. All the above acts of contravention on the part of the said M/s. CLL resulted into non-payment of Service Tax and they appeared to have been committed by way of suppression of material facts and contravention of provisions of Finance Act, 1994 with an intent to evade payment of Service Tax as discussed in the foregoing paras and therefore, the Service Tax amounting to Rs. 23,63,40,566/- (inclusive of Cess) not paid was required to be demanded and recovered from them under the proviso to Section 73(1) of the Finance Act, 1994 alongwith Interest thereof at appropriate rate under the provisions of Section 75 of the Finance Act, 1994.

16. 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 appeared 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 appeared that the said M/s. CLL had contravened the provisions of Finance Act, 1994 and the rules made there under. All the contraventions and violations made by the said M/s. CLL also appeared to have



rendered M/s. CLL liable to penalty under Section 76 & Section 77 of the Finance Act.

17. In addition to the contravention, omission and commission on the part of the said M/s. CLL as stated in the foregoing paras, it appeared that the said M/s. CLL had willfully suppressed the facts, nature and value of service provided by them with an intent to evade the payment of Service Tax thus rendering them liable for penalty under Section 78 of the Finance Act, 1994.

18. Therefore, Show Cause Notice dated 21.10.2020 was issued to M/s. CLL asking them as to why:

- (i) Service Tax of Rs. 23,63,40,566/- short/ not paid, should not be confirmed and recovered from them under proviso to Sub-section (1) of Section 73 of Finance Act, 1994.
- (ii) Service tax liability for the FY 2016-17, 2017-18 (upto June 2017) to be ascertained, should not be demanded and recovered from them under proviso to Sub-section (1) of Section 73 of Finance Act, 1994.
- (iii) Interest at the appropriate rate should not be demanded and recovered from them under Section 75 of the Finance Act, 1994;
- (iv) Penalty should not be imposed upon them under the provision of Section 78 of the Finance Act, 1994.
- (v) Penalty under the provisions of Section 77(1)(c) and 77(2) of the Finance Act, 1994, should not be imposed on them.

DEFENCE REPLY:

M/s. CLL have submitted their written submission on 23.02.2022, wherein they have interalia stated that:

- They deny all the charges levelled against them.
- They were engaged in providing service such as sea transportation service, GTA Service, clearing and forwarding service etc.
- Pre-SCN consultation was not conducted in the subject SCN before issuance of the SCN as mandated under Instruction F. No. 1080/09DLA/MISC/15/75 dated 21.12.2015 and Master Circular No. 1053/02/2017-CX dated 10.03.2017, issued by the department. The instruction/Circular issued by the department are binding on the departmental officer, hence this was to be adhered to in their case. They did not have the opportunity to raise their preliminary objections or clarify the factual aspects before being issued the impugned SCN. Therefore, the SCN without pre-SCN consultation is not tenable in law. They have relied upon the following decisions/ judgement, in support of their contention:



- K P Varghese v. Income-Tax Officer, Ernakulam & Anr. 1981 (4) SCC 173
- UCO Bank, Tamil Nadu Industrial Investment Corporation Ltd. v. Commissioner of Income Tax - 1999 (5) TMI 3
- CCE, Bolpur v. Ratan Melting & Wire Industries 2008 (12) STR 416 (SC)
- CCE, Vadodara v. Dhiren Chemical Industries 2002 (139) ELT 3 (SC)
- Ranadey Micronutrients v. CCE 1996 (87) ELT 19 (SC)
- Paper Products Ltd. v. CCE 1999 2) ELT 765 (SC)
- The SCN issued without pre-SCN consultation is violative of principal of natural justice. They have cited the following case laws in their support:
 - Dharamshil Agencies v. Union of India - 2021 (7) TMI 1064
 - Back Office IT Solutions Pvt. Ltd. v. Union of India & Ors. 2021 (4) TMI 520
 - Amadeus India Pvt. Ltd. v. Principal Commissioner, Central Excise, Oo Service Tax and Central Tax Commissionerate - 2019 (5) TMI 669
 - U.M. Cables Ltd. v. UOI reported at 2017 (347) E.L.T. 78 (Guj.).
- They have further contested that the SCN issued is vague and non-est and perverse. The subject SCN has merely assumed that there was suppression of taxable value by them with an intent to evade payment of service tax, without any substantial basis for such allegations against them. Thus, the SCN is liable to be dropped on this ground. In this regard, they have placed reliance on the following judgements:
 - CCE v. Brindavan Beverages (P) Ltd. reported at 2007 (213) E.L.T. 487 (S.C.)
 - CCE v. Brindavan Beverages 2007 (213) E.L.T. 487 (S.C.)
 - Royal Oil Field Pvt. Ltd. v. Union of India 2006 (194) E.L.T. 385 (Born.)
 - B. Lakshmichand v. Government of India 1983 (12) E.L.T. 322
 - Collector of Central excise v. H.M.M Ltd. 1995 (76) ELT 497 (S.C.)
 - Amrit Foods v. C.C.E. 2005 (190) E.L.T. 433 (S.C.)
 - Madhur Hosiery Inds. V. C.C.E. 2006 (200) E.L.T. 147
- The SCN was to be adjudicated within one year from the date of issue of SCN as per Section 73(4B) of the Finance Act, 1994, however even after lapse of one year, the SCN was not adjudicated. They have stated that the ratio of judgment of Hon'ble High Court of Delhi in the case of Sunder System Pvt. Ltd. v. Union of India & Ors. reported in 2020 (1) TMI 199 (Delhi High Court) is applicable to their case as well. Therefore, the SCN is liable to be set aside.
- They had declared the total gross value of services of Rs.1,64,22,09,293/- in the Income Tax records/audited balance sheet during the F.Y. 2015-16 which was inclusive of total turnover pertaining to exempt services, taxable services and service tax paid on total value of taxable services. They were engaged in providing services of transportation of goods by road wherein they did not act as GTA and therefore, the services provided by them were covered by the

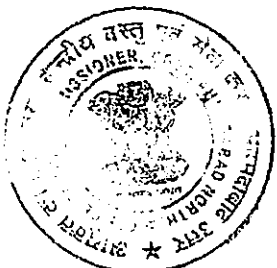


Negative List under Section 66D(p)(i) of the Finance Act, 1994. The value of said service was not included in ST-3 Returns.

- The tax liability was required to be ascertained with mathematical precision based on the analysis of documents and taxability of each transaction. The SCN has been issued on basis of the difference noticed between ST-3 Returns and ITR value. The values declared in different financial records are intended for different purposes. Such lumpsum calculation of service tax liability is not maintainable. The same was clarified by the Hon'ble CESTAT in the case of Shubham Electricals v. CST & ST, Rohtak- 2015 (40) S.T.R. 1034 (Tri. - Del.), which was affirmed by the hon'ble High Court of Delhi in the case of Principal Commissioner ST Delhi v. M/s Shubham Electricals 2016 (42) S.T.R. J312 (Del.).
- They have also relied upon the decision of the tribunal in the case of:
 - M/s. Coromandel Infotech India Ltd. v. Commissioner of GST and C.E. - 2019 (1) TMI 323.
 - M/s GEPS Projects v. Commissioner of Central Excise and Service Tax, Noida - 2018 (9) TMI 1517 - CESTAT ALLAHABAD.
- The demand of service tax of Rs.23,63,40,566/- in the impugned SCN is completely vague, arbitrary and bad in law. The same is in complete violation of the principles of natural justice and the said demand is liable to be dropped on this ground.
- The burden of proof to establish such short payment is on the Department and the Department has failed to discharge such burden in view of the submissions made hereinabove. They have cited the following case laws in their defence:
 - Union of India v. Garware Nylons Ltd., (1996) 10 SCC 413
 - Commissioner of Customs, Mumbai v. Foto Centre Trading Co., 2008 (225) ELT 193 (Born.)
 - Commr. of C. Ex., Chandigarh v. Khalsa Charan Singh And Sons, 2010 (255) ELT 379 (P&H)
 - Rajendra Jagannath Parekh and Ajay Shashikant Parekh v. Commissioner of Custom, 2004 (175) ELT 238 (Tri-Mumbai), wherein various judgments were referred to : (AIR 1961 SC 1474; AIR 1964 SC 136; AIR 1966 1867 SC; AIR 1972 SC 2136; AIR 1974 SC 859; AIR 1975 SC 182; AIR 1975 SC 2083 and 1983 (13) ELT 1620 referred to).
 - Commissioner v. Kuber Tobacco Products Ltd. 2016 (339) E.L.T. A130 (Del.)



- Commissioner of Central Excise, Coimbatore v. Vyas Textiles 2015 (327) E.L.T. 681 (Tri. - Chennai)
- Commissioner of Customs, Amritsar v. Neeldhara Transfers 2012 (284) E.L.T. 673 (Tri. - Del.)
- In the present case there was no suppression of facts with intention to evade payment of service tax. The extended period of limitation can be invoked only if the Department produces any evidence as to the suppression of facts with an intention to evade payment of tax by them. If all the details are already taken note of by the Department, there cannot be any suppression of facts on their part. The impugned SCN has failed to prove any *mala fide* intent on their part. There is nothing on record to show the existence of fraud, collusion or suppression of materials facts or information.
- The Hon'ble Supreme Court in the case of **Pahwa Chemicals Vs. CCE - 2005 (189) ELT 257 (SC)**, has held that mere failure to declare does not amount to mis-declaration or wilful suppression.
- They have maintained all requisite records. There being no positive act on their part to suppress any facts from the department, the extended period of limitation is not invocable. They have stated that "Mere omission to give correct information is not suppression of facts unless it was deliberate to stop the payment of duty. Suppression means failure to disclose full information with the intent to evade payment of duty". In this regard they have relied upon the decision of the Hon'ble Supreme Court in the case of **Continental Foundation Vs. CCE - 2007 (216) ELT 177 (SC)**.
- They were not liable to pay service tax, hence interest is not leviable from them. They have relied on the following decisions of the Court/Tribunal:
 - Pratibha Processors vs. Union of India [1996 (88) ELT12 (SC)]
 - Commissioner of Customs, Chennai vs Jayathi Krishna & Co. [2000 (119) E.L.T. 4 (S.C.)]
- No penalty under section 78 is imposable on them as there is no short payment of tax and no intention to evade payment of tax. They have relied upon the following case laws:
 - Coolade Beverages Limited (2004) 172 ELT 451 (AID).
 - Tamil Nadu Housing Board vs. Collector of Central Excise, **Madras [1994 (74) E.L.T. 9 (S.C)]**
 - DCW Ltd. vs. Asst. Collector of Central Excise [1996 (88) ELT 31 (Mad.)]
- They have not contravened any provisions of act or rules under Finance Act, 1994, they are not liable to penalty under Section 77 of the Finance Act, 1994.




- Lastly, they requested to grant personal hearing before taking the decision in the matter.

PERSONAL HEARING:

19. Personal hearing was granted to M/s. CLL vide letter dated 13.09.2021 and 12.10.2021, but M/s. CLL did not respond to these letters. They were again granted personal hearing vide letters dated 01.11.2021, 26.11.2021, however, they sought extension of time vide their letter dated 20.11.2021 and 13.12.2021 respectively. Therefore, they were again granted personal hearing vide letter dated 27.12.2021. But, M/s. CLL have not attended the hearing fixed on 24.01.2022, which was communicated to them vide letter dated 27.12.2021. Finally, they were granted personal hearing vide letter dated 10.03.2022 by the adjudicating authority himself in the interest of justice and it was conveyed to them that if the personal hearing was not attended, the matter would be taken up exparte.

DIN: 2022 036H.N.T.00.0093 1009

<p>आयुक्त की कार्यालय, सेंट्रल जी. एच. टी. एवं देशीय उत्पाद शुल्क, अहमदाबाद - उत्तर, मनोरमा हिल्स, पश्चिमी नम, नारंगपुरा, अहमदाबाद - 380009</p>		<p>OFFICE OF COMMISSIONER CENTRAL GST & CENTRAL EXCISE, AHMEDABAD - NORTH CUSTOM HOUSE, 1ST FLOOR, NAVRANGPURA, AHMEDABAD-380009</p>
<p>फोन नंबर / PHONE No. 079 27544557 फॉक्स / FAX 079 27544461 ई-मेल: oahmedabad2@gmail.com</p>		
<p>आर. नं. STC/15-110/OA/2020</p>		
<p>TO, M/s Chartered Logistics Ltd C-1, Jay Tower Ankur Commercial Centre Naranpura, Ahmedabad - 380013</p>		
<p>Gentleman</p>		

Sub: Intimation regarding Fixing of Personal Hearing m/req.

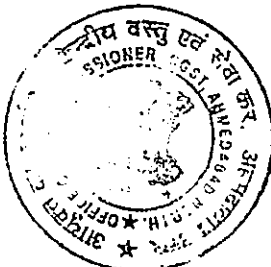
Please refer to the SCN No SIC/15 110/OA/2020 dated 21 10 2020 issued to you by the Principal Commissioner, Central Excise and CGST, Ahmedabad North. Please also refer to letters of even no dated 13 09 2021 12 10 2021 01 11 2021 26 11 2021 and 27 12 2021 vide which dates of personal hearing were communicated to you so that you could have your say vis-à-vis the charges levelled in the SCN

In this connection, it is to mention that you have not attended any of the numerous personal hearings fixed in the matter. Since, a substantial amount of govt revenue is involved in the matter, you are once again requested to appear for personal hearing on any working day alongwith all the relevant evidence /documents in support of your case, but not later than 16.03.2022. You may also take note that this is the last and final opportunity given to you to defend your case in person in the interest of justice. In case you fail to appear for personal hearing before 16.03.2022, the undersigned as an adjudicating authority would have no recourse left but to adjudicate the case on the basis of available records ex-parte.

Yours sincerely,

(Upendra Singh Yadav)
Commissioner,
Central Excise & CGST,
Ahmedabad North

Copy to The Deputy Commissioner, Central Excise & CGST, Div VII, Ahmedabad North, Ahmedabad for serving the letter on the notice



20. In response to the above letter, the personal hearing was finally attended by Shri Ankit Parikh, CA on behalf of M/s. CLL on 15.03.2012. During the course of personal hearing he referred to their written submission dated 23.02.2022 and reiterated that majority of their earnings were in relation to GTA services, therefore, the service tax was not payable by M/s. CLL. He also requested that he would submit all ledgers alongwith invoices by 21st March, 2022 and only after due scrutiny of the same the adjudication order should be passed.

DISCUSSION AND FINDINGS:

21. I have carefully gone through the facts of the case and records available in the case file, which include the SCN, the defence replies submitted on 23.02.2022, oral submission made during the course of personal hearing and documents submitted by M/s. CLL.

22. On going through the SCN, I find that basically the essence of the case is that data of Sales /Gross receipt from services/ Total Amount Paid/Credited under 194C, 194H, 194I, 194J" were shared by the CBDT with the department for the FY 2015-16. The difference in taxable value of M/s. CLL was worked out after comparing the income declared by M/s. CLL in ITR /Form 26AS vis-à-vis taxable value disclosed in ST-3 Returns. The difference of Rs. 1,62,99,34,937/- in value was observed for FY 2015-16 17, therefore, it appeared that the M/s. CLL had short paid the service tax of Rs. 23,63,40,566/- on such differential value, for providing the taxable service. Therefore, the subject SCN was issued. Accordingly, I find that the issue which requires determination as of now is whether M/s. CLL is liable to pay service tax of Rs. 23,63,40,566/- on the taxable value of Rs. 1,62,99,34,937/- for the Financial Year 2015-16 under proviso to section 73(1) of Finance Act, 1994 or not.

23. As assured during the personal hearing held on 15.03.2022 by M/s. CLL, they submitted the following documents peace meal on 21.03.2022 and 23.03.2022, in support of their defence:

- Copy of Ledgers pertaining to Freight Income along with few sample copies of invoices (0 to 19 per ledger- not in respect of each recipient of service) and sample LRs (not in all case) for FY 2015-16 to 2017-18(upto June 2017)



the same to be deficient". The relevant para of the said decision is reproduced as under:

24. It was then contended that necessary particulars to enable the petitioner to show cause have not been stated in the notice. This cannot be a ground for quashing the notice at this stage. It is open to the petitioner to seek further particulars, if any, that may be necessary for it to show cause, assuming the same to be deficient. It may however, be mentioned that the petitioner has understood the notice to indicate that the allegation of short levy is based on the value of sulphuric acid manufactured by another assessee at Kota, the nearest place, and the proposed value has also been mentioned in the notice stating that it is sub-clause (i) and not sub-clause (ii) of Rule 6(b) that applies to the petitioner's case. According to the respondents, these are the only facts on which the notice to show cause against revision of the assessable value has been given. Whether a case of short levy on the basis stated in the show cause notice is made out is yet to be determined in the enquiry.

26. I observe that after introduction of new system of taxation of services in negative list regime, any activity carried out by a person for another person for a consideration is taxable service except those services specified in the negative list or exempt list by virtue of exemption notification.

The relevant text to Section 65B (44) of the Finance Act, 1994 ('Act') reads as under:

"service" means any activity carried out by a person for another for consideration, and includes a declared service"

'Taxable Service' as defined under Section 65B (51) of the Act reads as under:

"taxable service" means any service on which service tax is leviable under section 66B"

Now, as per Section 66B of Finance Act, 1944- *"there shall be levied a tax (hereinafter referred to as the service tax) at the rate of [fourteen] percent on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed"*

27. I find that there is no dispute regarding provision of service. M/s. CLL have admittedly stated in their defence reply that they were engaged in providing GTA services, Transportation of goods by road (other than GTA), clearing and forwarding agent service. Further, the data shared by the CBDT, has indicated the receipt of income from "sale of services". Therefore, the provision of service by M/s. CLL is beyond doubt. Therefore, from the above legal position, I find that the service provided by M/s. CLL would be taxable

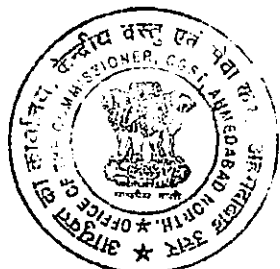


service unless it qualifies to be exempt service or is covered under negative list of service as provided under Section 66D of the Finance Act, 1944.

28. I find that M/s. CLL have contended that they have provided service of Transportation of goods service, not acting as GTA and therefore, the service provided by them was covered under the negative list of service under Section 66D(p)(i) of the Finance Act. Thus, they stated that they are not liable to pay service as demanded under the subject SCN. They have also provided reconciliation for FY 2015-16 and list of recipient of service alongwith the defence reply as under:

CHARTERED LOGISTICS LIMITED- RECONCILIATION OF INCOME FOR FY 2015-16		Amount (Rs. In lakhs)
Sr No	Particulars	
1	Income Shown under Revenue from Operations- (Shown in Audited Profit and loss A/c) for FY 2015-16	16,422.09
2	Less: Exempt Freight Income for FY 2015-16 under GTA Liabie for RCM by service recipient (List as per Enclosure)	16,299.34
3	Less: Other Income which is disclosed in Service Tax Returns FY 2015-16	122.75
4	Net Difference on which service tax not paid/short paid	

Sr No	Particulars/ Name of Company	Value of GTA Services provided FY 2015-16 (Rs. in Lakhs)
1	ABS FREIGHT (I)	41.35
2	AMBUJA FREIGHT (I)	937.53
3	ASTA FREIGHT (I)	1.43
4	CLAIM RECEIVABLE (INCOME)	0.15
5	CONTAINER FREIGHT (I)	0.03
6	DCC FREIGHT (I)	54.05
7	DHUNSERI PETROCHEM FREIGHT (I)	361.93
8	DIAMOND CEMENT FREIGHT (I)	448.43
9	FINOLEX FREIGHT (I)	174.72
10	FREIGHT OTHER (I)	669.33
11	GPL FREIGHT (I)	527.40
12	HEAVY METAL FREIGHT (I)	49.44
13	HI BOND CEMENT (I)	7.20
14	HINDALCO FREIGHT (I)	996.56
15	HWG FREIGHT (I)	140.16
16	IRL FREIGHT (I)	1632.37
17	KPTL FREIGHT (I)	185.31
18	MAHI CEMENT FREIGHT (I)	1028.54
19	OWN TRUCK INCOME - MARKET	748.42
20	RIL FREIGHT (I)	1329.41
21	STERLITE FREIGHT (I)	717.36
22	TATA CHEMICALS FREIGHT (I)	214.60
23	TRUCK FREIGHT (I)	5523.12
24	UTCL FREIGHT (I)	510.49
	TOTAL	16299.34



Sr. No	Particulars / Name of Party	Total Service Income during the F.Y. 2017-18 (April to June) (Rs. In Lakhs)	Exempted Service Income during the F.Y. 2017-18 (April to June)(Rs. In Lakhs)	Income on which Service Tax is paid during F.Y. 2017-18 (April to June) (Rs. In Lakhs)
1	ABS FREIGHT (I)	10.72	10.72	0.00
2	ADDITIONAL FREIGHT INCOME	20.31	20.31	0.00
3	AMBUJA FREIGHT (I)	287.02	287.02	0.00
4	ARCHID PLY INDUSTRIES (I)	4.67	4.67	0.00
5	ASTA FREIGHT (I)	10.61	10.61	0.00
6	DCC FREIGHT (I)	15.92	15.92	0.00
7	DHUNSERI PETROCHEM FREIGHT (I)	24.30	24.30	0.00
8	DIAMOND CEMENT FREIGHT (I)	118.34	118.34	0.00
9	FINOLEX FREIGHT (I)	60.73	60.73	0.00
10	FREIGHT OTHER (I)	136.09	136.09	0.00
11	GAIL FREIGHT (I)	238.12	238.12	0.00
12	GNFC FREIGHT (I)	0.98	0.98	0.00
13	GPL FREIGHT (I)	32.43	32.43	0.00
14	GSFC FREIGHT (I)	12.54	12.54	0.00
15	HEAVY METAL FREIGHT (I)	9.61	8.24	1.38
16	HI BOND CEMENT (I)	44.36	44.36	0.00
17	HINDALCO FREIGHT (I)	223.07	223.07	0.00
18	HIRE CHARGES	1.25	0.00	1.25
19	HUL FREIGHT (I)	173.79	173.79	0.00
20	ISRPL FREIGHT (I)	36.38	36.38	0.00
21	ITC (I)	124.03	124.03	0.00
22	KPTL FREIGHT (I)	61.92	43.37	18.55
23	LOADING UNLOADING CHRGS INCOME	1.02	0.14	0.89
24	MAHI CEMENT FRIGHT (I)	49.17	49.17	0.00
25	ONGC FREIGHT (I)	9.58	0.00	9.58
26	OWN TRUCK INCOME - MARKET	215.52	196.85	18.67
27	PATANJALI FREIGHT (I)	99.79	99.79	0.00
28	PATANJALI FREIGHT (I)	117.03	117.03	0.00
29	RIL FREIGHT (I)	117.03	117.03	0.00
30	RIL FREIGHT (I)	50.21	50.21	0.00
31	STERLITE FREIGHT (I)	44.48	44.48	0.00
32	TATA CHEMICALS FREIGHT (I)	44.48	44.48	0.00
33	TATA CHEMICALS FREIGHT (I)	1,463.51	1,463.51	0.00
34	TRUCK FREIGHT (I)	105.40	105.27	0.14
35	UTCL FREIGHT (I)	105.40	105.27	0.14
	Total	3,802.70	3,752.34	50.45



30. As per ST-3 returns for the period FY 2015-16 and 2016-17, the details / Gross value of service provided under different category by the assessee are as under. Further, it appears that M/s. CLL have not filed ST-3 returns for the period April 17 to June 17, as the system does not show the return, even, M/s. CLL have not provided the copy of the said ST-3 Return for 2017-18 (upto June 17).



ST-3 details				
FY	Period	Clearing & Forwarding agent service	Transport of goods by Road/ Goods Transport Agency Service	Supply of Tangible goods service
2015-16	April 15-Sept-15	257952	275150	4107310
	Oct 15-March-16	255262	443924	6934758
	Total for FY 2015-16	513214	719074	11042068
				12274356
2016-17	April 16-Sept-16	1336103	303442	7029789
	Oct 16-March-17	337757	646373	8445338
	Total for FY 2016-17	1673860	949815	15475127
				18098802
2017-18 (upto June-17)	April 17-June-16	Not available	Not available	Not available
				Not available

31. From the above table, it is seen that M/s. CLL had provided the service under three categories of service "Clearing and Forwarding Agent Service", "Transport of Goods by Road/ Goods Transport Agency Service" and "Supply of Tangible Goods Service". The gross amount of service declared in the ST-3 Returns is extremely small amount, and major part of the value of service has not been declared in the ST-3 Returns filed for 2015-16 to 2017-18 (upto June 17) by M/s. CLL. Accordingly, the difference in value of service noticed between ITR/ Financial statement and ST-3 Returns for FY 2015-16 was Rs 1,62,99,34,937/-, for FY 2016-17 was Rs. 1,53,99,94,659/- and for FY 2017-18 (upto June 17) was Rs. 38,02,78,534/- as discussed hereinabove.

32. I find that M/s. CLL have contended in para E.4 of their defence reply dated 23.02.2022 that they had provided the Services of Transportation of goods by Road, wherein they had not acted as GTA, and as such the service provided by them was covered under the negative list of service under Section 66D(p)(i) of the Finance Act, 1994. On the contrary, the reconciliation statement attached with the defence reply mentions the income as "Exempt Freight Income for FY 2015-16 under GTA liable for RCM by service recipient (list as per enclosure)".

33. In view of the above, it is seen that the arguments put forth by M/s. CLL are contradictory, M/s. CLL have not provided any working or details of exemption claimed under Section 66D(p)(i)(A) or GTA separately. They have provided general statements showing the ledger account wise exemption claimed by them for 2016-17 and 2017-18 (upto June 2017), not under the service category wise declared in ST-3 Returns.



34. In the instant case, I find from the arguments put forth by M/s. CLL that, their claims for exemption from service tax need to be examined under the exemption available under negative list of service provided under Section 66D(p)(i)(A) of the Finance Act, 1994 and exemption available under "Goods Transport Agency Service" under which liability of payment of service tax rests with the recipients of service under Reverse Charge Mechanism provided under Notification No. 30/2012-ST dated 20.06.2012. Therefore, relevant extracts from the legal provisions contained the Finance Act, 1994 / Notification issued thereunder/ Rules made there under are reproduced as follows:

Legal Provisions:

A. Section 66D which provides negative list of services:

"66D: The negative list shall comprise of the following services, namely:-

(a)

.....

(p) services by way of transportation of goods-

(i) by road except the services of -

(A) a goods transportation agency; or

(B) a courier agency;"

Therefore, I observe that the exemption from ST is available if **there is mere transportation of goods** other than the services rendered by a goods transportation agency.

B. Notification No. 30/2012-ST dated 20.06.2012:

GSR.....(E).-In exercise of the powers conferred by sub-section (2) of section 68 of the Finance Act, 1994 (32 of 1994), and in supersession of (i) notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 15/2012-Service Tax, the Central Government hereby notifies the following taxable services and the extent of service tax payable thereon by the person liable to pay service tax for the purposes of the said sub-section, namely:

I. The taxable services, -

(A) (i) *provided or agreed to be provided by an insurance agent to any person carrying on the insurance business;*

.....

(ii) *provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is, -*



- (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India;
- (c) any co-operative society established by or under any law;
- (d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;
- (e) anybody corporate established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons;
-
-

(II) The extent of service tax payable thereon by the person who provides the service and any other person liable for paying service tax for the taxable services specified in paragraph I shall be as specified in the following table, namely: -

Sl. No.	Description of service	Percentage of service	Percentage of service tax payable by any person liable for paying service Tax other than the service provider
2.	in respect of services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road.	Nil	100%

Explanation I. - The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

Therefore, it is observed from the notification no. 30/2012-ST that if the person who pays the freight for the service rendered by the goods transport agency and the said person is covered under the list of persons provided under Sr. No. (a) to (f), then the said person is liable to pay 100% service tax under reverse charge mechanism being the recipient of service. In other case, the Service provider is liable to pay service tax.

Section 65B(26) provides the definition of Goods Transport Agency, which is read as follows:

“Goods Transport Agency” means “any person provides service in relation to transport of goods by road and issues consignment note, by whatever name is called.”

Accordingly, a person can be said to be Goods Transport Agency, if the person provides service in relation to transportation of goods by road and issues the consignment note.



As per Rule 4B of Service Tax Rules, 1994; *“Any goods transport agency which provides service in relation to transport of goods carriage shall issue a consignment note to the recipient of service”*.

As per Explanation provided under Rule 4B *ibid*, **“consignment note”** means a document, issued by a goods transport agency **against the receipt of goods** for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency.

Thus, it can be seen that issuance of a consignment note is the sine-qua-non for a supplier of service to be considered as a Goods Transport Agency. If such a consignment note is not issued by the transporter, the service provider will not come within the ambit of goods transport agency. If a consignment note is issued, it **indicates that the lien on the goods has been transferred** (to the transporter) and the transporter becomes responsible for the goods till its safe delivery to the consignee.

The use of the phrase **‘in relation to’** extends the scope of the definition of GTA. It includes not only the actual transportation of goods, but any intermediate/ancillary service provided in relation to such transportation, like loading/unloading, packing/ unpacking, trans-shipment, temporary warehousing, etc. If these services are not provided as independent activities but are the means for successful provision of GTA Service, then they are also covered under GTA

From the above legal position, it can be discerned that not all transport of goods by road is by a GTA. To qualify as services of GTA, the GTA should be necessarily issuing a consignment note. Only services provided by a GTA are taxable under Finance Act, 1994. Services of transportation of goods by a person other than GTA are exempt under Section 66D(p)(i)(A) of the Finance Act, 1994. Moreover, in cases where the service of GTA is availed by the specified categories of persons in the taxable territory, the recipients who avail such services are liable to pay service tax and not the supplier of services under Reverse Charge Mechanism vide Notification No. 30/2012-ST.



	Accordingly to the transactions recorded under the ledger account, there are numerous recipient of service. Their constitution of business is not ascertainable from the name of the recipient of service, which is necessary for ascertaining the tax liability under RCM. Majority entries appears pertaining to individual under which the tax liability may arise on M/s. CLL. Therefore, the availability of the exemption can not be decided on the basis of very few sample invoices.					
	Further, M/s. CLL have mentioned to have paid service tax on Rs. 4046704/-, but they have not provided any details of it. Since, it is covered under the ST-3, the amount is not considered for computing the exemption availed.					
4	Freight Other (I)	669.33	669.33	0	Sales account, few Samples invoices and LRs issued by Charter	66932610
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to numerous customers. By nomenclature of ledger entries, majority of recipient of services are transporters/individual. narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. Ledger, runs into 34 pages. Fifteen sample invoices and relevant LRs (For 7 recipient only) have been produced. The sample invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. Sample LRs have been issued by M/s. CLL. <p>Accordingly to the transactions recorded under the ledger account, there are numerous recipient of service. Their constitution of business is not ascertainable from the name of the recipient of service, which is necessary for ascertaining the tax liability under RCM. Majority entries appears pertaining to individual under which the tax liability may arise on M/s. CLL. Therefore, the availability of the exemption can not be decided on the basis of very few sample invoices as compared to numerous entries. Therefore, entire amount appears liable to service tax.</p>					
5	GPL Freight (I)	527.40	527.4	0	Sales account, Samples invoices and LRs issued by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Greenply Industries Limited. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. Three sample invoices and relevant LRs have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Greenply Industries Limited. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being the company, they are liable to pay service tax under RCM. No tax liability arises on M/s. CLL in the instant case.</p>					
6	UTCL Freight (I)	510.49	510.49	0	Sales account, few Samples invoices and LRs issued by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Ultra Tech Cement Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. Four sample invoices and relevant LRs have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Ultra Tech Cement Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No tax liability arises on M/s. CLL in the instant case.</p>					
7	Dhunseri Petrochem Freight (I)	361.93	361.93	0	Sales account, Samples invoices and LRs issued by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Dhunseri Petrochem Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 					



	<ul style="list-style-type: none"> 15 sample invoices and relevant LRs have been produced. The invoices have been issued for charging the freight and has been issued in the name of Dhunseri Petrochem Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No tax liability arises on M/s. CLL in the instant case.</p>					
8	Tata Chemicals Freight (I)	214.60	214.6	0	Sales account, few Samples invoices and LRs issued by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Tata Chemicals Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 10 sample invoices and relevant LRs have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Tata Chemical Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No tax liability arises on M/s. CLL in the instant case.</p>					
9	KPTL Freight (I)	212.78	185.32	27.46	Sales account, few Samples invoices and LRs issued by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. M/s. Kalpataru Power Transmission Limited. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. Some ledger entries refer to income from "Trailer", total income on such transaction is Rs. 2746200/-. However, income appears to be flowing from renting of "Trailer" to M/s. KPTL by M/s. CLL. 5 sample invoices and relevant LRs have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Ultra Tech Cement Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL covers under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. The amount of Rs. 2746200/-on which M/s. CLL have mentioned to have paid the tax is correct. The rest of the amount is liable to exemption from tax. No further tax liability arises</p>					
10	Heavy Metal Freight (I)	50.37	49.43	0.94	Sales account, Samples invoices and LRs issued by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Heavy Metal & Tubes Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 10 sample invoices and relevant LRs have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Heavy Metal & Tubes Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No tax liability arises on M/s. CLL in the instant case. However, M/s. CLL have mentioned to have paid tax on Rs. 93493/-, but the details have not been provided. However, no further tax liability arises.</p>					



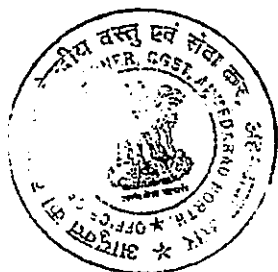
11	Sterlite Freight (I)	717.36	717.36	0	Sales account and few sample Freight bill, no LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. SESA Sterlite Limited and M/s. Vedanta Limited. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 19 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. SESA Sterlite Limited and M/s. Vedanta Limited. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
12	Diamond Cement Freight (I)	448.43	448.43	0	Sales account and sample Freight bill, no LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Diamond Cements. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 6 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Diamond Cement. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case of LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
13	Hi Bond Cement (I)	7.20	7.2	0	Sales account and few sample Freight bill, no LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Hi-Bond Cement (I) Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. One sample invoice has been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Hi-Bond Cement (I) Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
14	Hindalco Freight (I)	996.56	996.56	0	Only Ledger and work order dated 15.08.2015 provided	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Hindalco Inds. Ltd- Dahej. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. No sample invoice has been produced. However, invoices pertaining to FY 2016-17 have been produced. The said invoices have been issued for charging the freight and has been issued in the name of M/s. Hindalco Inds Ltd- Dahej. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. Further, work order clearly mentions the work allotted to be "Transportation of goods by Road" by M/s. CLL. Work order also provides rate for Transportation of Copper products from Dahej to various Destinations (rates is fixed as per distance and weight). No copies of LRs have been produced.. 					



	Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case					
15	Ambuja Fright (I)	937.53	937.53	0	Ledger account, few Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Ambuja Cement Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 5 sample invoice has been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Ambuja Cement Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case of LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
16	ABS Fright (I)	41.35	41.35	0	Only ledger account, Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Styrolution ABS (India) Ltd Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoice have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Styrolution ABS (India) Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
17	Asta Fright (I)	1.43	1.43	0	Only ledger account, Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Asta India (Pvt) Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 3 sample invoice have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Asta India (Pvt) Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
18	Claim Receivable (income)	0.15	0.15	0	Only ledger account	0
	Appears not pertaining to service					
19	Container Fright (I)	0.03	0.03	0	JV Entry for TDS	0
	Appears not pertaining to service					
20	DCC Fright (I)	54.05	54.05	0	Only ledger account, Sample invoices. No LRs.	0



	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Digvijay Cement Co. Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Digvijay Cement Co. Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
21	Finolex Freight (I)	174.72	174.72	0	Only ledger account. Few sample invoices of Finolex. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Finolex Industries and other companies. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 5 sample invoices (pertaining to M/s. Finolex Industries) have been produced. The invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
22	HNG Freight (I)	140.16	140.16	0	Only ledger account. Few Sample invoices. No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. HNG Flot Glass Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 12 sample invoice have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. HNG Flot Glass Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
23	Mahi Cement Freight (I)	1028.54	1028.54	0	Only ledger account. Sample invoices. No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Trinetra Cement Ltd . Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 8 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Trinetra Cement Ltd . The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
24	Truck Freight (I)	5523.12	5523.12	0	Only ledger account	552311551.6



	It is seen that the ledger contains the subledger head entries, actual recipient of service is not ascertainable from the ledger. The availability of exemption can not be decided from the ledger only.					
25	Hire Charges	9.95	0	9.95	No document provided	0
No differential tax payable.. No exemption claimed						
26	Loading Unloading Charges	1.41	0	1.41	No document provided	0
No differential tax payable. No exemption claimed						
27	Transportation charges	42.52	0	42.52	No document provided	0
No differential tax payable. No exemption claimed.						
	Total	16422.07	16299.26	122.74		694066161.6

FY. 2016-17

Sr. No	Head of Ledger	Amount involved (in lakh)	Amount of exemption claimed (in Lakh)	Amount on which tax paid (Rs. In lakh)	Documents submitted	Amount if liable to service tax (Actual amount Rs.)
1	ABS Freight (I)	44.46	44.46	0.00	Ledger, Few Some sample invoices . No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. INEOS Styrolution ABS (India) Ltd Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 6 sample invoice have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s INEOS Styrolution ABS (India) Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
2	Ambuja Freight(I)	1269.48	1269.48	0.00	Ledger, Few Sample invoices, No. LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Ambuja Cement Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoice has been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Ambuja Cement Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
3	Archid Ply Industries(I)	25.51	25.51	0.00	Ledger, Few Sample invoices, No. LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Archid Ply Inds Ltd.. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 					



	<ul style="list-style-type: none"> 5 sample invoice has been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Archid Ply Inds Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
4	Asta Freight (I)	30.44	30.44	0.00	Ledger, Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Asta India (Pvt) Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 9 sample invoice have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Asta India (Pvt) Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
5	DCC Freight (I)	69.14	69.14	0.00	Ledger, Sample Invoices, No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Digvijay Cement Co. Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 6 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Digvijay Cement Co. Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
6	Dhunseri Petrochem Freight (I)	275.10	275.10	0.00	Ledger, Few Sample invoices, LRs by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Dhunseri Petrochem Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 9 Sample invoices and relevant LRs have been produced. The invoices have been issued for charging the freight and has been issued in the name of Dhunseri Petrochem Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No tax liability arises on M/s. CLL in the instant case.</p>					
7	Diamond Cement Freight (I)	485.13	485.13	0.00	Ledger, Few Invoices. No LRs	0



	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Diamond Cements. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 16 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s, Diamond Cement. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
8	Finolex Freight(I)	193.60	191.09	2.51	Ledger, Few Sample invoices, LRs by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Finolex Industries and other companies. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 9 sample invoices (of different customers) and LRs have been produced. The invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No tax liability arises on M/s. CLL in the instant case.</p>					
9	Forace Polymers Freight (I)	11.52	11.52	0.00	Ledger, Sample Invoices, No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Forace Polymers (p) Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Forace Polymers (p) Ltd The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
10	Freight Other (I)	940.66	940.66	0.00	Ledger, Sample invoices, No LRs	94065634.00
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to numerous customers. By nomenclature of ledger entries, majority of recipient of services are transporters/individual. narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 6 sample invoices and relevant LRs have been produced. The sample invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No . LRs Produced by M/s. CLL. <p>Accordingly to the transactions recorded under the ledger account, there are numerous recipient of service. Their constitution of business is not ascertainable from the name of the recipient of service, which is necessary for ascertaining the tax liability under RCM. Majority entries appears pertaining to individual under which the tax liability may arise on M/s. CLL. Therefore, the availability of the exemption can not be decided on the basis of very few sample invoices as compared to numerous entries. Therefore, entire amount appears liable to service tax.</p>					



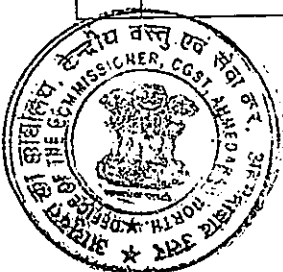
11	Gail Freight (I)	439.18	439.18	0.00	Ledger, Sample invoices . No LRs.	00
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Gail India Ltd Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Gail India Ltd . The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
12	GNFC Freight (I)	17.18	17.18	0	Only Ledger, No. Invoices	1718093
	As per narration contained in the ledger, the recipient of services is M/s. GNFC Ltd. Narration also refers to the LR numbers. The exact nature of service can not be decided on the basis of ledger entries.					
13	GPL Freight (I)	191.35	191.35	0	Ledger, Sample invoices	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Green Ply Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 5 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Green Ply Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
14	GSFC Freight (I)	48.22	48.22	0	Ledger, Few Sample invoices, No. LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. GSFC Ltd.. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 1 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. GSFC Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
15	Heavy Metal Freight (I)	10.60	6.96	3.64	Ledger, Few Sample invoices, LRs by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Heavy Metals & Tubes Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 2 sample invoices and LRs have been produced. The invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. Copies of LRs have been produced.. They have mentioned the payment of Tax on Rs. 3.64 for renting of Tractor, no further details have been provided 					



	Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No further, tax liability arises on M/s. CLL in the instant case.					
16	Hi Bond Cement (I)	80.46	80.46	0	Ledger, Some invoices, No. LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Hi-Bond Cement (I) Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 15 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. H-Bond Cement (I) Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
17	Hindalco Freight (I)	999.24	999.24	0	Ledger, Some Invoices, No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Hindalco Industries Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Hindalco Industries Ltd.. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
18	Hire Charges	5.00	0.00	5	Ledger, No invocie, No LRs	0
	No exemption claimed.					
19	HNG Freight(I)	146.15	146.15	0	Ledger, Some Invoices, No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. HNG Float Glass Ltd.. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 5 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. HNG Float Glass Ltd.. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
20	HPCL Freight (I)	264.22	264.22	0	Ledger, Few Sample invoices, LRs by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s Haldia Petrochem Ltd . Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 10 sample invoices and LRs have been produced. The invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. They have mentioned the payment of Tax on Rs. 3.64 for renting of Tractor, no further details have been provided 					



	Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No further, tax liability arises on M/s. CLL in the instant case.					
21	HUL Freight (I)	787.32	787.32	0	Ledger, Invoice of HUL, No. LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Hindustan Unilever Limited. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Hindustan Unilever Ltd.. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
22	ISRPL Freight (I)	84.81	84.81	0	Ledger, Few Sample invoices, LRs by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s . Indian Synthetic Rubber Pvt Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices and LRs have been produced. The invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No further, tax liability arises on M/s. CLL in the instant case.</p>					
23	ITC (I)	620.34	620.34	0	Ledger, Sample invoices . No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. ITC Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. ITC Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
24	KPTL Freight (I)	320.06	242.15	77.91	Ledger, Few Sample invoices, LRs by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. M/s. Kalpataru Power Transmission Limited. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. Some ledger entries refer to income form "Trailor", total income on such transaction is Rs. 77.91 lakh. The said income appears flowing from renting of "Trailor" to M/s. KPTL 3 sample invoices and relevant LRs have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. KPTL Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. 					



	Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. The amount of Rs. 77.91 lakh on which M/s. CLL have mentioned to have paid the tax is correct. The rest of the amount liable to exemption from tax. No further tax liability arises					
25	Mahi Cement Freight (I)	337.03	337.03	0	Ledger, Sample invoices . No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Trinetra Cement Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Trinetra Cement Ltd.. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
26	Own Truck Income-Market	1279.43	1199.33	80.1	Ledger, Sample invoices, LRs by Charter	119933081.0
	Accordingly to the transactions recorded under the ledger account, there are numerous recipient of service. Their constitution of business is not ascertainable from the name of the recipient of service, which is necessary for ascertaining the tax liability under RCM. Majority entries appears pertaining to individual under which the tax liability may arise on M/s. CLL. M/s. CLL have mentioned to have paid service tax on Rs. 80.1 Lakh , but they have not provided any details of it. Since, it is covered under the ST-3, the amount is not considered for computing the exemption availed. With respect to the rest of the part of income, the availability of the exemption can not be decided on the basis of very few sample invoices.					
27	Patanjali Freight (I)	88.19	88.19	0	Ledger, Sample invoices . No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Patanjali Parivahan Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 5 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Patanjali Parivahn Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
28	RIL Freight (I)	744.86	744.86	0	Ledger, Sample invoices, LRs by Fine tech	0
	In the instant case, the invoices have been issued in the name of M/s. Fine Tech Corporation P. Ltd. The DGGI, AZU, Ahmedabad has investigated the case and SCN has been issued to M/s. CLL , in the matter. Order in Original No. AHM-EXCUS-002-Commr-74/21-22 dtd. 30.03.2022 has already been issued in the subject matter. Therefore, the transactions are not examined under the present SCN.					
29	Sterlite Freight (I)	450.95	449.44	1.51	Ledger, Few Sample invoices, LRs by Charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Vedanta Ltd and other companies. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 9 sample invoices have been produced (of Different customers). The invoices have been issued for charging the freight and has been issued in the name of M/s. Vedant 					



	and other companies. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported.					
	<ul style="list-style-type: none"> There appears payment by M/s. CLL on amount of Rs. 1.51 Lakh but no details have been provided by them. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
30	TATA Chemicals Freight (I)	242.19	242.19	0	Ledger, Few Invoices. No LRs	1373491
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Tata Chemical Ltd. . Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 15 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Tata Chemicals Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. From ledger entries it is seen that they have collected Rs. 1373491/-for loading and unloading, clearing of goods and other activity. The said amount appears taxable. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case, except above mentioned liability.</p>					
31	Truck Freight (I)	4531.09	4531.09	0	Ledger, No invoices, No LRS	453108958.92
	It is seen that the ledger contains the subledger head entries, actual recipient of service is not ascertainable from the ledger. The availability of exemption can not be decided from the ledger only.					
32	UTCL Freight (I)	548.17	548.17	0	Ledger, Few Invoices. No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Ultratech Cement Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 06 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Ultratech Cement Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
		15581.07	15410.40	170.67		670199257.9

2017-18 (upto June 2017)

Sr. No	Head of Ledger	Amount involved (in lakh)	Amount of exemption claimed (in Lakh)	Amount on which tax paid (Rs. In lakh)	Documents submitted	Amount if liable to pay service tax (Actual amount Rs.)
1	ABS Freight (I)	10.72	10.72	0	Ledger Account. Few Sample invoices. No LRs.	0



	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. INEOS Styrolution ABS (India) Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoice have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s INEOS Styrolution ABS (India) Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LR's have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case LR's not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
2	Additional Freight Income	20.31	20.31	0	Only ledger account, One sample invoice. No LR.	0
	Income is pertaining to the additional freight income from M/s. Hindalco Inds Ltd, which is covered under Section 66D(p)(i). Invoice issued to M/s. Hindalco Inds. Ltd.					
3	Ambuja Freight(I)	287.02	287.02	0	Ledger Account. Few Sample invoices. No LR's.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Ambuja Cement Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 5 sample invoice has been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Ambuja Cement Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LR's have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case LR's not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
4	Archid Ply Industries(I)	4.67	4.67	0	Ledger Account. Few Sample invoices. No LR's.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Archid Ply Inds Ltd.. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 5 sample invoice has been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Archid Ply Inds Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LR's have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case LR's not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
5	Asta Freight (I)	10.61	10.61	0	Ledger Account. Few Sample invoices. No LR's.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Asta India (Pvt) Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 6 sample invoice have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Asta India (Pvt) Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LR's have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case LR's not being issued by M/s. CLL, the transactions would be covered under negative list of</p>					



	service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.					
6	DCC Freight (I)	15.92	15.92	0	Ledger Account. Few Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Digvijay Cement Co. Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 6 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Digvijay Cement Co. Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
7	Dhunseri Petrochem Freight (I)	24.30	24.30	0	Ledger Account. Few Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Dhunseri Petrochem Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Dhunseri Petrochem Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
8	Diamond Cement Freight (I)	118.34	118.34	0	Ledger Account. Few Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Diamond Cements. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Diamond Cement. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
9	Finolex Freight(I)	60.73	60.73	0	Ledger Account. Few Sample invoices. LRs. Issued by charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Finolex Industries and other companies. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoices and LRs have been produced. The invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. 					



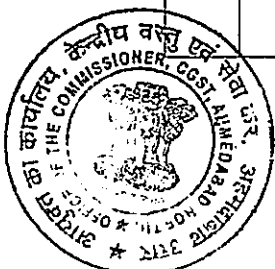
	Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No tax liability arises on M/s. CLL in the instant case.					
10	Freight Other (I)	136.00	136.00	0	Ledger Account. Sample invoices & Sai Krupa transport. Some LRs by Charter	13599565
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to numerous customers. By nomenclature of ledger entries, majority of recipient of services are transporters/individual. narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 11 sample invoices and relevant LRs have been produced. The sample invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. Sample LRs have been issued by M/s. CLL. <p>Accordingly to the transactions recorded under the ledger account, there are numerous recipient of service. Their constitution of business is not ascertainable from the name of the recipient of service, which is necessary for ascertaining the tax liability under RCM. Majority entries appears pertaining to individual under which the tax liability may arise on M/s. CLL. Therefore, the availability of the exemption can not be decided on the basis of very few sample invoices as compared to numerous entries. Therefore, entire amount appears liable to service tax.</p>					
11	Gail Freight (I)	238.12	238.12	0	Ledger Account. Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Gail India Ltd Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Gail India Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
12	GNFC Freight (I)	0.98	0.98	0	Ledger Account. Few Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. GNFC Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 2 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. GNFC Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
13	GPL Freight (I)	32.43	32.43	0	Only ledger account, a few Sample Invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Green Ply Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Green Ply Ltd. The 					



	<p>invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported.</p> <ul style="list-style-type: none"> No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
14	GSFC Freight (I)	12.54	12.54	0	Only ledger account, a few sample invoices. No. LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. GSFC Ltd.. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. GSFC Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
15	Heavy Metal Freight (I)	9.61	8.23	1.38	Ledger Account. Sample invoices. LRs by Charter.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Heavy Metals & Tubes Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 3 sample invoices and LRs have been produced. The invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. Copies of LRs have been produced.. They have mentioned the payment of Tax on Rs. 3.64 for renting of Tractor, no further details have been provided <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL covers under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No further, tax liability arises on M/s. CLL in the instant case.</p>					
16	Hi Bond Cement (I)	44.36	44.36	0	Ledger Account. Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Hi-Bond Cement (I) Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 2 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. H-Bond Cement (I) Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
17	Hindalco Freight (I)	223.07	223.07	0	Ledger Account. A few Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Hindalco Industries Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Hindalco Industries 					



	<p>Ltd.. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported.</p> <ul style="list-style-type: none"> No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
18	Hire Charges	1.25	0.00	1.25	Only ledger account, A Few sample Debit notes	0
	No exemption has been claimed					
19	HUL Freight (I)	173.79	173.79	0	Only ledgers, a few sample invoices. No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Hindustan Uni Lever Limited. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 6 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Hindustan Unilever Ltd.. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
20	ISRPL Freight (I)	36.38	36.38	0	Only ledgers, a few sample invoices. No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s . Indian Synthetic Rubber Pvt Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 3 sample invoices and LRs have been produced. The invoices have been issued for charging the freight. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. No further, tax liability arises on M/s. CLL in the instant case.</p>					
21	ITC (I)	124.03	124.03	0	Only ledgers, Sample invoices. No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. ITC Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. ITC Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
22	KPTL Freight (I)	61.92	43.37	18.55	Only ledgers, a few sample invoices. No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. M/s. Kalpataru Power Transmission Limited. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. Some ledger entries refer to income form "Trailor", total income on such transaction is Rs. 18.55 lakh. The said income appears flowing from renting of "Trailor" to M/s. KPTL 					



	<ul style="list-style-type: none"> 4 sample invoices and relevant LRs have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. KPTL Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been issued by M/s. CLL. <p>Therefore, there is a transportation of goods by road by M/s. CLL and LR has been issued by M/s. CLL, therefore, the service provided by M/s. CLL is covered under the service of GTA. The service recipient being a company, they are liable to pay service tax under RCM. The amount of Rs. 18.55 lakh on which M/s. CLL have mentioned to have paid the tax is correct. The rest of the amount liable to exemption from tax. No further tax liability arises</p>					
23	Loading unloading Chrgs income	1.02	0.13	0.89	Only ledgers, invoices tax charged	13000
	Tax has been charged. No exemption claimed.					
24	Mahi Cement Freight (I)	49.17	49.17	0	Only ledgers. Sample invoices. No LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Trinetra Cement Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 2 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Hindustan Lever Ltd.. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
25	ONGC Freight (I)	9.58	0.00	9.58	Only ledgers, a Few invoices, No Lrs	0
	No exemption has been claimed.					
26	Own Truck Income-Market	215.52	196.85	18.67	Ledger, sample invoice Few, Few LRs. By charter	21552276
	Accordingly to the transactions recorded under the ledger account, there are numerous recipient of service. Their constitution of business is not ascertainable from the name of the recipient of service, which is necessary for ascertaining the tax liability under RCM. Majority entries appears pertaining to individual under which the tax liability may arise on M/s. CLL. M/s. CLL have mentioned to have paid service tax on Rs. 80.1 Lakh , but they have not provided any details of it. Since, it is covered under the ST-3, the amount is not considered for computing the exemption availed. With respect to the rest of the part of income, the availability of the exemption can not be decided on the basis of very few sample invoices.					
27	Patanjali Freight (I)	99.79	99.79	0	Only ledgers, Sample invoices. No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Patanjali Parivahan Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 7 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Patanjali Parivahn Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL . In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
28	RIL Freight (I)	117.03	117.03	0	Only ledgers, sample invoices, LRs by Fine Tech	0



	In the instant case, the invoices have been issued in the name of M/s. Fine Tech Corporation P. Ltd. The DGGI, AZU, Ahmedabad has investigated the case and SCN has been issued to M/s. CLL, in the matter. Order in Original No. AHM-EXCUS-002-Commr-74/21-22 dtd. 30.03.2022 has already been issued in the subject matter. Therefore, the transactions are not examined under the present SCN.					
29	Sterlite Freight (I)	50.21	50.21	0	Only ledgers. Sample invoices. No. LRs.	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to some industrial companies. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Vedanta and other companies. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. There appears payment by M/s. CLL on amount of Rs. 1.51 Lakh but no details have been provided by them. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
30	TATA Chemicals Freight (I)	44.48	44.48	0	Ledgers, Sample invoices. No LRs	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Tata Chemical Ltd. . Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 4 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Tata Chemicals Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. No copies of LRs have been produced.. <p>Therefore, there is a transportation of goods by road by M/s. CLL. In case LRs not being issued by M/s. CLL, the transactions would be covered under negative list of service under Section 66D(P)(i)(A) of Finance Act, 1994. Otherwise, the recipient of the services in the instant case is liable to pay service tax under RCM, as the recipient being a company. No tax liability arises on M/s. CLL in either case.</p>					
31	Truck Freight (I)	1463.51	1463.51	0	Only ledgers	146350534.03
	It is seen that the ledger contains the subledger head entries, actual recipient of service is not ascertainable from the ledger. The availability of exemption can not be decided from the ledger only.					
32	UTCL Freight (I)	105.40	105.26	0.14	Only ledgers, sample invoices, LRs by charter	0
	<ul style="list-style-type: none"> As per sales account/ledger, the service has been provided to M/s. Ultratech Cement Ltd. Narration of the account /ledger entry mentions the LR /LRs number, bill /voucher Number thereunder. 2 sample invoices have been produced. The invoices have been issued for charging the freight and has been issued in the name of M/s. Ultratech Cement Ltd. The invoice contains the detail of LR/LRs and Truck Number by which the goods have been transported. LRs have been produced by M/s. CLL <p>Therefore, there is a transportation of goods by road by M/s. CLL. LRs have been issued by M/s. CLL, the transactions would be covered under GTA service.</p>					
		3802.79	3752.33	50.46		181515375
					ADD: 50.46 Lakhs, as no returns filed for 2017-18	5046000
	Total					186561375

From the above, except in the cases of income recorded in ledgers relating to Truck Freight, Own Truck Income-market and Freight Others, the



transportation of the goods by road has been established from the records made available by M/s. CLL. In many cases, M/s. CLL have neither produced Consignment notes/ LRs, nor have they mentioned anything in this regards, in their defence reply submitted on 23.02.2022. But in any case, the transaction entered other than of aforementioned ledgers are either covered under GTA service and liability is with the recipient of service (being the specified persons under Notification No. 30/2012-ST) or covered under exempt service under 66D(P)(i)(A). It is also pertinent to mention here that the department has not adduced any evidence to substantiate the allegation levelled against M/s. CLL other than the difference in taxable value as seen in the ITR & ST-3 Returns filed.

37. A comparative chart with respect to the gross value of service declared in ST-3 Returns and Taxable value on which M/s. CLL have paid tax as per the statement provided is as under:

FY	Gross value declared in ST-3 Returns (in Lakh) (A)	Taxable value on which tax has been paid (in Lakh) (B)	Difference, if any. (A-B)	Remarks
2015-16	122.74	122.75	-0.01	Rounding difference
2016-17	180.98	170.67	10.31	Excess in ST-3.
2017-18 (upto June 17)	0	50.45	-50.45	No ST-3 details available, not considered as payment

38. In view of the legal position, documents submitted and as discussed, I find that M/s. CLL is liable to pay tax on the differential amount of value of taxable service as under. Further, Gross value of service declared in ST-3 is more than the value shown in statement of exemption claimed for 2016-17 as submitted by M/s. CLL. Hence, the lower amount has been considered while computing tax liability on the difference in value of service for 2016-17. Similarly, no ST-3 return appears to have been filed by M/s. CLL for FY 2017-18 (upto June 17), therefore, the value of service stated to have been declared in ST-3 Returns is not considered for computing the tax liability for 2017-18 (upto Rs. June 2017), as it is not appearing on departmental portal.

FY	Difference in value of service rendered Worked out (in Rs.)	Rate of service tax	Total Service tax payable (in Rs.)
2015-16	694066162	14.5	10,06,39,593
2016-17	670199258	15.0	10,05,29,888
2017-18 (upto June 2017)	186561375	15.0	2,79,84,206
Total	1550826795		22,91,53,687



39. It is also pertinent to mention here that DGGI, AZU Ahmedabad had carried out the investigation against M/s. CLL, which was limited to the transaction entered with M/s. Fine Tech Corporation Ltd by M/s. CLL, which are recorded in the ledger viz. RIL Freight. The same was confirmed by the DGGI office vide their letter F.No. DGGI/12(4)06/2018-19 dated .03.2022 (received on 24.03.2022). Consequent upon the investigation, M/s. CLL were issued the SCN No. DGGI/AZU/36-33/202-21 date 31.08.2020 by the Additional Director General Ahmedabad, DGGI, AZU, Ahmedabad for demanding service tax of Rs. 4,16,81,579/-. The same has been decided vide Order in Original No. AHM-EXCUS-002-Commr-74/21-22 dtd. 30.03.2022.

40. I find that in most of cases the name of the recipient of service is not forthcoming from the ledgers entries, in such cases the tax liability is not ascertainable. Moreover, in certain cases tax liability under RCM is also not ascertainable as to whether the recipient is covered / not covered under the specified persons listed under the Notification No. 30/2012-ST dated 20.06.2012. Further, benefit of the abatement of 70% of value of service rendered is available to the service rendered by Goods Transport Agency under Notification No. 26/2012-ST date 20.06.2012, if the cenvat credit is not availed by the provider of service under Cenvat Credit Rule 2004. On perusing the ST-3 Returns filed by M/s. CLL, it is seen that they have availed the Cenvat Credit and utilised the same for payment of service tax on service provided by them. Therefore, the benefit of abatement of value of service is not available to M/s. CLL. Therefore, M/s. CLL is liable to pay service tax of Rs. 22,91,53,687/- on the total difference of value of Rs. 1,55,08,26,795/- as calculated in para 38 above, without benefit of abatement in taxable value, for FY 2015-16 to FY 2017-18 (upto June 2017).

I also find that the subject SCN was issued for demanding service tax of Rs. 23,63,40,566/- only for the period FY 2015-16. However, at the time of issuance of subject SCN, the service tax payable for FY 2016-17 and FY 2017-18 (upto June 17) was not ascertainable by the SCN issuing authority, the same has now been ascertained to be Rs. 12,85,14,094/- for FY 2016-17 and FY 2017-18 (upto June 17), on the basis of documents submitted by M/s. CLL and ITR data shared by the CBDT subsequently. In view of the above, out of the demand of Service tax of Rs. 23,63,40,566/- for FY 2015-16, the service tax liability of Rs. 10,06,39,593/- is required to be demanded and recovered from



M/s. CLL. The rest of the demand of Rs. 13,57,00,973/- for the period FY 2015-16, thus liable to be dropped being not sustainable on merits.

41. Based on above facts and circumstances, discussion and documents available on records, I hold that M/s. CLL are liable to pay the service tax amounting to Rs 22,91,53,687/- for the period from FY 2015-16 to 2017-18 (upto June 2017) as per para 38 above. Therefore, I find that the M/s. CLL have contravened the provisions of Section 68 and 66B of the Finance Act, 1994 read with Rules 2 and 6 of the Service Tax Rules 1994, in as much as they have failed to pay service tax to the tune of Rs. 22,91,53,687/- though they were liable to pay the same; they have also contravened the provision of Section 70 of Finance Act, 1994 read with Rule 6 & 7 of the Service Tax Rules, 1994 in as much as they have failed to assess their correct service tax liability and have failed to file correct ST-3 Returns for the period from April 2015 to June 2017. I also find that Section 75 of Finance Act, 1994 mandates that any person who is liable to pay service tax, shall, in addition to the tax, be liable to pay interest at the appropriate rate. I thus hold that the M/s. CLL are also liable to pay the interest on the demand of service Tax of Rs. 22,91,53,687/-.

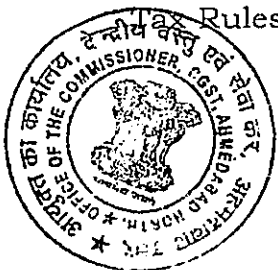
42. I find that the as per Sr. No. B.1.1 of Part - B1 of ST-3 Return, the details of "Gross Amount (excluding amounts received in advance, amounts taxable on receipt basis, for which bills/invoices/challans or any other documents may not have been issued) for which bills/invoices/challans or any other documents are issued relating to service provided or to be provided (**including export of service and exempted service**)" was to be furnished and the details of abatement/exemption claimed was to be furnished at subsequent serial number. Serial No. B.1.9 of Part -B1 of ST-3 returns was meant for claiming for exemption (other than export of service) from the gross receipt. This has not happened in the instant case and the huge amount on which exemption claimed to have been availed by M/s. CLL, was not declared in the ST-3 Returns.

43. From the facts and discussion aforementioned, I find that M/s. CLL have failed to assess and discharge their service tax liability for the period from FY 2015-16 to FY 2017-18 (upto June 2017). M/s. CLL have failed to disclose their actual taxable income by not declaring the huge part of taxable value of service provided by them, in their service tax returns filed by them and not paying legitimate service tax due to the govt. account, though they were having income which were liable to service tax. I also find that they have failed to provide the documentary evidence in support of their arguments for service provided by them



being exempt service. These acts of non payment of service tax, non filing of correct service tax returns, suppressing the materials fact from the department were done with an intent to evade the payment of service tax. The government has from the very beginning placed full trust on the assessee, accordingly measures like self assessment etc. based on mutual trust and confidence have been put in place. Further, the assessee are not required to maintain any statutory or separate records under the Excise /service tax law as considerable amount of trust is placed on the assessee and private records maintained by them for normal business purposes are accepted for purpose of service tax law. Moreover, returns are also filed online without any supporting documents. All these operate on the basic and fundamental premise of honesty of the assessee; therefore, the governing statutory provisions create an absolute liability on the assessee when any provisions is contravened or there is breach of trust placed on them. Such contravention on the part of M/s. CLL tantamounts to willful misstatement and suppression of facts with an intent to evade the payment of the duty/ tax. It is evident that the such facts of contravention and non payment of service tax, as discussed earlier, on the part of M/s. CLL only came to the notice of the department when the inquiry was initiated by the department, consequent upon the data shared by the CBDT. In the case of *Mahavir Plastics versus CCE Mumbai, 2010 (255) ELT 241*, it has been held that if facts are gathered by department in subsequent investigation extended period can be invoked. In *2009 (23) STT 275, in case of Lalit Enterprises v CST Chennai*, it is held that extended period can be invoked when department comes to know of service charges received by appellant on verification of his accounts. Therefore, I find that all essential ingredients exist in this case to invoke the extended period under the proviso to Section 73(1) of Finance Act, 1994. Hence, by invoking the extended period of five years, I hold that the M/s. CLL is liable to pay Service Tax of Rs. 22,91,53,687/- along with applicable interest under Section 75 of the Finance Act, 1994. The demand is thus justified on merits. And for the same reasons, M/s. CLL have rendered themselves liable for penal action under the provisions of Section 78 of the Finance Act, 1994.

44. As regards, the proposal for imposition of penalty under Section 77(1)(c) and 77(2) of the Finance Act, 1994, I find that the M/s. CLL have not provided /produced the documents called for by the division office and also failed to assess their service tax liability and has failed to file correct service tax returns as required under Section 70 of the Finance Act, 1994 read with Rule 7 of Service Rules, 1994, as discussed at length hereinabove, thus, they have rendered



themselves liable to penal action under Section 77(1)(c) and 77(2) of the Finance Act, 1994.

45. As regards the contention of M/s. CLL that they were not offered pre-SCN consultation before issuance of the subject SCN, I find the Draft SCN was received for issuance by the Commissioner, CGST, Ahmedabad North from Division Office on 20.10.2020 at last hours and because of that there was no time to scrutinize its details. Further M/s. CLL had not submitted the documents, which were sought by the Division office vide letter dated 06.10.2020, as is forthcoming from the SCN. However, in order to protect government revenue, the subject SCN was issued by the SCN issuing adjudicating authority on 21.10.2020 itself. It is on account of this exigency that the SCN issuing authority had to dispense with the formality of pre-SCN consultation and issue the SCN on the very next day to protect government revenue. It is regretted that pre-SCN consultation could not be offered to M/s. CLL. The fact however remain, that the issuance of SCN without consultation has not jeopardised the interest of M/s. CLL beyond a point and the SCN issued is ultimately going to be decided on the merits of the case in view of the allegations levelled in the SCN and the evidence tendered by M/s. CLL in its favour through the written submissions and defence put forth at the time of personal hearing.

46. From the documents available on records, I find from para 4 of the subject SCN that M/s. CLL was written a letter dated 06.10.2020, to explain the reasons for difference in taxable value for FY 2015-16 and to provide the balance sheet/ profit and loss accounts, income ledgers for FY 2015-16. The said documents were never supplied by M/s. CLL to the division office. Further, the M/s. CLL were very well aware of the fact that the subject SCN was covering the period from 2015-16 to 2017-18 (upto June 17) as evident from the defence reply, but their defence reply received on 23.02.2022 did not mention as to which services were provided by them during 2016-17 and 2017-18 (upto June 2017). The defence reply which was supposed to be filed within 30 days from the date of issuance of notice, was filed by M/s. CLL, after one year. If they really wanted to defend their case, they would have immediately responded to the communication or attended the personal hearing and furnished the documents as sought by the department and would have filed the defence submission with all the supporting documents immediately with the division office. In view of this factual matrix, the contention that they were not given opportunity to defend their case is not tenable and baseless in view of the above narration.



47. I find that M/s. CLL have further contended that the SCN had to be adjudicated within one year from the date of issue of SCN, in terms of Section 73(4B) and in light of the decision of Hon'ble Delhi Court in the case of **Sunder System Pvt. Ltd. v. Union of India & Ors.** reported in **2020 (1) TMI 199-- Delhi High Court.** Agreeing with the observation of the Hon'ble Delhi High court, I also find that the court had observed at para 12 that "*In the present case, from the respondents' list of dates, it is apparent that it was certainly possible for the adjudicating authority to adjudicate upon the show cause notice issued to the petitioner within a period of one year at least from the conclusion of arguments on 3rd February, 2015, if not earlier*". I find that M/s. CLL were granted personal hearings on various dates between from Oct 21 to Feb, 22, but they on their own accord had chosen to refrain from attending the personal hearing till 15.03.2022. The detailed defence reply was also filed by M/s. Chartered Logistics Ltd., only on 23.02.2022 and some documents were submitted on 23.03.2022, thereby delaying the proceedings for which they themselves are responsible. It is pertinent to mention here that the adjudication authority has tried its level best to hasten/ expedite the adjudication proceedings, however, the same cannot be said for the assessee as can be seen by the timing and sequence of their response after the issuance of the SCN.

48. I also find that the proceeding initiated against M/s. CLL under the provisions of the Finance Act, 1994 and the Service Tax Rules 1994 framed thereunder, are saved by the Section 174(2) of the CGST Act, 2017 and therefore, the provision of Chapter V of the Finance Act, 1994 and the Rules made thereunder are applicable for the purpose of demand of tax, interest and imposition of penalty under the subject SCN.

49. In view of the above discussion and findings, I pass the following order:

ORDER

(i) I confirm the demand of Service Tax of Rs. 10,06,39,593/- short/ not paid out of the total demand of Rs. 23,63,40,566/- for FY 2015-16, and order to recover from M/s. CLL under proviso to Sub-section (1) of Section 73 of Finance Act, 1994. The rest of the demand of Rs. 13,57,00,973/- being not tenable and sustainable on merits.

(ii) I confirm the demand of Service tax of Rs. 12,85,14,094/- short paid/ not paid, which was to be ascertained for FY 2016-17 and 2017-18 (upto



June 2017), and order to recover the same from M/s. CLL under proviso to Sub-section (1) of Section 73 of Finance Act, 1994.

- (iii) I order to charge Interest at the appropriate rate and recovery of the same from M/s. CLL under Section 75 of the Finance Act, 1994, on the demand mentioned at (i) and (ii) above;
- (iv) I impose Penalty of Rs. 22,91,53,687/- (Rs. 10,06,39,593/- + 12,85,14,094/-) on M/s. CLL and order to recover from them under the provision of Section 78 of the Finance Act, 1994.
- (v) I impose penalty of Rs. 10,000/- on M/s. CLL for not furnishing documents and information, and order to recover the same under the provisions of Section 77(1)(c) of the Finance Act, 1994,
- (vi) I impose penalty of Rs. 10,000/- on M/s. CLL for failure to assess the correct tax liability and failure to file correct ST-3 returns by them and order to recover the same from them under the provisions of Section 77(2) of the Finance Act, 1994.

However, in view of clause (ii) of the second proviso to Section 78 (1), if the amount of Service Tax confirmed and interest thereon is paid within period of thirty days from the date of receipt of this Order, the penalty shall be twenty five percent of the said amount, subject to the condition that the amount of such reduced penalty is also paid within the said period of thirty days.

(Upendra Singh Yadav)
Commissioner,
Central Excise & CGST,
Ahmedabad North.

Date: 03.2022.

By Regd. Post AD./Hand Delivery
F. No. STC/15-110/OA/2020

To
M/s. Chartered Logistics Ltd.,
C-1, Jay Tower, Ankur Commercial Centre,
Naranpura, Ahmedabad-380013

Copy to:

- 1 The Principal Chief Commissioner of CGST & C. Ex., Ahmedabad Zone.
- 2 The Assistant/Deputy Commissioner, CGST & C.Ex., Division-VII, Ahmedabad North.
- 3 The Superintendent, Range-IV, Division-VII, Ahmedabad North.
- 4 The Superintendent (System), CGST, Ahmedabad North for uploading on website.
- 5 Guard File.

