


<p>आयुक्त का कार्यालय केंद्रीय वस्तु एवं सेवा कर एवं उत्पाद शुल्क ,अहमदाबाद उत्तर, कस्टम हॉउस(तल प्रथम) नवरंगपुरा- अहमदाबाद ,380009</p>		<p>Office of the Commissioner of Central Goods & Services Tax & Central Excise, Ahmedabad North, Custom House(1st Floor) Navrangpura, Ahmedabad-380009</p>
<p>फ़ोन नंबर./ PHONE No.: 079-2754 4599 फ़ैक्स/ FAX : 079-2754 4463 E-mail:- oaahmedabad2@gmail.com</p>		

निबन्धित पावती डाक द्वारा / By REGISTERED POST AD

फा .सं/ STC/15-23/OA/2021

DIN-20221264WT0000333CA1

आदेश की तारीख	/	Date of Order : 09.12.2022
जारी करने की तारीख	/	Date of Issue : 09.12.2022
द्वारा पारित/Passed by -		
उपेन्द्र सिंह यादव	/	UPENDRA SINGH YADAV
आयुक्त	/	COMMISSIONER

मूल आदेश संख्या /

ORDER-IN-ORIGINAL No. AHM-EXCUS-002-COMMR-28/2022-23

जिस व्यक्ति(यों) 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 Girdharnagar Bridge, Girdharnagar, 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 अग्रेषित 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 कीम 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, वहां 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/15-23/OA/2021 dated 23.04.2021 issued to M/s. Dharmendra Govindbhai Gajjar, 8B, Jay Vijaykunj Society, Opp. Devendra Society, Paliyadnagr Road, Ahmedabad -380013 (Gujarat).

ORDER-IN-ORIGINAL No. AHM-EXCUS-002-COMMR-28/2022-23

M/s. DharmendraGovindbhai Gajjar, 8B, Jay Vijaykunj Society, Opp. Devendra Society, Paliyadnagr Road, Ahmedabad -380013, were issued the SCN F. No. STC/15-23/OA/2021 dated 23.04.2021 by the Commissioner, Central GST & Central Excise, Ahmedabad North, Ahmedabad.

BRIEF FACTS OF THE CASE PERTAINING TO THE SCN ISSUED TO M/S. DHARMENDRA GOVINDBHAI GAJJAR, ARE AS FOLLOWS:

M/s. Dharmendra Govindbhai Gajjar, 8B, Jay Vijaykunj Society, Opp. Devendra Society, Paliyadnagr Road, Ahmedabad -380013 (hereinafter referred to as the 'assessee' for the sake of brevity) were engaged in providing taxable services, and were holding Service Tax Registration No. AANPG6327MSD001.

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. Dharmendra Govindbhai Gajjar, was undertaken by the Central Board of Direct Taxes (CBDT) for the F.Y. 2015-16 and 2016-17, and details of the 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 assessee for the F.Y. 2015-16 and 2016-17, 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 for F.Y. 2015-16 and 2016-17. Therefore, it appeared that the said assessee had declared less/not declared any taxable value in their Service Tax Returns (ST-3) for F.Y. 2015-16 and 2016-17 as compared to the Service related taxable value declared in their ITR/Form 26AS ("Sales/Gross Receipts from Services OR Total Amount paid /Credited Under 194C, 194H, 194I, 194J") for 2015-16 and 2016-17. The difference in value as observed for F.Y. 2015-16 and 2016-17, was as under:

Sr. No.	FY	Taxable Value as per ST-3 Returns (in Rs.)	Gross Receipts from services (Value from ITR/26AS) (in Rs.)	Difference Between Value of Services from ITR/26AS and Gross Value in Service tax provided (in Rs.)	Resultant Service tax short paid (in Rs.)
1	2015-16	0	14,42,54,457	14,42,54,457	2,09,16,896
2	2016-17	0	14,27,07,768	14,27,07,768	2,14,06,165
			28,69,62,225	28,69,62,225	4,23,23,061

Therefore, it appeared that the said assessee had not paid service tax to the extent of Rs. 4,23,23,061/- (including Cess) on the differential value of Rs. 28,69,62,225/-.

4. Accordingly, the service tax liability of M/s. Dharmendra Govindbhai Gajjar was worked out solely 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.

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 the assessee 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 assessee had failed to pay/short paid/deposit Service Tax to the extent of Rs. 4,23,23,061/- (including Cess) which was arrived at on the basis of difference of taxable value declared in their ST-3 returns during the Financial Year 2015-16 and 2016-17 vis-à-vis "Sales /Gross Receipts from Services (ITR)" OR "Total Amount paid /Credited Under 194C, 194H, 194I, 194J" (as per 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 assessee had failed to discharge the Service Tax liability of Rs. 4,23,23,061/- (including Cess) worked out on value of Rs.28,69,62,225/- and therefore, the said 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 assessee 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 had not paid service tax as worked out in the Table for Financial Year 2015-16 and 2016-17; (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 the provision of Rule 7 read with Section 70 of the Finance Act, 1994 in as much as they failed to assess their service tax liability and failed to file correct ST-3 Returns.

11. It had been noticed that at no point of time, the assessee 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 and 2016-17. From the evidences gathered/ available at the relevant time, it appeared that the said assessee 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. 4,23,23,061/-. Thus, it appeared that there was a deliberate withholding of essential and material information from the department about service provided and value realized by the assessee 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 assessee had short paid/not-paid Service Tax of Rs. 4,23,23,061/- 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 assessee had suppressed the facts from the department and had contravened the provisions with an intent to evade payment of Service Tax. The said assessee 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 2017-18 (upto June-2017) and the assessee 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 the short payment of Service Tax, if any, for the period FY 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 issued 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 assessee 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. All the above acts of contravention on the part of the said assessee appeared to have resulted into non-payment of Service Tax and they also 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. 4,23,23,061/- (inclusive of Cess) not paid was required to be demanded and recoverable 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.

15. 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 77 of the Finance Act, 1994 as amended from time to time. In view of the above, it appeared that the said assessee had contravened the provisions of Finance Act, 1994 and the rules made there under. All the contraventions and violations made by the said assessee appeared to have rendered the assessee liable to penalty under Section 77 of the Finance Act.

16. In addition to the contravention, omission and commission on the part of the said assessee as stated in the foregoing paras, it appeared that the said assessee 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.

17. The assessee was given opportunity to appear for pre-SCN consultation on 23.04.2021, but the same was not attended by them.

18. Therefore, Show Cause Notice dated 23.04.2021 was issued to the assessee asking them as to why:

- (i) Service Tax amounting to Rs. 4,23,23,061/- (Rupees Four Crore Twenty Three Lakh Twenty Three Thousand Sixty One Only) short/ not paid towards provision of those services, should not be confirmed and recovered from them under proviso to Sub-section (1) of Section 73 of Finance Act, 1994.
- (ii) Interest at the appropriate rate should not be demanded and recovered from them under Section 75 of the Finance Act, 1994;
- (iii) Penalty should not be imposed upon them under the provision of Section 78 of the Finance Act, 1994.
- (iv) Penalty should not be imposed upon them under the provision of Section 77(2) of the Finance Act, 1994, for failure to assess their correct Service Tax Liability and for failure to file correct Service Tax Returns, as required under Section 70 of the Finance Act, 1994 read with Rule 7 of the Service Tax Rules, 1994.

19. **DEFENCE REPLY:**

The assessee vide their letter dated 16.01.2022 (Received on 27.01.2022) tendered written submission, wherein they have interalia stated that:

- They were engaged in printing of Labor/Job Work for Government Departments which were exempted from service tax under Notification No. 25/2012-ST
- Their activities are covered under Sr. No. 12(d) of Notification No. 25/2012-ST.
- They do not accept the service tax liability as demanded in the SCN. They also requested to drop the demand in the interest of justice.

The assessee submitted the following document in support of exemption claimed from service tax on services rendered by them.

- Form 26AS for FY 2015-16, 2016-17
- Income Ledgers/ Sales Registers/Income Tax Deposit Accounts for FY 2015-16, 2016-17 and Some Major Debtor's ledgers.
- Sample Work Orders (32 for 2015-16 and 25 for FY 2016-17)
- Sample copies of Invoices raised by them (209 for FY 2015-16 and 216 for 2016-17)
- Balance Sheet/P&L account /Form 3CD / for 2015-16 and 2016-17.

20. PERSONAL HEARING:

Personal hearings were granted to the assessee on 17.05.2022, 14.06.2022, 21.07.2022, 01.09.2022 and 11.10.2022. The assessee did not appear for personal hearing fixed on 17.05.2022, 21.07.2022, and 01.09.2022. The personal hearing fixed on 14.06.2022 was not held. Thereafter, the assessee was granted personal hearing on 11.10.2022, which was attended by Shri Deepak Shah, Advocated as authorized by the assessee. During the course of personal hearing he reiterated their written submission dated 16.01.2022. He submitted that the service provided by way of printing job work done for the Government were exempted vide Notification No.25/2012-ST.

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 reply dated 16.01.2022, the documents submitted and oral submission made by the authorized representative of assessee during the course of personal hearing.

22. I observe that SCN dated 23.04.2021 has been issued to the assessee by the competent authority demanding Rs. 4,23,23,061/- as service tax liability. On going through the said SCN, I find that basically the essence of the case is that data of "Sales /Gross Receipts from Services (ITR)" / "Total Amount Paid/Credited under 194C, 194H, 194I, 194J" (as per TDS Statement-Form 26AS) were shared by the CBDT with CBIC for FY 2015-16 and 2016-17. The difference in taxable value was worked out after comparing the income declared in Form ITR/26AS vis-à-vis taxable value disclosed in ST-3 Returns. As per the said SCN dated 23.04.2021, the difference of Rs. 28,69,62,225/- in value was observed for FY 2015-16 and 2016-17, therefore, it was alleged vide SCN dated 23.04.2021, that the assessee had short paid/not paid the service tax of Rs. 4,23,23,061/- on such differential value, for providing the

taxable service. Therefore, the subject SCN was issued to the assessee. Accordingly, I find that the issue which requires determination as of now is whether the assessee is liable to pay service tax of Rs. 4,23,23,061/- on the differential taxable value of Rs. 28,69,62,225/- for the Financial Year 2015-16 and 2016-17 as demanded under SCN dated 23.04.2021, under proviso to section 73(1) of Finance Act, 1994 or not.

23. I find that the assessee in their defence reply dated 16.01.2022, and during the personal hearing, has contested that they had provided services by way of doing Job Work of printing for Government Department which was exempted from service tax under Notification No. 25/2012-ST. Therefore, they have argued that were not liable to pay Service Tax on providing these services.

24. I find that the SCN dated 23.04.2021 mentions about the sharing of data from ITR/26AS, however, it does not mention specifically, which data i.e. ITR data or 26AS data, has been considered for computing the tax liability upon the assessee. On going through the data of Form 26AS for FY 2015-16 & 2016-17, I find that the amounts paid/ credited to the assessee, as disclosed under Section 194C of Income Tax Act by the recipients of service from the assessee, are found to be tallying exactly with value of service considered in the subject SCN, for demanding service tax from the assessee. Further, the turnover of the assessee as per P&L during FY 2015-16 & 16-17, is found to be not tallying with the value of service considered in the subject SCN. The figures of turnover/ amount paid /credited for FY 2015-16 and 2016-17, as per P&L accounts, Form 26AS and value of taxable service considered in the SCN, are reproduced herein below for ready reference:

Figures / value of services considered in the subject SCN			
Sr. No.	Financial Year	Taxable Value as per ST-3 Returns (in Rs.)	Gross receipt from services (Value as per ITR/Form 26AS) (in Rs.)
1	2015-16	0	14,42,54,457
2	2016-17	0	14,27,07,768
	Total	0	28,69,62,225

FY 2015-16 - Details of Form 26AS			
Sr. No.	As per Form 26AS, Name of TDS Deductor (by whom, the amount paid/credited to the assessee)	As per Form 26AS, amount paid/credited to the assessee (in Rs.)	Section of IT Act, under which TDS deducted
1	ADDITIONAL DIRECTOR(F.W.)	51086775	194C
2	COMMISSIONERATE OF HEALTH AND MEDICAL SERVICES AND MEDICAL EDUCATION	43981457	194C
3	GUJARAT STATE BOARD & SCHOOL TEXT BOK GANDHINAGAR	3774197	194C
4	JOINT DIRECTOR MALERIA & FILARIA COMMISSIONERATE OF HEALTH SERVICES	8102846	194C
5	SAURASHTRA PATEL KELVANI MANDAL	254700	194C

6	STATE MALARIA CONTROL SOCIETY	1451256	194C
7	STATE HEALTH SOCIETY	34110649	194C
8	STATE HEALTH SOCIETY PROGRAMME SUB COMMITTEE IDSP	128000	194C
9	STATE HEALTH SOCIETY LEPROSY PROGRAMME	952061	194C
10	VISION STATIONERY PVT LTD	412516	194C
	Total for FY 2015-16	14,42,54,457	

FY 2016-17 - Details of Form 26AS			
Sr. No.	As per Form 26AS, Name of TDS Deductor (by whom, the amount paid/credited to the assessee)	As per Form 26AS, amount paid/credited to the assessee (in Rs.)	Section of IT Act, under which TDS deducted
1	ADDITIONAL DIRECTOR(F.W.)	1029112	194C
2	COMMISSIONERATE OF HEALTH AND MEDICAL SERVICES AND MEDICAL EDUCATION	97266822	194C
3	GUJARAT STATE BOARD & SCHOOL TEXT BOK GANDHINAGAR	4392330	194C
4	JOINT DIRECTOR MALERIA & FILARIA COMMISSIONERATE OF HEALTH SERVICES	1925938	194C
5	MAHAKALI PRINTERS	53802	194C
6	POLIO FOUNDATION	325000	194C
7	SAURASHTRA PATEL KELVANI MANDAL	163800	194C
8	STATE MALARIA CONTROL SOCIETY	2237353	194C
9	STATE HEALTH SOCIETY	34516584	194C
10	STATE HEALTH SOCIETY PROGRAMME SUB COMMITTEE IDSP	528000	194C
11	STATE HEALTH SOCIETY (NCD)	93500	194C
12	STATE HEALTH SOCIETY LEPROSY PROGRAMME	151173	194C
13	RCH AND FW PROGRAMME COMMITTEE DISTRICT HEALTH SOCIETY JAMNAGAR	24354	194C
	Total for FY 2016-17	142707768	

Turnover as per Profit and Loss Account (in Rs.)		
	FY 2015-16	FY 2016-17
Contract Receipts	11,00,000	0
Sales	14,11,60,171	13,88,10,510
Job Work Income	53,31,768	38,77,710
Total	14,75,91,939	14,26,88,220

24.1 The details of above tables are summarized herein below for comparison of value of services rendered by the assessee, as appearing in different records.

Summarized Details of above details			
FY	Amount paid as per Form 26AS (in Rs.) on which TDS has been deducted under 194C of Income tax Act.	Turnover as per P&L Accounts (Rs.)	Value of services considered in the SCN (in Rs.) for computation of service tax liability of the assessee.
2015-16	14,42,54,457	14,75,91,939	14,42,54,457
2016-17	14,27,07,768	14,26,88,220	14,27,07,768
Total	28,69,62,225	29,02,80,159	28,69,62,225

24.2 On perusing the summarized details, it is quite clear that the value of service rendered by the assessee during FY 2015-16 and 2016-17 as per the subject SCN, is found to be tallying with the figures reflecting in Form 26AS. However, the same is found to be not tallying with P&L accounts for FY 2015-16 & 2016-17. Hence, it is evident that the data shared by the Income Tax department was not from the ITR, but from the Form 26AS only. Accordingly, I would henceforth proceed with data of Form 26AS (amount paid or credited to the assessee by the recipient of service and on which TDS under Section 194C of IT Act has been deducted by the recipient of service) for deciding the matter.

24.3 I find that Section 194C of the Income Tax Act deals with the tax deduction at source (TDS) that is to be compulsorily deducted from any payments that have been made to any person who is a resident contractor or a subcontractor. Therefore, any amount paid/credited on which TDS has been deducted under Section 194C from such amount, the amount paid/credited is a contract income from contractual activities carried out. Therefore, such activity is covered under the definition of "Service" under Section 65B(44). Accordingly, it is subject to the service tax under section 66B of the Finance Act, unless the services provided are covered under negative list of service or exemption notification or exclusion clause provided under definition of "Service" as per 65B(44). I find that there is no dispute as far as the receipt of the consideration for provision of service by the assessee is concerned. The assessee has admittedly stated in their defence reply dated 16.01.2022 that they had provided services by way of Printing Labor Job Work for Government Department. Accordingly, I find that there is no dispute as far as the question of provision of services by the assessee is concerned.

25. The assessee, in support of the arguments put forth by them, has submitted the following documents.

- Form 26AS for FY 2015-16, 2016-17
- Income Ledgers/ Sales Registers/ Income Tax Deposit Accounts for FY 2015-16, 2016-17 and Some Major Debtor's ledgers (Recipients of services' Accounts).
- Sample Work Orders (32 for 2015-16 and 25 for FY 2016-17)
- Sample copies of Invoices raised by them (209 for FY 2015-16 and 216 for 2016-17)
- Balance Sheet/P&L account/Form 3CD for 2015-16 and 2016-17.

26. It is pertinent to mention here the Form 26AS also reflects the payment made to a taxpayer by the recipients of services on which they have deducted TDS from such payment. Further, the transaction figuring in the

Form 26AS could be consolidated for more than one invoices; it could be for advance or part payment of the total sum payable to the assessee for rendering of the services by the assessee. Further, in mercantile system of accounting, the sales accounts reflect the invoice wise revenue (income) earned irrespective of payment received or otherwise for the said invoice. In other words, sales accounts reflect the sale of services/goods. Hence, one to one correlation of transaction entries as appearing in Form 26AS vis-à-vis invoices or corresponding income ledger entries, is not possible. However, it is to be mentioned here that the amount paid/credited to the assessee as per Form 26AS, is nothing but the amount paid /credited against the amount payable which has been recorded in the sales ledger (sales account) for receiving the services from the assessee. Therefore, in order to ascertain the nature of services/business, the examination of Sales Account /invoices will be very much useful, against which the payment had been made to the assessee for rendering such services by the assessee.

27. The assessee in support of their defence submissions, has produced sales register for FY 2015-16 and 2016-17 and sample copies of invoices (209 for FY 2015-16 and 216 for 2016-17). On going through the sales register, it is seen that the same contains invoice wise revenue receivable, accounts head (name of the account) under which transaction has been recorded and name of recipient of services/debtor's account head. According to the sales register, the revenue has been recorded/posted to two different accounts heads viz. "Retail Sales Account and Labour Job Work Account". According to the sales register, the assessee has issued 218 Retail Sale invoices and 108 Job Work Invoices during FY 2015-16, and during 2016-17, the assessee has issued 226 Retail sales invoices and 42 Job Work Invoices. On perusing the sale registers, the party wise sales booked in the sales register is as under:

F. Y.	Sales Account Heads as per Sales Register	Name of the Buyer (Service Recipients/ Debtors)	Amount of sale
2015-16	Retail Sales A/c	Adhik Niyamak(Ankada)	483752
		Adhik Niyamak(Arogya)	131067058
		Arogya & Parivar Kalyan Vibhag	3153103
		Chairman Shree Govt. Health Dept. Co-op Cre. So.	148000
		DeedeesGourment Pvt Ltd	148750
		Rhythem Health Check up and Diagnostic Centre	79600
		Shree Vishwakarma Seva Samaj	36000
		State Nodal Officer (Nutrition Cell)	6010408
		Sub Total	141126671
		Labour Job Work A/c	Ahmedabad Medical Association (Ladies Club)

	Anax Life science	4550
	Avni Complex A Block	900
	DeedeesGourment Pvt Ltd	17000
	Guj-State School -text Book Board	4880223
	Pathline Multimedia Pvt Ltd	33500
	Pride Packaging	267400
	Rachit Packaging Pvt Ltd	7525
	Shree Gajanand	24000
	Shree Saurashtra Patel Kelvani Mandal	254700
	Star Works	35000
	Vision Stationery Pvt Ltd	429066
	Sub Total	5962714
	Grand Total	147089385

F. Y.	Sales Account Heads as per Sales Register	Name of the Buyer (Service Recipients /Debtors)	Amount of sale
2016-17	Retail Sales A/c	Adhik Niyamak(Arogya)	133685405
		Arogya & Parivar Kalyan Vibhag	3292254
		Chairman Shree Govt. Health Dept. Co-op Cre. So.	157250
		Chief District Health Office-(Jamnagar)	24851
		Department of Community Medicine	54000
		Polio Foundation	325000
		State Nodal Officer (IDSP)	400000
		State Nodal Officer (Nutrition Cell)	871750
		Sub Total	138810510
		Labour Job Work A/c	Dr. NitinbhaiGurjar
	Guj-State School -text Book Board		3442058
	Hariom Printery		80000
	Mahakali Printers		53802
	Mahek Packaging		6500
	Pride Packaging		45800
	Shree Saurashtra Patel Kelvani Mandal		163800
	Shree Vishwakarma Seva Samaj		37200
	Tirth Graphics		23650
	Sub Total		3877710
	Grand Total	142688220	

27.1 The assessee has also provided the copies of some debtor's (buyer) account of major recipient of services and Income Tax Deposit Accounts (TDS Receivable) for FY 2015-16 and 2016-17. On comparing the transaction entries (payment entries) as appearing in Form 26AS with debtor's (buyers) account and Income Tax Deposit accounts as detailed below, it is found that payment entries are also appearing in the Debtor's accounts and Income Tax Deposit Account. The aforesaid comparison confirms the receipt of payments by the assessee against the invoices issued by them as per the sales register. Further, all the recipients of services as appearing in Form 26AS are covered under the sales register.

FY 2015-16 : Form 26AS vis-à-vis Income Tax Deposit Ledger and Debtor's ledger (account)		
Name of Tax Deductor As per Form 26AS	As per Income Tax Deposit FY 2015-16 Ledger- Naration/ Date of posting of entry /Bill No./ Amount of Bill/	Corresponding Debtors Accounts' Name

Sr. No	Transaction date	Total Amount paid/ credited	TDS deduct ed (under Section 194C)	Dt. Of booking	Bill No.	Total Amt. of bill(s)	Name of Debtors	Remarks
1. Additional Director (F.W.)								
1	31/03/2016	1539000	30780	10/03/2016	RI/0175	1539000	Arogya & Parivar Kalyan Vibhag	----
2	31/03/2016	2902500	58050	10/03/2016	RI/0152 to 157	2902500	Adhik Niyamak(Arogya)	----
3	31/03/2016	2418750	48375	10/03/2016	RI/0158 to 162	2418750	Adhik Niyamak(Arogya)	----
4	31/03/2016	1451250	29025	10/03/2016	RI/0163 to 165	1451250	Adhik Niyamak(Arogya)	----
5	31/03/2016	12577550	251551	28/03/2016	RI/0166 to 207	12577550	Adhik Niyamak(Arogya)	----
6	30/11/2015	13395135	267903	29/10/2015	RI/0092 to 96	13395135	Adhik Niyamak(Arogya)	----
7	31/07/2015	483752	9675	14/07/2015	RI/0055	483752	Adhik Niyamak(Arogya)	----
8	31/07/2015	5805024	116100	14/07/2015	RI/0039 to 50	5805024	Adhik Niyamak(Arogya)	----
9	31/07/2015	2331514	46630	01/07/2015	RI/ 28,31,31,3 3,34	2331514	Adhik Niyamak(Arogya)	----
10	30/06/2015	8182300	163646	14/05/2015	RI/0002 to 18	8182300	Adhik Niyamak(Arogya)	----
		51086775	102173 5					
2. COMMISSIONERATE OF HEALTH AND MEDICAL SERVICES AND MEDICAL EDUCATION								
1	31/03/2016	2902512	58050	28/03/2015	RI/0196 to 200, 202	2902512	Adhik Niyamak(Arogya)	----
2	31/03/2016	524191	10484	17/03/2016	RI/0186 to 187	524191	Adhik Niyamak(Arogya)	----
3	31/03/2016	1935008	38700	30/03/2016	RI/0209 to 211	1935008	Adhik Niyamak(Arogya)	----
4	31/03/2016	1451265	29025	28/03/2016	RI/0215 to 218	1451265	Adhik Niyamak(Arogya)	----
5	31/03/2016	338664	67725	16/02/2016	RI/0135 to 141	338664	Adhik Niyamak(Arogya)	----
6	29/02/2016	2902512	58050	01/02/2016	RI/0115 to 120	2902512	Adhik Niyamak(Arogya)	----
7	29/02/2016	483752	9675	01/02/2016	RI/0114	483752	Adhik Niyamak(Arogya)	----
8	29/02/2016	967504	19350	01/02/2016	RI/0112, 0113	967504	Adhik Niyamak(Arogya)	----
9	31/01/2016	9070350	181407	01/01/2016	RI/0109	9070350	Adhik Niyamak(Arogya)	----
10	31/12/2015	852847	17057	01/12/2015	RI/0102 to 103	852847	Adhik Niyamak(Arogya)	----
11	31/12/2015	10196600	203932	12/12/2015	RI/0107	10196600	Adhik Niyamak(Arogya)	----
12	31/12/2015	9675040	193501	01/12/2015	RI/0101	9675040	Adhik Niyamak(Arogya)	----
13	31/12/2015	262452	5249	03/12/2015	RI/0104 to 106	262452	Adhik Niyamak(Arogya)	----
14	31/07/2015	1935008	38700	14/07/2015	RI/0051 to 0054	1935008	Adhik Niyamak(Arogya)	----
15	31/07/2015	483752	9675	14/07/2015	RI/0055	483752	Adhik Niyamak(Arogya)	----
		43981457	940580					
3. GUJARAT STATE BOARD & SCHOOL TEXT BOOK GANDHINAGAR								
1	18/03/2016	32784	328	01/01/2016	LI0084	32799	Guj State School Text Book Board	----
2	18/03/2016	74911	749	01/01/2016	LI0081	74911	Guj State School Text Book Board	----
3	18/03/2016	231900	2319	17/03/2016	LI0108	231900	Guj State School Text Book Board	----
4	18/03/2016	65857	659	01/01/2016	LI0085	65857	Guj State School Text Book Board	----
5	01/03/2016	33418	334	11/01/2016	LI0087	33418	Guj State School Text Book Board	----
6	01/03/2016	465949	4659	01/01/2016	LI0080	465949	Guj State School Text Book Board	----
7	01/03/2016	116168	1162	29/02/2016	LI0103	116168	Guj State School Text Book Board	----
8	05/02/2016	88451	885	29/02/2016	LI0104	88451	Guj State School Text Book Board	----
9	01/02/2016	878920	8789	01/01/2016	LI0075,76, 77,79, 82	878920	Guj State School Text Book Board	----
10	10/11/2015	36835	368	01/01/2016	LI 0086 & 78	41103	Guj State School Text Book Board	----
11	30/10/2015	42232	422	01/01/2016	LI0083	42232	Guj State School Text Book Board	----

12	29/10/2015	81020	810	24/07/2015	LI 0052	81020	Guj State School Text Book Board	----
13	29/10/2015	76836	768	24/07/2015	LI0050	76836	Guj State School Text Book Board	----
14	17/10/2015	37357	374	24/07/2015	LI0051	37357	Guj State School Text Book Board	----
15	07/10/2015	330897	3309	07/07/2015	LI0045	330857	Guj State School Text Book Board	----
16	29/09/2015	240685	2407	07/07/2015	LI0049	240685	Guj State School Text Book Board	----
17	29/09/2015	206884	2069	07/07/2015	LI0047	206884	Guj State School Text Book Board	----
18	29/09/2015	109573	1096	31/07/2015	LI 0059	109573	Guj State School Text Book Board	----
19	11/09/2015	370500	3705	07/07/2015	LI 0046	370500	Guj State School Text Book Board	----
20	08/09/2015	48668	487	07/07/2015	LI 0047	48668	Guj State School Text Book Board	----
21	25/06/2015	5185	52	01/04/2015	Previous year's bill	5185	Guj State School Text Book Board	----
22	01/06/2015	32246	322	01/04/2015	Previous year's bill	32246	Guj State School Text Book Board	----
23	01/06/2015	137342	1373	01/04/2015	Previous year's bill	137342	Guj State School Text Book Board	----
24	01/06/2015	29579	296	01/04/2015	Previous year's bill	29579	Guj State School Text Book Board	----
		3774197	37742					
4. JOINT DIRECTOR MALARIA & FILARIA COMMISSIONERATE OF HEALTH SERVICES								
1	31/03/2016	362814	7256	27/03/2016	RI/0195	362814	Adhik Niyamak(Arogya)	----
2	31/03/2016	483752	9675	27/03/2016	RI/0194	483752	Adhik Niyamak(Arogya)	----
3	31/03/2016	483752	9675	27/03/2016	RI/0193	483752	Adhik Niyamak(Arogya)	----
4	31/03/2016	483752	9675	27/03/2016	RI/0192	483752	Adhik Niyamak(Arogya)	----
5	31/03/2016	483752	9675	27/03/2016	RI/0191	483752	Adhik Niyamak(Arogya)	----
6	31/03/2016	483752	9675	27/03/2016	RI/0190	483752	Adhik Niyamak(Arogya)	----
7	31/03/2016	483752	9675	10/03/2016	RI/0149	483752	Adhik Niyamak(Arogya)	----
8	31/03/2016	483752	9675	10/03/2016	RI/0148	483752	Adhik Niyamak(Arogya)	----
9	31/03/2016	483752	9675	10/03/2016	RI/0147	483752	Adhik Niyamak(Arogya)	----
10	31/03/2016	483752	9675	10/03/2016	RI/0146	483752	Adhik Niyamak(Arogya)	----
11	31/03/2016	483752	9675	10/03/2016	RI/0145	483752	Adhik Niyamak(Arogya)	----
12	31/03/2016	483752	9675	10/03/2016	RI/0151	483752	Adhik Niyamak(Arogya)	----
13	31/03/2016	483752	9675	10/03/2016	RI/0150	483752	Adhik Niyamak(Arogya)	----
14	31/08/2015	967504	19350	14/07/2015	RI/0057,58	967504	Adhik Niyamak(Arogya)	----
15	31/08/2015	967504	19350	01/07/2015	RI/0019 to 26, 30	967504	Adhik Niyamak(Arogya)	----
		8102846	162056					
5. SAURASHTRA PATEL KELVANI MANDAL								
1	22/03/2016	25200	252	22/03/2016	RI/0189	NA	Shree Suarashtra Patel Kelvani Mandal	----
2	19/02/2016	26200	262	19/02/2016	NA	NA	Shree Suarashtra Patel Kelvani Mandal	----
3	27/01/2016	26200	262	27/01/2016	NA	NA	Shree Suarashtra Patel Kelvani Mandal	----
4	22/12/2015	26200	262	22/12/2015	NA	NA	Shree Suarashtra Patel Kelvani Mandal	----
5	04/12/2015	54000	540	04/12/2015	NA	NA	Shree Suarashtra Patel Kelvani Mandal	----
6	18/09/2015	27000	270	18/09/2015	NA	NA	Shree Suarashtra Patel Kelvani Mandal	----
7	19/08/2015	27000	270	19/08/2015	NA	NA	Shree Suarashtra Patel Kelvani Mandal	----
8	04/08/2015	42900	429	04/08/2015	NA	NA	Shree Suarashtra Patel Kelvani Mandal	----
		254700	2547					
6. STATE MALARIA CONTROL SOCIETY								
1	17/02/2016	483752	9675	16/02/2016	RI/0122	483752	Adhik Niyamak(Arogya)	----
2	17/02/2016	483752	9675	16/02/2016	RI/0123	483752	Adhik Niyamak(Arogya)	----
3	17/02/2016	483752	9675	16/02/2016	RI/0124	483752	Adhik Niyamak(Arogya)	----
		1451256	29025					
7. STATE HEALTH SOCIETY								
1	31/03/2016	5620635	72766	21/03/2016	RI/0188	118	State Nodal Officer(Nutirition Cell)	----
2	31/03/2016	1478500	29750	21/03/2016	RI/0189	119	State Nodal Officer(Nutirition Cell)	----
3	22/02/2016	4837520	96750	16/02/2016	RI/0125 to 134	100	Adhik Niyamak(Arogya)	----
4	19/01/2016	743750	14875	01/01/2016	RI/0108	82	State Nodal Officer(Nutirition Cell)	----
5	06/11/2016	1487500	29750	30/10/2015	RI/0097	1487500	Arogya & Parivar Kalyan Vibhag	----

6	07/10/2015	2479229	49585	15/09/2015	RI/0060	2479229	Adhik Niyamak(Arogya)	----
7	06/10/2015	483752	9675	15/09/2015	RI/0061	483752	Adhik Niyamak(Arogya)	----
8	06/10/2015	483752	9675	15/09/2015	RI/0062	483752	Adhik Niyamak(Arogya)	----
9	06/10/2015	483752	9675	15/09/2015	RI/0063	483752	Adhik Niyamak(Arogya)	----
10	06/10/2015	483752	9675	15/09/2015	RI/0064	483752	Adhik Niyamak(Arogya)	----
11	06/10/2015	483752	9675	15/09/2015	RI/0066	483752	Adhik Niyamak(Arogya)	----
12	06/10/2015	483752	9675	15/09/2015	RI/0067	483752	Adhik Niyamak(Arogya)	----
13	06/10/2015	483752	9675	15/09/2015	RI/0068	483752	Adhik Niyamak(Arogya)	----
14	06/10/2015	483752	9675	15/09/2015	RI/0069	483752	Adhik Niyamak(Arogya)	----
15	06/10/2015	483752	9675	15/09/2015	RI/0070	483752	Adhik Niyamak(Arogya)	----
16	06/10/2015	483752	9675	15/09/2015	RI/0071	483752	Adhik Niyamak(Arogya)	----
17	06/10/2015	483752	9675	15/09/2015	RI/0072	483752	Adhik Niyamak(Arogya)	----
18	06/10/2015	483752	9675	15/09/2015	RI/0073	483752	Adhik Niyamak(Arogya)	----
19	06/10/2015	483752	9675	15/09/2015	RI/0074	483752	Adhik Niyamak(Arogya)	----
20	06/10/2015	483752	9675	15/09/2015	RI/0075	483752	Adhik Niyamak(Arogya)	----
21	06/10/2015	483752	9675	15/09/2015	RI/0076	483752	Adhik Niyamak(Arogya)	----
22	06/10/2015	483752	9675	15/09/2015	RI/0077	483752	Adhik Niyamak(Arogya)	----
23	06/10/2015	483752	9675	15/09/2015	RI/0078	483752	Adhik Niyamak(Arogya)	----
24	06/10/2015	483752	9675	15/09/2015	RI/0079	483752	Adhik Niyamak(Arogya)	----
25	06/10/2015	483752	9675	15/09/2015	RI/0080	483752	Adhik Niyamak(Arogya)	----
26	06/10/2015	483752	9675	15/09/2015	RI/0081	483752	Adhik Niyamak(Arogya)	----
27	06/10/2015	483752	9675	15/09/2015	RI/0082	483752	Adhik Niyamak(Arogya)	----
28	06/10/2015	483752	9675	15/09/2015	RI/0083	483752	Adhik Niyamak(Arogya)	----
29	06/10/2015	483752	9675	15/09/2015	RI/0084	483752	Adhik Niyamak(Arogya)	----
30	06/10/2015	483752	9675	15/09/2015	RI/0085	483752	Adhik Niyamak(Arogya)	----
31	06/10/2015	483752	9675	15/09/2015	RI/0086	483752	Adhik Niyamak(Arogya)	----
32	06/10/2015	483752	9675	15/09/2015	RI/0087	483752	Adhik Niyamak(Arogya)	----
33	06/10/2015	483752	9675	15/09/2015	RI/0088	483752	Adhik Niyamak(Arogya)	----
34	06/10/2015	483752	9675	15/09/2015	RI/0089	483752	Adhik Niyamak(Arogya)	----
35	06/10/2015	483752	9675	15/09/2015	RI/0090	483752	Adhik Niyamak(Arogya)	----
36	06/10/2015	483752	9675	15/09/2015	RI/0091	483752	Adhik Niyamak(Arogya)	----
37	03/08/2015	64995	650	07/04/2015	RI/0001	64995	Arogya & Parivar Kalyan Vibhag	----
38	15/07/2015	656880	13138	01/07/2015	RI/0035	656880	Adhik Niyamak(Arogya)	----
39	15/07/2015	770700	15414	01/07/2015	RI/0028	770700	Adhik Niyamak(Arogya)	----
40	15/07/2015	636240	12725	01/07/2015	RI/0036	636240	Adhik Niyamak(Arogya)	----
41	07/07/2015	12840	128	25/06/2015	RI/0027	12725	State Nodal Officer(Nutrition Cell)	----
42	23/06/2015	150500	1505	01/04/2015	Previous year bill	150500	Adhik Niyamak(Arogya)	----
43	08/06/2015	219600	2196	01/04/2015	Previous year bill	219600	Arogya & Parivar Kalyan Vibhag	----
44	19/05/2015	439200	8784	01/04/2015	Previous year bill	439200	Arogya & Parivar Kalyan Vibhag	----
		34110649	638266					----
8. STATE HEALTH SOCIETY PROGRAMME SUB COMMITTEE IDSP								
1	09/02/2016	128000	2560	02/11/2015	RI/0098	128000	StateNodalOfficer(IDSP)	Ledger not provided
9. STATE HEALTH SOCIETY LEPROSY PROGRAMME								
1	31/03/2016	417326	8345	30/03/2016	RI/0214	417236	Adhik Niyamak(Arogya)	----
2	26/02/2016	534735	10695	01/02/2016	RI/0121,143	534735	Adhik Niyamak(Arogya)	----
		952061	19040					
10. VISION STATIONERY PVT LTD								
1	07/05/2015	42100	421	07/05/2015	No details available	----	Vision Stationery P Ltd	Ledger not provided
2	01/05/2015	345916	3459	01/05/2015	No details available	----	Vision Stationery P Ltd	Ledger not provided
3	02/04/2015	6500	65	02/04/2015	No details available	----	Vision Stationery P Ltd	Ledger not provided
4	02/04/2015	13500	135	02/04/2015	No details available	----	Vision Stationery P Ltd	Ledger not provided
5	02/04/2015	4500	45	02/04/2015	No details available	----	Vision Stationery P Ltd	Ledger not provided

FY 2016-17 : Form 26AS vis-à-vis Income Tax Deposit Ledger and Debtor's ledger (account)									
Name of Tax Deductor As per Form 26AS				As per Income Tax Deposit FY 2015-16 Ledger- Narration/ Date of posting of entry /Bill No./ Amount of Bill/			Corresponding Debtors Accounts' Name		
Sr. No	Transaction date	Total Amount paid/ credited	TDS deduct ed (under Section 194C)	Dt. Of booking	Bill No.	Total Amt. of bill(s)	Name of Debtors	Remarks	
1. Additional Director (F.W.)									
1	31/12/2016	61608	1232	16/12/2016	NA	61608	Adhik Niyamak(Arogya)	----	

2	31/10/2016	483752	9675	13/02/2017	RI/0078	483752	Adhik Niyamak(Arogya)	----
3	31/10/2016	483752	9675	13/02/2017	RI/0077	483752	Adhik Niyamak(Arogya)	----
4		1029112	20582					
2. COMMISSIONERATE OF HEALTH AND MEDICAL SERVICES AND MEDICAL EDUCATION								
1	31/03/2017	1451256	29025	17/03/2017	RI/0202 to204	1451256	Adhik Niyamak(Arogya)	----
2	31/03/2017	9675020	193500	07/03/2017	RI/0131 to 151	9675040	Adhik Niyamak(Arogya)	----
3	31/03/2017	9675015	193500	22/02/2017	RI/0079 to 98	9675040	Adhik Niyamak(Arogya)	----
4	31/03/2017	10158725	203175	09/03/2017	RI/0152 to 172	10158725	Adhik Niyamak(Arogya)	----
5	31/03/2017	12093750	241875	17/03/2017	RI/0173 to 194, 196,197,20 5,220	12093750	Adhik Niyamak(Arogya)	----
6	31/03/2017	6288750	125775	17/03/2017	RI/0206 to 218	6288750	Adhik Niyamak(Arogya)	----
7	28/02/2017	11377250	227545	22/02/2017	RI/0103 to 123, 148	11377250	Adhik Niyamak(Arogya)	----
8	31/12/2016	16302730	326055	02/12/2016	RI/0034,35, 40	16302730	Adhik Niyamak(Arogya)	----
9	31/12/2016	4200620	84012	02/12/2016	RI/0036 to 38	4200620	Adhik Niyamak(Arogya)	----
10	31/10/2016	5200266	104006	07/09/2016	RI/0027 to 30	5200266	Adhik Niyamak(Arogya)	----
11	31/08/2016	120938	2419	26/07/2016	RI/0022	120938	Adhik Niyamak(Arogya)	----
12	30/06/2016	905306	18106	06/06/2016	RI/0013,14, 17,18	905306	Adhik Niyamak(Arogya)	----
13	30/06/2016	4979676	99593	06/06/2016	RI/0012, 15,16	4979676	Adhik Niyamak(Arogya)	----
14	31/05/2016	4837520	96750	09/05/2016	RI/0002 to 11	4837520	Adhik Niyamak(Arogya)	----
		97266822	194533 6					
3. GUJARAT STATE BOARD & SCHOOL TEXT BOOK GANDHINAGAR								
1	28/03/2017	38746	387	28/03/2017	NA	38746	Guj State School Text Book Board	----
2	28/03/2017	230014	2300	28/03/2017	NA	230014	Guj State School Text Book Board	----
3	06/03/2017	418600	4186	07/03/2017	NA	418600	Guj State School Text Book Board	----
4	16/02/2017	5633	56	17/02/017	NA	5633	Guj State School Text Book Board	----
5	08/11/2016	287252	2873	08/11/2016	NA	287252	Guj State School Text Book Board	----
6	29/10/2016	57016	570	29/10/2016	NA	57016	Guj State School Text Book Board	----
7	28/10/2016	489920	4899	29/10/2016	NA	489920	Guj State School Text Book Board	----
8	20/10/2016	46813	468	20/10/2016	NA	46813	Guj State School Text Book Board	----
9	20/10/2016	389520	3895	20/10/2016	NA	389520	Guj State School Text Book Board	----
10	19/10/2016	61150	612	19/10/2016	NA	61150	Guj State School Text Book Board	----
11	18/10/2016	96681	967	18/10/2016	NA	120709	Guj State School Text Book Board	----
12	18/10/2016	120709	1207	18/10/2016	NA	15956	Guj State School Text Book Board	----
13	17/10/2016	15956	160	03/10/2016	NA	15956	Guj State School Text Book Board	----
14	13/10/2016	96040	960	13/10/2016	NA	96040	Guj State School Text Book Board	----
15	29/09/2016	264840	2648	29/09/2016	NA	264840	Guj State School Text Book Board	----
16	26/09/2016	33893	339	26/09/2016	NA	33893	Guj State School Text Book Board	----
17	26/09/2016	163277	1633	26/09/2016	NA	163277	Guj State School Text Book Board	----
18	20/09/2016	41556	416	20/09/2016	NA	41556	Guj State School Text Book Board	----
19	19/09/2016	77324	773	21/09/2016	NA	77324	Guj State School Text Book Board	----
20	09/08/2016	109760	1098	10/08/2016	NA	109760	Guj State School Text Book Board	----
21	29/07/2016	551600	5516	07/08/2016	NA	551600	Guj State School Text Book Board	----
22	21/06/2016	51032	510	22/06/2016	NA	51032	Guj State School Text Book Board	----

								Board	
23	31/05/2016	57853	579	03/06/2016	NA	57853		Guj State School Text Book Board	----
24	27/05/2016	43938	439	30/05/2016	NA	43938		Guj State School Text Book Board	----
25	28/04/2016	285272	2853	30/04/2016	NA	285272		Guj State School Text Book Board	----
26	21/04/2016	273615	2736	22/04/2016	NA	273615		Guj State School Text Book Board	----
27	12/04/2016	84320	843	13/04/2016	NA	84320		Guj State School Text Book Board	----
		4392330	43923						
4. JOINT DIRECTOR MALARIA & FILARIA COMMISSIONERATE OF HEALTH SERVICES									
1	15/03/2017	296298	6047	08/03/2017	RI/0198	302345		Adhik Niyamak(Arogya)	----
2	15/03/2017	414817	8466	23/11/2016	RI/024, 226	423284		Adhik Niyamak(Arogya)	----
3	15/03/2017	474077	9675	17/03/2016	RI/0201	474077		Adhik Niyamak(Arogya)	----
4	15/03/2017	474077	9675	17/03/2016	RI/0200	474077		Adhik Niyamak(Arogya)	----
5	15/03/2017	266669	5442	17/03/2016	RI/0199	272111		Adhik Niyamak(Arogya)	----
		1925938	39305						
5. MAHAKALI PRINTERS									
1	31/03/2017	13802	138	03/02/2017	RI/0039	13802		Mahakali Printers	Ledger not provided
2	30/06/2016	40000	400	18/07/2016	NA	40000		Mahakali Printers	Ledger not provided
		53802	538						
6. POLIO FOUNDATION									
1	30/09/2016	325000	3250	27/09/2016	RI/0027 TO 30	325000		Poliyo Foundation	Ledger not provided
7. SAURASHTRA PATEL KELVANI MANDAL									
1	26/09/2016	27720	277	26/09/2016	NA	27720		Shree Suarashtra Patel Kelvani Mandal	Ledger not provided
2	17/08/2016	27720	277	17/08/2016	NA	27720		Shree Suarashtra Patel Kelvani Mandal	Ledger not provided
3	21/07/2016	27720	277	21/07/2016	NA	27720		Shree Suarashtra Patel Kelvani Mandal	Ledger not provided
4	28/06/2016	27720	277	28/06/2016	NA	27720		Shree Suarashtra Patel Kelvani Mandal	Ledger not provided
5	28/06/2016	27720	277	28/06/2016	NA	27720		Shree Suarashtra Patel Kelvani Mandal	Ledger not provided
6	31/05/2016	25200	252	31/05/2016	NA	25200		Shree Suarashtra Patel Kelvani Mandal	Ledger not provided
		163800	1637						
8. STATE MALARIA CONTROL SOCIETY									
1	21/03/2017	483752	9675	22/03/2017	RI/0223	483752		Adhik Niyamak(Arogya)	----
2	21/03/2017	483752	9675	22/03/2017	RI/0222	483752		Adhik Niyamak(Arogya)	----
3	21/03/2017	483752	9675	22/03/2017	RI/0221	483752		Adhik Niyamak(Arogya)	----
4	21/03/2017	483752	9675	17/03/2017	RI/0219	483752		Adhik Niyamak(Arogya)	----
5	21/03/2017	302345	6047	17/03/2017	RI/0195	302345		Adhik Niyamak(Arogya)	----
		2237353	44747						
9. STATE HEALTH SOCIETY									
1	31/03/2017	1995478	39909	22/02/2017	RI/0099 to 101	1995478		Adhik Niyamak(Arogya)	----
2	07/03/2017	967504	19350	15/07/2016	RI/0020, 21	967504		Adhik Niyamak(PK)(Arogya & Parivar Kalyan Vibhag)	----
3	06/03/2017	419400	8388	08/03/2017	RI/0147	419400		Adhik Niyamak(Arogya)	----
4	04/03/2017	6772528	135450	06/03/2017	RI/0124 to 130	6772528		Adhik Niyamak(Arogya)	----
5	25/01/2017	7256280	145125	15/03/2017	RI/0061 to 0075	7256280		Adhik Niyamak(Arogya)	----
6	17/01/2017	14130394	282607	19/01/2017	RI/0041 to 60	14130394		Adhik Niyamak(Arogya)	----
7	16/09/2016	2231250	44625	09/08/2016	RI/0024	2231250		Adhik Niyamak(PK)(Arogya & Parivar Kalyan Vibhag)	----
8	18/05/2016	743750	14875	02/05/2016	RI/0001	743750		State Nodal Officer(Nutrition Cell)	----
10. STATE HEALTH SOCIETY PROGRAMME SUB COMMITTEE IDSP									
1	01/01/2017	400000	8000	16/11/2016	RI/0033	400000		State Nodal Officer(IDSP)	Ledger Not provided
2	23/08/2016	128000	2560	05/08/2016	RI/0023	128000		State Nodal Officer(IDSP)	Ledger Not provided
		528000	10560						
11. STATE HEALTH SOCIETY (NCD)									
1	19/10/2016	93500	935	24/08/2016	RI/0025	93500		Adhik Niyamak(PK)(Arogya & Parivar Kalyan Vibhag)	----
12. STATE HEALTH SOCIETY LEPROSY PROGRAMME									
1	30/03/2017	151173	3023	30/03/2017	RI/0224	151173		Adhik Niyamak(Arogya)	----
13. RCH AND FW PROGRAMME COMMITTEE DISTRICT HEALTH SOCIETY JAMNAGAR									

1	28/03/2017	24354	497	28/03/2017	RI/0226	24354	Chief District Health Officer(Jamangar)	Ledger Not provided
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27.2 On perusing the aforesaid sample invoices, it is evident that the assessee has issued the same for preparing and supply of Different types of Printed Folders, Patrika, Registers, Leaflets, Pamphlets, Statements/forms, Cards, Books, Text Books including offset printing, Book Binding as well. The same were supplied mainly to the government department/Board. On perusing the sample work orders issued by Government Department (COMMISSIONERATE OF HEALTH AND MEDICAL SERVICES AND MEDICAL EDUCATION) as listed below, it is also discerned that the same were issued for preparing and supply of aforesaid materials.

List of Sample Work Orders Produced		
Sr. No.	WO date	Work order issued for
FY 2015-16		
1	21/11/2015	Issued for Printing and supplying of Single Coloured Tow Side Questionnaire for Health Check up
2	11/12/2015	Issued for Printing and supplying of A4 Size Four Colour PATRAK (School Health Programme)
3	09/11/2015	Issued for Printing and Supplying of Four Colour Folder Design -1 (Malaria Disease)
4	09/11/2015	Issued for Printing and Supplying of Four Colour Folder Design -2 (Malaria Disease)
5	09/11/2015	Issued for Printing and Supplying of Four Colour Folder Design -2 (Dengue Disease)
6	09/11/2015	Issued for Printing and Supplying of Four Colour Folder Design -3 (Dengue Disease)
7	09/11/2015	Issued for Printing and Supplying of Four Colour Folder Design -13 (Chikungunya Disease)
8	09/11/2015	Issued for Printing and Supplying of Four Colour Folder Design -2 (Chikungunya Disease)
9	09/11/2015	Issued for Printing and Supplying of Four Colour Folder Design -1 (Filaria Disease)
10	09/11/2015	Issued for Printing and Supplying of Four Colour Folder Design -2 (Filaria Disease)
11	21/01/2016	Issued for Printing and Supplying of Four Colour Folder Design -1 (Adolescence Health)
12	21/01/2016	Issued for Printing and Supplying of Four Colour Folder Design -2 (Adolescence Health)
13	21/01/2016	Issued for Printing and Supplying of Four Colour Folder Design -3 (Adolescence Health)
14	21/01/2016	Issued for Printing and Supplying of Four Colour Folder (cleft lip /palate)
15	21/01/2016	Issued for Printing and Supplying of Four Colour Folder (Club Foot)
16	21/01/2016	Issued for Printing and Supplying of Four Colour Folder (Beast Cancer)
17	21/01/2016	Issued for Printing and Supplying of Four Colour Folder (cervical cancer)
18	21/01/2016	Issued for Printing and Supplying of Four Colour Folder (Oral Hygiene)
19	21/01/2016	Issued for Printing and Supplying of Four Colour Folder Design -1 (Diabetes)
20	21/01/2016	Issued for Printing and Supplying of Four Colour Folder Design -2 (Diabetes)
21	25/01/2016	Issued for Printing and Supplying of Four Colour Folder (Leprosy Programme)
22	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme- Dounce Syndrome)
23	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Retinopathy of Prematurity Disease)
24	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Hip Deformity)
25	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -congenital heart disease)

26	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -congenital deafness)
27	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -congenital cataract)
28	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -neural tube defects)
29	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Club Food disease)
30	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -cleft lip /palate)
31	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -otitis media disease)
32	28/01/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Rheumatic heart disease)
FY 2016-17		
33	12/09/2016	Issued for Printing and supplying of Single Coloured Tow Side Questionnaire for Health Check up
34	03/10/2016	Issued for Printing and supplying of A4 Size Four Colour PATRAK (School Health Programme)
35	03/10/2016	Issued for Printing and supplying of Single Colour PATRAK (School Health Programme)
36	03/10/2016	Issued for Printing and supplying of Single Colour PATRAK Anganwadi Form (School Health Programme)
37	03/10/2016	Issued for Printing and supplying of Primary School Registers (School Health Programme)
38	03/10/2016	Issued for Printing and supplying of Primary School Registers (School Health Programme)
39	03/10/2016	Issued for Book Printing and supplying of Training Module (School Health Programme)
40	21/09/2016	Issued for Printing and supplying of Booklets/Books (Ma Vatsalya Programme)
41	05/10/2016	Issued for Printing and Supplying of Four Colour Folder (Metal Health programme)
42	05/10/2016	Issued for Printing and Supplying of Book on Metal Health programme
43	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -neural tube defects)
44	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -vitamin A deficiency)
45	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Adolescence Health disease)
46	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Deficiency in learning capacity)
47	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Vision Related disease)
48	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Movement disorder)
49	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Anemia Disease)
50	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -delayed speech and language disorder)
51	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme- Dounce Syndrome)
52	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -congenital heart disease)
53	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -Retinopathy of Prematurity Disease)
54	03/10/2016	Issued for Printing and Supplying of Four Colour Folder (Rashtriya Bal Svasthya Programme -hearing impairment)
55	08/12/2016	Issued for Printing and Supplying of Four Colour Folder (Atal Sneh Programme)
56	08/12/2016	Issued for Printing and Supplying of Four Colour Folder (Atal Sneh Programme)
56	08/12/2016	Issued for Printing and Supplying of Patrak (Atal Sneh Programme)

28. It is also pertinent to mention here that the department has not adduced any evidence other than the differences noticed between ST-3 Returns and data of Form 26AS, to substantiate the allegation of short/non payment of service tax by the assessee. Therefore, the documents submitted by the assessee in their defence are the only evidences before me for deciding the case. The said documents produced before me lead me to conclude that the assessee has carried out work of preparing and supply of different types of Printed Folders, Patrika, Registers, Leaflets, Pamphlets, Statements/forms, Cards, Books, Text Books including offset printing book binding and for which the assessee has received the payments from the buyers as appearing in Form 26AS.

29. Now coming to the main issue what is required to be ascertained is as to whether the activities of the assessee i.e. preparing and supplying of Different types of Printed Folders, Patrika, Registers, Leaflets, Pamphlets, Statements/forms, Cards, Books, Text Books including offset printing, Book Binding as well, are covered under Mega Exemption Notification 25/2012-ST as has been claimed by the assessee or otherwise.

30. I find that the assessee has also claimed the exemption under Sr. No. 12(d) of the Mega Exemption Notification No. 25/2012-ST, but the same is apparently not available to them as it pertains to construction and its related activities. However, I also find that the assessee in their written submission has clearly described the activities that they had carried out during FY 2015-16 & 2016-17 and they have provided supporting evidences. As discussed in forgoing para, the department has not adduced any documentary/tangible evidences to substantiate the allegation other than the difference in value worked out on the basis of data shared by the Income Tax Department for demanding the service tax. I also find from the SCN that no primary verification for explaining the differences appear to have been carried out by the department. Under such factual matrix, the unconditional benefit granted /available under the statute, must be passed on to the tax payer in the interest of justice. Though the assessee has wrongly mentioned the entry number of exemption notification for claiming the exemption from service tax, for demanding the service tax, the activities/services provided by the assessee needs to be examined as to whether the service tax is leviable under Section 66B of the Finance Act, 1994 or otherwise. It is also to be examined as to

whether the said service is covered under exemption notification/negative list of services or otherwise.

31. As mentioned and discussed hereinabove and on scrutiny of supporting documentary evidences produced by the assessee, it is amply clear they have provided services of "preparing and supplying of Different types of Printed Folders, Patrika, Registers, Leaflets, Pamphlets, Statements/forms, Cards, Books, Text Books including offset printing, Book Binding as well" i.e. they have prepared and supplied printed matters/products in lieu of consideration. I find that the products/matter printed on paper are excisable goods covered under Chapter 49 of First Schedule of Central Excise Tariff Act, 1985. Thus, these are 'excisable goods' and hence the activity of printing on paper is "amounting to *manufacture or production of goods*".

31.1. According to Clause (f) of Negative List provided under section 66D of the Finance Act, 1994, any process amounting to manufacture or production of goods is not a taxable service. The Clause (40) of Section 65B of the Act defines "Process amounting to manufacture or production of goods" to mean a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 (1 of 1944) or any process amounting to manufacture of alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force. Accordingly, no service tax is payable on preparing and supplying of printed matters.

31.2. Further, in case of Printing Contracts on Job Work Basis (i.e. without material) where printing is done on job work basis and material is provided by service receiver only, then such activity is also covered under Entry No. 30(a) of Mega Exemption Notification No. 25/2012-ST. Accordingly, the exemption from service tax on the services provided by the assessee during FY 2015-16 and 2016-17, is available to them. Thus, I am of the considered view that the assessee is not liable to pay service tax on providing services during FY 2015-16 and 2016-17.

31.3 To appreciate the issue in the correct perspectives, relevant extracts of Finance Act, 1994 and Entries of Notification No. 25/2012-ST are reproduced for ready reference as follows:

- Entry No. 30 of Notification No. 25/2018, existed during FY 2015-16 and 2016-17(New Entry was substituted vide Notification No. 07/2017 -ST effective from 31.03.2017)

“30. Carrying out an intermediate production as job work in relation to:

(a) agriculture, **printing** or textile processing;

(b)

.....”

- Clause (f) of Section 66D -Negative List of services: (Omitted vide Finance Act, 2017 dated 31.03.2017)

(f) Services by way of carrying out any **process amounting to manufacture or production of goods** excluding alcoholic liquor for human consumption;

- (With effect from 31.03.2017, the above two entries were combined as under vide Notification No. 07/2017-Service Tax dated 02.02.2027 effective from 31.03.2017)

“30. Services by way of carrying out,-

(i) any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption; or

(ii) any intermediate production process as job work not amounting to manufacture or production in relation to -

(a) agriculture, printing or textile processing;

(b)

- (Meaning of “Process amounting to manufacture or Production of goods” provided under 65B(40) of Finance Act, 1995 was omitted and incorporated under Notification No. 25/2012-ST vide Finance Act, 2017 effective from 31.03.2017)

“**process amounting to manufacture or production of goods**” means a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 (1 of 1944), or the Medicinal and Toilet Preparation (Excise Duties) Act, 1955(16 of 1955) or any process amounting to manufacture of opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force;”

32. It is pertinent to mention here that as per Balance Sheet/P&L Accounts and Form 3CD, Shri Dhamendra Govindbhai Gajjar is proprietor of two firms viz. M/s. Dharam Enterprise and M/s. Dharam Infrastructure for carrying out activity of “Off set printing, trading in stationery, paper and packing material and Construction of residential flats (Developer) respectively. The assessee has also earned income of Rs. 11,00,000/- during FY 2015-16 from Contract receipt. Since, the said income is not covered /reflected under 26AS, and the amount paid as per Form 26AS is the sole basis of the subject SCN, I refrain from discussing the taxability on Contract Receipt or otherwise.

33. From the above factual, legal position and on scrutiny of documents submitted by the noticee, I find the difference in the value of service

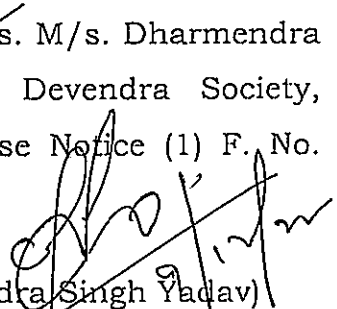
as alleged in the subject SCN is on account of the exemption claimed by the noticee. I find that apart from the differences noticed in the figures reported in ST-3 returns and in ITR/Form 26AS, the department has not adduced/ relied upon any other evidence or investigation to substantiate the allegations of short payment/ nonpayment of service tax. Having considered these factual and documentary evidences available on records, I find that there is no short payment of service tax by the noticee. Thus, the subject SCN is liable to be dropped on merits being incorrect and legally not sustainable.

34. In view of the aforementioned detailed discussion and in view of the facts and circumstances pertaining to the subject case, the demand is not tenable in law. Accordingly, I do not consider it necessary to delve on the merits of invoking extended period of limitation which has been discussed in the SCN at length and contested by the said assessee in their submissions. For the same reasons, I am also not entering into discussions on the need or otherwise for imposing penalty.

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

ORDER

I hereby drop the proceedings initiated against ~~M/s. M/s. Dharmendra Govindbhai Gajjar, 8B, Jay Vijaykunj Society, Opp. Devendra Society, Paliyadnagr Road, Ahmedabad -380013, vide Show Cause Notice (1) F. No. STC/15-23/OA/2021 dated 23.04.2021.~~


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

By Regd. Post AD./Hand Delivery
F.No. STC/15-23/OA/2021

Date: __.11.2022.

To,
M/s.DharmendraGovindbhai Gajjar,
8B, Jay Vijaykunj Society,
Opp. Devendra Society,
Paliyadnagr Road,
Ahmedabad -380013

Copy to:

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