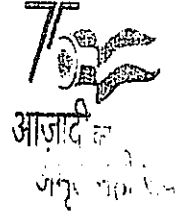




सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी, अहमदाबाद-380015
GST Bhavan, Ambawadi, Ahmedabad-380015
Phone: 079-26305065 - Fax: 079-26305136
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Website : www.cgstappealahmedabad.gov.in



By SPEED POST

DIN:- 20231164SW000099609F

(क)	फाइल संख्या / File No.	GAPPL/COM/STP/249/2023-APPEAL / 8216
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-002-APP-132/2023-24 and 31.10.2023
(ग)	पारित किया गया / Passed By	श्री ज्ञानचंद जैन, आयुक्त (अपील्स) Shri Gyan Chand Jain, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	17.11.2023
(ङ)	Arising out of Order-In-Original No. 48-49/JC/LD/2022-23 dated 18.10.2022 passed by the Joint Commissioner, CGST, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Winkey, B-703, Vrundavan Complex, Nr. Subhash Chowk, Gurukul, Memnagar, Ahmedabad- 380052

कोई व्यक्ति इस अपील-आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील अथवा पुनरीक्षण आवेदन प्रस्तुत कर सकता है, जैसा कि ऐसे आदेश के विरुद्ध हो सकता है।

Any person aggrieved by this Order-in-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way.

भारत सरकार का पुनरीक्षण आवेदन:-

Revision application to Government of India:

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली: 110001 को की जानी चाहिए :-

A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :-

(क) यदि माल की हानि के मामले में जब ऐसी हानिकार खाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के दौरान हुई हो।

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.



(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

(घ) अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं 2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ का मुख्य शीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(3) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम होतो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

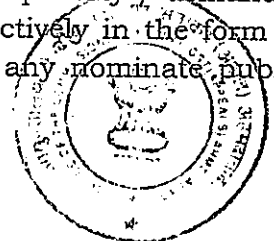
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-
Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(2) उक्तलिखित परिच्छेद में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद-380004।

To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad: 380004. In case of appeals other than as mentioned above para.

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public



sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची -1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूलआदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रतिपर रू 6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) एके प्रति अपीलो के मामले में कर्तव्यमांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवाकर के अंतर्गत, शामिल होगा कर्तव्य की मांग (Duty Demanded)।

- (1) खंड (Section) 11D के तहत निर्धारित राशि;
- (2) लिया गलत सेनवैट क्रेडिट की राशि;
- (3) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि।

यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में 'अपील' दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

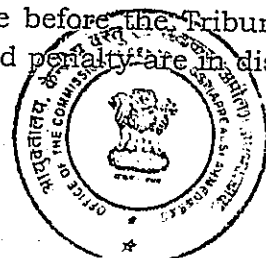
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994).

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

(6) (i) इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो मांग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



ORDER IN APPEAL

M/s. Winkey, B-703, Vrundavan Complex, Nr. Subhash Chowk, Gurukul, Memnagar, Ahmedabad -380052 (hereinafter referred to as '*the appellant*') have filed the present appeal against the Order-in-Original No.48-49/JC/LD/2022-2023 dated 18.10.2022, (in short '*impugned order*') passed by the Joint Commissioner, Central GST, Ahmedabad North Commissionerate (hereinafter referred to as '*the adjudicating authority*'). The appellant were engaged in providing taxable services under the category of 'Advertising Service' and were holding Service Tax Registration No.AABFW7529DSD001.

2. The facts of the case, in brief, are that based on the data received from the Central Board of Direct Taxes (CBDT) for the F.Y. 2015-16 & 2016-17, it was noticed that Gross Value of Services declared in their ST-3 Returns was less compared to the income declared in the ITR/TDS. Letters were, therefore, issued to the appellant to provide details of the services provided during said period and explain the reasons for non-payment of tax and provide certified documentary evidences for the same. The appellant neither provided any documents nor submitted any reply justifying the non-payment of service tax on such receipts. Therefore, the differential income reflected under the heads "Sales / Gross Receipts from Services (Value from ITR)" or (Value from Form 26AS)" of the Income Tax Act, 1961, was considered as a taxable value.

TABLE-A

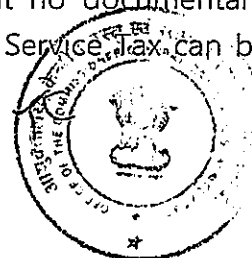
<i>F.Y.</i>	<i>Differential Income</i>	<i>Rate of S.Tax</i>	<i>S.Tax payable</i>
2015-16	4,90,39,341	14.5%	71,10,704
2016-17	3,59,27,662	15%	53,89,149
		Total	1,24,99,853/-

2.1 A Show Cause Notices (SCN) bearing No. STC/15-145/OA/2020 dated 22.10.2020 was issued to the appellant proposing recovery of service tax of Rs. 1,24,99,853/- along with interest, not paid on the value of income received during the F.Y. 2015-16 and 2016-17 under Section 73(1) and Section 75 of the Finance Act, 1994. Imposition of penalties under Section 77(1), 77(2) and under Section 78 of the Finance Act, 1994 were also proposed.

3. The said SCN was adjudicated vide the impugned order wherein the total service tax demand of Rs.13,77,125/- was confirmed alongwith interest. Penalty of 10,000/- each was imposed under Section 77(1) & 77(2) and penalty of Rs. 13,77,125/- was also imposed under Section 78 of the Finance Act. The service tax demand of Rs.1,11,22,728/- was however dropped.

4. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal, on the grounds elaborated below:-

- The demand is confirmed on income booked under "BTL sales" ledger. In this ledger, income relating to space sale for advertisement is booked. As per para-25 of the OIO, demand is confirmed by stating that no documentary evidence is submitted by the appellant by which leviability of Service Tax can be determined



by the adjudicating authority on the said income. Details of income booked in above ledger is as under:

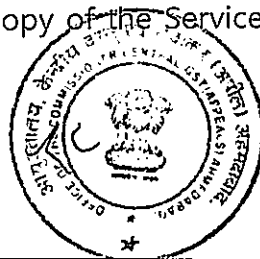
Head	2015-16	2016-17	Total
BTL sales	31,50,370	52,75,439	84,25,809

- In terms of the entry (g) of Section 66D of Finance Act, 1994, business of selling of space for advertisement in print media was in negative list hence Service Tax on the same is not applicable. Further, definition of print media as per "Section 658 Interpretations (39a) "print media" means- (i) "book" as defined in sub-section (1) of Section 1 of the Press and Registration of Books Act, 1867 (25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes; (ii) "newspaper" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867). Thus, w.e.f. 01.10.2014, vide Notification No. 18/2014- S.T. and in view of Section 66D(g) as reproduced above, selling of space for advertisement in print media is not taxable service.
- The appellant would like to submit that on the income as booked under "BTL sales", value added tax is paid in F.Y. 2015-16 & 2016-17. Details of the same is as under:

Head	2015-16	2016-17	Total
BTL sales	31,49,871	40,24,138	71,74,009
VAT @4%	1,26,014	1,61,451	2,87,465
Addn VAT @1%	31,503	40,327	71,830
Total VAT paid	1,57,517	2,01,778	3,59,295

As Service Tax was not leviable on sale of space for advertisements and Gujarat commercial VAT was applicable hence appellant has paid the said tax on the transactions during F.Y. 2015-16 & 2016-17 hence demand of Service Tax cannot be made by department therefore such demand needs to be set aside. Copy of ledger of "BTL sale" and filed VAT return are submitted. Value added Tax and Service Tax both are mutually exclusive and cannot be levied simultaneously on a single transaction. When VAT has already been paid on a transaction and Service Tax is not applicable on a transaction then demand on such transaction is bad in law and such demand cannot sustain and needs to be set aside.

- The appellant has paid Gujarat Commercial Tax on transaction undertaken of sale of space for advertisement and issued a valid invoice to recipients. Those sample invoices are submitted. By analysis of those invoices, it can be seen that the appellant has collected VAT and paid the same to Gujarat Government which can further be verified in VAT return. Copy of sample sales invoices are also attached. Further, the income which is taxable and liable to Service Tax has already been reported under Service Tax returns filed. Copy of the Service Tax returns are also attached for reference.



- For the F.Y. 2015-16, the appellant has discharged its liability and department has raised demand on income made by appellant through sale of space for advertisement hence invoice are submitted. Therefore, for F.Y. 2015-16, no demand can be made as Service Tax is not applicable on the said income.
- Form 26AS cannot be the source data for determining the income of appellant hence income for F.Y. 2016-17 shall be considered as per audited financial statements. Details of income considered by department and as per Annual Financial Statement (AFS) is as under:

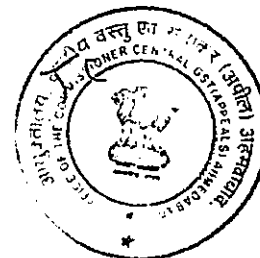
Income as per Form 26AS	Income as per AFS 2016-17	Difference (Excess income considered by department based on Form 26 AS)
5,22,02,209/-	5,11,71,133/-	10,31,076/-

Department has considered excess income of appellant by Rs. 10,31,076/- based on Form 26AS however no such income is showing in audited financial statements hence such excess demand of Service Tax needs to be set aside.

- From above table, it can be seen that on income of Rs. 19,27,480/-, Service Tax has been paid in F.Y. 2015-16. Against said income, payment is received in F.Y. 2016-17 hence income as per Form 26AS of F.Y. 2016-17 is greater than income as per audited financial statement.

Income details	2015-16	2016-17	Total
Income as per Form 26AS	7,02,31,399	5,22,02,209	12,24,33,608
Income as per audited financial statements	7,21,58,879	5,11,71,133	12,33,30,012
	-19,27,480	10,31,076	-8,96,40

- The appellant has not paid Service Tax as it was not applicable to the transaction and VAT is paid on same. Hence, none of the clause of Section 77(1) is applicable to appellant hence penalty needs to be set aside.
- SCN does not mention which contravention the appellant did of which separate penalty is not prescribed hence without specification of nature of contravention, penalty cannot be imposed. The base of imposition of penalty is specific determination of contravention. When contravention is unidentifiable then penalty cannot be imposed.
- Penalty under section 78 can be levied only if there is a fraud; collusion; willful mis-statement; suppression of facts or contravention of any provisions with intend to evade payment of service tax and it can be imposed by invoking larger period or extended period for issue of show-cause notice.



5. The appellant was granted hearings dates on 31.05.2023, 30.6.2023, 17.07.2023, 21.08.2023. However, the appellant sought adjournment accordingly personal hearing was granted on 28.08.2023. Shri Viral Sanghvi, Chartered Accountant, appeared on behalf of the appellant before the then Commissioner (A). He reiterated the submission in the appeal. He stated that in certain cases the appellant has raised invoices during F.Y. 2015-16, but the payment was received in the F.Y. 2016-17, on which they have already discharged the tax liability in F.Y 2015-16 and also filed the ST-3 return. However in the ITR, the income was shown during the F.Y. 2016-17 when the same was received. The adjudicating authority has not correctly appreciated these facts and has demanded the tax on the differential income for the second time and also imposed penalties. He submitted copy of ITR, ST-3 Return, Financial Statements & VAT returns and requested to set-aside the demand with consequential relief.

5.1 Subsequently, due to change in the appellate authority, another date (25.10.2023) for personal hearing was conveyed to the appellant. Shri Viral Sanghvi, Chartered Accountant, appeared on behalf of the appellant and reiterated the contents of the oral and written submissions made by them in earlier hearing and requested to allow the appeal.

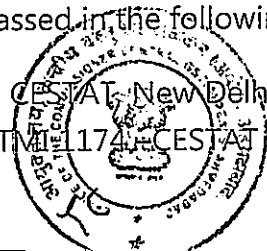
6. I have carefully gone through the facts of the case, the impugned order passed by the adjudicating authority, submissions made by the appellant in the appeal memorandum and those made during personal hearing. The issue to be decided in the present case is as to whether the service tax demand of Rs.13,77,125/- alongwith interest and penalties, confirmed in the impugned order passed by the adjudicating authority, in the facts and circumstances of the case, is legal and proper or otherwise.

The demand pertains to the period F.Y. 2015-16 to 2016-2017.

7. The adjudicating authority after considering the P&L account income and on such income he granted the deduction of the income declared in the ST-3 return and the income from Print media sales. Thereafter, he arrived at the differential income of Rs.30,75,533/- and Rs.62,07,822/- for the F.Y. 2015-16 & 2016-17 respectively, as detailed in para-26 of the impugned order.

7.1 The main contention of the appellant is that the differential income pertains to BTL sale which is covered under entry (g) of Section 66D of Finance Act, 1994. They in their additional written submission stated that on the remaining income no tax liability arises as the nature of work done does not qualify as service. They claim that their customers would design, develop an idea regarding the content of the advertisement of their product and then this content is sent to the appellant for printing them on the Flex, Banner/ Boards etc. They claim that they are only engaged in printing the Flex, Banner/ Boards etc and not providing any design, developing the content etc. Thus, they are just selling their printed banner to their clients. Since no creation or preparation of the advertisement is done the same shall not qualify as advertisement service hence shall remain outside the purview of service tax. They claim that on these catalogues, banner & flexes they have collected VAT @5% which they claim can be verified from their VAT return. They also placed reliance on the decision passed in the following cases:-

- o M/s. Ajanta Fabrication- 2006(10) TMI 1- CESTAT, New Delhi;
- o M/s. Shriji Advertising Agency- 2017 (2) TMI 174-CESTAT New Delhi.



- o M/s. Macro Media Digital Imaging Pvt. Ltd. – 2022 (9) TMI 678
- o M/s. Avion Awning – 2016 (10) TMI 683

Further, the appellant have claimed that in the GST regime also the printing of Flex banners were classified by CBIC as Goods and accordingly taxable @18% in terms of Notification No. 01/2017-CT. Hence the basic nature of the transaction remains the same and so no service tax can be levied.

7.2 The appellant in support of their contention have submitted few sample BTL sale invoices. On going through the invoices, I find that the appellant therein has mentioned the goods as **Starflex 6'x6'**, **Eco Vinly-3mm SB 75"x15"** and the rates are fixed per square feet. In another such invoice they have also charged transportation charges in the invoice. In all these invoices VAT is paid. Now the question arises whether these invoices were BTL sale involving sale of goods as claimed by the appellant or the advertisement service. The adjudicating authority held that the appellant did not produce any documents justifying their above claim. It is observed that BTL sale is Below-the-line advertising which is an advertising strategy where products are promoted in media other than mainstream radio or television. Below-the-line advertising campaigns include direct mail campaigns, trade shows, catalogs, and targeted search engine marketing. Products are promoted in media other than mainstream radio, television, billboards, print, and film formats. However, popular BTL strategies include outdoor advertising, such as billboards and flyers. So, the sale of banner can be considered as a BTL sale.

7.3 In terms of clause (2) of Section 65B, "**advertisement**" means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person. The services (designing, conceptualising, visualizing) normally are rendered by an advertising agencies. The service connecting with the making, preparation, display or exhibition of advertising and includes advertising consultant. However in the instant case the appellants are only manufacturing the sign boards as per the requirements of their customers. Such an activity cannot be held to be advertising agency as the appellants are not rendering any advertising service, for they are only printing the content on the sign boards at the behest of their customers. There is no evidence on record to show the relationship between the customers and the appellant is of advertising agency which is necessary for imposition of service tax.

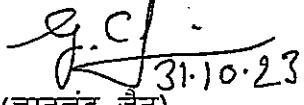
7.4 In the invoices submitted by the appellant mentions 'Starflex' and 'Vinyl' which are banners / flexes on which they have charged VAT. Therefore, it no way fits in the definition of service. I find that the activity undertaken by the appellant is merely transfer of title of goods by sale and subjected to Sales tax /VAT hence would be excluded from the scope of 'service' as defined in clause (44) of Section 65B of the Finance Act, 1994.

7.5 In view of the above, I find that the appellant is not liable to pay service tax amounting to **Rs.13,77,125/-**. When the demand does not sustain there is no question of demanding interest and imposing penalty.



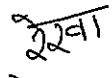
8. In view of the above discussion, I set-aside the impugned order confirming the service tax demand of **Rs.13,77,125/-** alongwith interest and penalties and allow the appeal filed by the appellant.

अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
9. The appeal filed by the appellant stands disposed off in above terms.


(ज्ञानचंद जैन)
आयुक्त (अपील्स)

Date: 31.10.2023

Attested


(रेखा नायर)
अधीक्षक (अपील्स)
केंद्रीय जी. एस. टी, अहमदाबाद



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Ahmedabad -380052

- Appellant

The Joint Commissioner
CGST, Ahmedabad North

- Respondent

Copy to:

1. The Principal Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Ahmedabad North.
3. The Assistant Commissioner (H.Q. System), CGST, Ahmedabad North.
(For uploading the OIA)
4. The Assistant Commissioner, CGST Division-VII, Ahmedabad North.
5. Guard File.

