



सत्यमेव जयते

आयुक्त ( अपील ) का कार्यालय,  
Office of the Commissioner (Appeal),  
केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद  
Central GST, Appeal Commissionerate, Ahmedabad  
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.  
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015  
☎ 07926305065- टेलिफैक्स 07926305136



DIN: 20230964SW000000EBFE

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/ 2710/2022-APPEAL / १५४७
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-002-APP-96 /2023-24  
दिनांक Date : 28-08-2023 जारी करने की तारीख Date of Issue 15.09.2023  
आयुक्त (अपील) द्वारा पारित  
Passed by Shri Shiv Pratap Singh, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. CGST/WT07/HG/213/2022-23 दिनांक:27.07.2022 ,  
issued by The Assistant Commissioner, CGST & Central Excise, DIV-VII, Ahmedabad  
North
- घ अपीलकर्ता का नाम एवं पता Name & Address

1. Appellant

M/s Jasram Racharan Prajapati,138, Shivshakti Society, Nava Vadaj,  
Ahmedabad-380013

2. Respondent

The Assistant Commissioner, CGST & Central Excise, DIV-VII, Ahmedabad North,  
4th Floor, Shajanand Arcade, Nr. Helmet Circle, 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 या पुनरीक्षण आवेदन प्रस्तुत कर 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 :

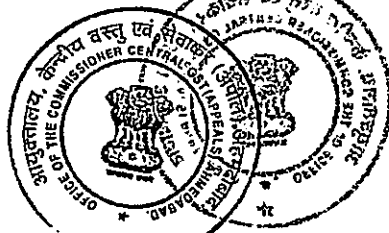
भारत सरकार का पुनरीक्षण आवेदन :  
Revision application to Government of India :

(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।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision  
Application Unit Ministry of Finance, Department of Revenue, 4<sup>th</sup> 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 :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने 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।

(ii) 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.



(क) 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।

(A) 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.

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

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

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।

(c) 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.

(1) 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 मुख्यशीर्ष 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.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो 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 सेवाकर 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 :-

(क) उक्तलिखित परिच्छेद 2 (1) क 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 2<sup>nd</sup> माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद -380004

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



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 Appellate 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 मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.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.

- (7) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (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 सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) 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.

इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग 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. Jasram Ramcharan Prajapati, 138, Shivshaktinagar Society, Nava Vadaj, Ahmedabad- 380013 (hereinafter referred to as '*the appellant*') have filed the present appeal against the Order-in-Original No. CGST/WT07/HG/213/2022-23 dated 27.07.2022, (in short '*impugned order*') passed by the Assistant Commissioner, Central GST, Division-VII, Ahmedabad North Commissionerate (hereinafter referred to as '*the adjudicating authority*'). The appellant were engaged in providing taxable services. They are holding PAN No. BEZPP1764A.

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. 2014-15, it was noticed that the appellant had earned income of Rs.54,39,741/- by providing taxable services. They neither obtained Service Tax Registration nor paid service tax on such income. Letters were, therefore, issued to the appellant to provide the details of the services provided during the F.Y. 2014-15 and explain the reasons for non-payment of tax and provide the certified documentary evidences for the same. The appellant neither provided the documents nor submitted any reply justifying the non-payment of service tax on such receipts. Therefore, the service tax was calculated on the income reflected under the heads "Sales / Gross Receipts from Services (Value from ITR)" or "Total Amount paid / credited under Section 194C, 194I, 194H, 194J (Value from Form 26AS)" of the Income Tax Act, 1961, on which no tax was paid.

2.1 A Show Cause Notices (SCN) bearing No. CGST/AR-V/Div-VII/A'bad-North/TPD-UR/52/2020-2021 dated 26.09.2020 was issued to the appellant proposing service tax demand of Rs.6,72,352/- along with interest, not paid on the value of income received during the F.Y. 2014-15 under Section 73(1) and Section 75 of the Finance Act, 1994. Imposition of penalties under Section 77 and under Section 78 of the Finance Act, 1994 were also proposed.

3. The said SCN was adjudicated vide the impugned order wherein the adjudicating authority confirmed the service tax demand of Rs.6,72,352/- alongwith interest. Penalty of Rs.10,000/- was imposed under Section 77(1), penalty of Rs.5,000/- under Section 77(2) and penalty of Rs.6,72,352/- was also imposed under Section 78 of the Finance Act.

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

➤ The SCN is issued based on the tax difference noticed in income as reflected in Form 26AS / Income Tax Records and Service Tax Returns, hence, willful suppression of facts cannot be alleged. The notice issued on 27.09.2020 is therefore time barred. They placed reliance on following case laws

- Anand Nishikawa Company Ltd - 2005 (9) TMI 331
- M P Laghu Udhog Nigam Ltd vs Commissioner Central Excise Bhopal (2015) 37 STR 308. (Tri.- Delhi)



- Notice has no mention of the nature of business or taxable service or activity is carried out by the appellant during the year 2014-15. Reliance placed on decision passed in the case of Deltax Enterprises vs. CCE, Delhi, 2018 (10) GSTL 392 (Tri - Del) & CBIC Instruction dated 26.10.2021.
- The appellant vide letter dated 01.02.2021 had submitted that they are providing Pure labor service of "Manpower Supply" for color work and were under the bonafide belief that it is Pure Service covered under 100% RCM in which service receiver is liable to pay service tax as per Notification No. 30/2012-ST dated 20.06.2012, as amended prescribes at SL No. 9.
- Further, the expenditure or cost incurred by the appellant as a pure agent of the recipient of service which shall be excluded from the value of taxable service calculated. Thus, value of taxable service shall be considered after reduction of expenditure incurred by the appellant as a pure agent of recipient of service.
- The order was issued without following the principles of natural justice.
- When the demand is not sustainable, interest & penalties are also not justifiable.

5. On going through the appeal memorandum, it is noticed that the impugned order was issued on 27.07.2022 and the same was received by the appellant on 27.07.2022. However, the present appeal, in terms of Section 85 of the Finance Act, 1994, was filed on 28.07.2022 i.e. after a delay of 2 days from the last date of filing appeal. The appellant have filed a Miscellaneous Application seeking condonation of delay, stating that the appellant is un-educated and does not understand complex procedure and provisions of the Finance Act and other regulations. When O-I-O has been received by him he discussed with his heir, who advised him to take the help of advisor. Later he was advised that appeal against the said order is required to be filed before the Central GST Appeal-Commissionerate hence the delay. He requested to condone the delay in filing the appeal as the delay is within the condonable period.

5.1 Personal hearing in the matter relating to Condonation of Delay was held on 17.05.2023. Shri Mayur Shah, & Shri Hemil Shah, Chartered Accountants, appeared on behalf of the appellant. They reiterated the submissions made in the Miscellaneous Application seeking condonation of delay in filing the appeal.

5.2 Subsequently, personal hearing in the appeal matter was granted on 21.07.2023. Shri Mayur Shah & Shri Hemil Shah, Chartered Accountants appeared for personal hearing on behalf of the appellant and handed over additional written submissions dated 14.7.2023 along with supporting documents. They reiterated the submissions therein, and those in the appeal. They submitted that the appellant provided works contract service in respect of painting job for the buildings. Some of the recipients of service are limited companies who have paid the service tax on reverse charge basis. They have submitted copy of such evidence along with the additional submissions in respect of some of the recipients. They requested to allow at least ten more days to enable them to provide further evidence of payment of tax by recipient on RCM, bank statement of the appellant and bills, invoice etc. They requested to set-aside the



impugned order since the appellant is not liable to pay service tax. The appellant vide letter dated 31.07.2023, furnished sample sales invoices and copy of Bank Statement for the F.Y. 2014-15 to substantiate their above claim.

6. Before taking up the issue on merits, I will first decide the Miscellaneous Application filed seeking condonation of delay. As per Section 85 of the Finance Act, 1994, an appeal should be filed within a period of 2 months from the date of receipt of the decision or order passed by the adjudicating authority. Under the proviso appended to sub-section (3A) of Section 85 of the Act, the Commissioner (Appeals) is empowered to condone the delay or to allow the filing of an appeal within a further period of one month thereafter if, he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period of two months. Considering the cause of delay as genuine, I condone the delay of 2 days and take up the appeal for decision on merits.

7. 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 as well as those made during personal hearing. The issues to be decided in the present case is whether the service tax demand of Rs.6,72,352/- 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. 2014-15.

7.1 It is observed that the entire demand have been raised based on the income data shared by the CBDT, on which no service tax was paid by the appellant. As the appellant did not file any defense reply or appear before the adjudicating authority, the matter was decided ex-parte. However, the appellant now have claimed that he is in the business of Works Contract /Supply of Manpower Service and is registered with the Service tax department. However, the documents in support of the same were not provided. They submitted Form-26AS, ITR, Ledger Account of M/s. Harsha Engineers Ltd. and copy of written submission dated 01.02.2021 made before the adjudicating authority. The appellant before the adjudicating authority gave a submission that they were providing Manpower /labour for colour work and as per Notification 30/2012-ST dated 20.6.2012, 100% service tax liability under RCM shall be on the service recipient. However, the adjudicating authority has not considered the above contention while deciding the matter.

7.2 The appellant in their appeal have strongly contested the demand on merits as well as on limitation. They have contended that the demand for the period April, 2014 to September, 2014 is time barred. It is observed that the appellant have not filed the ST-3 Return for said period so considering the due date of payment, I find that the return for said period was required to be filed on 25<sup>th</sup> October, 2014 which was extended to 14<sup>th</sup> November, 2014 vide Order No.02/2014-ST dated 24.10.2014. Considering, 5yrs period, the demand notice for said period should have been issued 13<sup>th</sup> November, 2019. Whereas the present notice was issued on 26.09.2020, which I find was issued beyond the period of limitation. Hence the demand for April, 2014 to September, 2014 is time barred. However, the demand for the period October, 2014 to March, 2015 is



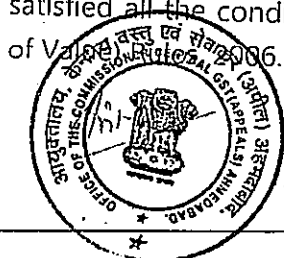
well within time as due date to file ST-3 Return was 25.04.2015 which was extended to 30.12.2020 vide CBEC Notification G.S.R No.601(E) dated 30.9.2020, the period was further extended to 31.12.2020. The notice was issued on 26.09.2020, hence, is well within the period of limitation. Thus, I find that the value of taxable service shall get reduced from Rs.54,39,741/- to Rs.30,14,197/- as the demand for April, 2014 to September, 2014 shall not sustain on limitation.

7.3 Coming to the issue on merits, from Form-26AS, it is noticed that the appellant has received income from various service recipients, details are given below:-

Sr.No.	Service Recipient	Amount as per Form 26AS	Income received from October, 2014 to March, 2015	Value after abatement of 75%	Service Tax liability
01	Dimensions Infra	10,596/-	0	0	0
02	Harsha Engineers Ltd	22,99,559/-	12,97,023/-	3,24,256/-	40,078
03	Jaydeepbhai Arvindhbhai Shah	28,28,284/-	17,17,174/-	Works Contract	
04	Leela Pratham Developers	3,01,300/-	0	0	0
	<b>Total</b>	<b>54,39,739</b>	<b>30,14,197</b>		<b>40,078/-</b>

7.4 From the party-wise ledger, invoices, Form-26 AS, it is noticed that the service recipients listed above are Body Corporates. As Body Corporates includes Private Company, Public Company, One person Company Small Company, LLP i.e. business organization registered under Companies Act. The appellant have also submitted the invoices raised to these service recipients. I find that the invoices raised in r/o Dimensions Infra, Harsha Engineers Ltd and Leela Pratham Developers were for colour work hence classifiable under Manpower Supply Service. In terms of Sr.No.08 of Notification No. 30/2012-ST dated 20.06.2012, the service tax liability of service provider & service recipient under RCM for Manpower Supply Service shall be in the ratio of 25:75 respectively. Thus, the service tax liability of the appellant for the services rendered to M/s. Harsha Engineers Ltd shall get reduced to Rs.40,078/- considering tax liability only on 25% of the value.

7.5 Further, the appellant have claimed that the expenditure or cost incurred by them as a pure agent of the recipient of service shall be excluded from the value of taxable service calculated. I find that the appellant has not submitted any documents like contracts to establish that they were acting as a pure agent of their client and have satisfied all the conditions stipulated under Rule 5(2) of the Service Tax (Determination



7.6 In respect of services rendered to Shri Jaydeepbhai Arvindbhai Shah, the appellant claim the service rendered was construction of residential complex and is exemption in terms of Sr. No. 14 (b) Notification No. 25/2012-ST. They submitted the invoices to substantiate their claim. I find that the service rendered is in relation to construction of single residential unit, hence, covered under 'original work' defined under SERVICE TAX (DETERMINATION OF VALUE) RULES, 2006. Further, I also find that construction of original work is exempted vide entry no. 14 (b) of the said notification. Relevant text of the notification is reproduced below:

*14. Services by way of construction, erection, commissioning, or installation of original works pertaining to,-*

*(a) an airport, port or railways, including monorail or metro;*

*(b) a single residential unit otherwise than as a part of a residential complex;*

Thus, I find that in terms of above entry, the appellant shall not be required to pay service tax on such services.

8. As per the discussion held above, I find that the demand to the extent of only Rs.40,078/- is sustainable on merits. When the demand sustains there is no escape from interest, hence the same is therefore recoverable with applicable rate of interest.

9. I find that the imposition of penalty under Section 78 is also justifiable as it provides penalty for suppressing the value of taxable services. Hon'ble Supreme Court in case of *Union of India v/s Dharamendra Textile Processors* reported in [2008 (231) E.L.T. 3 (S.C.)], concluded that the section provides for a mandatory penalty and leaves no scope of discretion for imposing lesser penalty. I find that the appellant was rendering a taxable service but did not obtain registration thereby suppressed the value of taxable service and hence such non-payment of service tax undoubtedly brings out the willful mis-statement and fraud with intent to evade payment of service tax. If any of the circumstances referred to in Section 73(1) are established, the person liable to pay duty would also be liable to pay a penalty equal to the tax so determined. The penalty however shall get reduced to Rs.40,078/-

10. As regards the imposition of penalty under Section 77 (1) is concerned; I find that the same is also imposable. The appellant were rendering the taxable service and were liable to pay service tax, however, they failed to obtain registration and thereby failed to file ST-3 Return. I, therefore, find that all such acts make them liable to a penalty. However, considering the reduction in tax liability, I reduce the penalty imposed under Section 77(1) of the Finance Act, 1994 from Rs.10,000/- to Rs.1,000/-. I, also drop the penalty imposed under Section 77(2) as the appellant is uneducated hence failure in timely submission of documents called for vide letters dated 25.07.2020 & 18.08.2020 during the COVID-19 period can be overlooked. I, however, uphold the late fees imposed under Section 70 for non-filing of ST-3 Returns during the disputed period.

11. In view of the above discussion, I uphold the impugned order confirming the service tax demand to the extent of Rs. Rs.40,078/- with interest and penalties, as per the discussions held at above paras.





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

*(Signature)*  
28-8-23  
(शिव प्रताप सिंह)  
आयुक्त (अपील)

Date: 8.2023

Attested

*(Signature)*

(Rekha A. Nair)  
Superintendent (Appeals)  
CGST, Ahmedabad

By RPAD/SPEED POST

To,  
M/s. Jasram Ramcharan Prajapati,  
138, Shivshaktinagar Society,  
Nava Vadaj,  
Ahmedabad- 380013



Appellant

The Assistant Commissioner  
CGST, Division-VII,  
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. Guard File.





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