



<p>आयुक्त का कार्यालय, केंद्रीय जी. एस. टी. एवं केंद्रीय उत्पाद शुल्क, अहमदाबाद – उत्तर, कस्टम हाँउस, प्रथम तल, नवरंगपुरा, अहमदाबाद- 380009</p>		 <p>OFFICE OF COMMISSIONER CENTRAL GST & CENTRAL EXCISE, AHMEDABAD- NORTH CUSTOM HOUSE, 1ST FLOOR, NAVRANGPURA, AHMEDABAD-380009</p>
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निबन्धित पावती डाक द्वारा/By R.P.A.D

फा.सं./F.No.STC/15-28/OA/2017/Denovo

आदेश की तारीख/Date of Order: - 27.03.2018

जारी करने की तारीख/Date of Issue :- 27.03.2018

द्वारा पारित/Passed by:-

आर. एम. गौतम / R.M.Gautam

अपर आयुक्त / Additional Commissioner

मूल आदेश संख्या / Order-In-Original No. 09/ADC/2018/RMG

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

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

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

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

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

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

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

- (1) उक्त अपील की प्रति।
- (2) निर्णय की प्रतियाँ अथवा जिस आदेश के विरुद्ध अपील की गई है, उनमें से कम से कम एक प्रमाणित प्रति हो, या दूसरे आदेश की प्रति जिसपर रु) 2.00 .दो रुपये (का न्यायालय शुल्क टिकट लगा होना चाहिए।

The appeal should be filed in form EA-1 in duplicate. It should be signed by the appellant in accordance with the provisions of Rule 3 of Central Excise (Appeals) Rules, 2001. It should be accompanied with the following:

- (1) Copy of accompanied Appeal.
- (2) Copies of the decision or, one of which at least shall be certified copy, the order Appealed against OR the other order which must bear a court fee stamp of Rs.2.00.

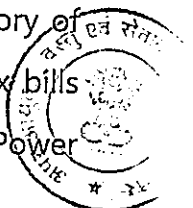
विषय: -कारण बताओ सूचना/Show Cause Notice F.No. STC-21/O&A/SCN/ARL/ADC/D-III/13-14 dated 01.07.2014 issued to AOP consisting of M/s. Narayan Litho Offset Works and others, Anision, 2th Floor, Plot No.4/1, Swastik Society, Navarangpura, Ahmedabad – 380 009.

Brief facts of the case:

During the course of audit of records, undertaken by the Service Tax , Ahmedabad of M/s. Astron Research Ltd. (hereinafter referred to as "the lessee"), 2nd & 10th Floor, Premier House-1, Bodakdev, Gandhinagar-Sarkhej Highway, Thaltej Road, Ahmedabad, holding Service Tax Registration No AADCA1361QST001, it was noticed that the lessee has taken office situated at 301, 302, 303, 'Avdhes House', Opposite Gurudwara, S.G. Highway, Ahmedabad, on lease from following 17 persons (referred as "AOP" 'Association of Person') all having their office at Anison, 2nd Floor, Plot No. 4/1, Swastik Society, Navrangpura, Ahmedabad-380009, who as an independent person, were neither registered with the service tax department nor charging service tax to the lessee by claiming separate exemption under Notification No. 6/2005-ST dated 01/03/2005.

Sr.No.	Name of Service Provider	%of Share	Amount of Rent received by individual (in Rs.)				
			2009-10	2010-11	2011-12	2012-13	2013-14
1	Chhotabhai Narainbhai Patel HUF	5	112700	158197	169212	178963	189640
2	Rishibhai Dineshbhai Patel	6	135240	189836	203045	214751	227565
3	Smitaben Dipakbhai Patel	6	135240	189836	203045	214751	227565
4	Krishnakant Dipakbhai Patel	6	135240	189836	203045	214751	227565
5	Gitaben Dineshbhai Patel	6	135240	189836	203045	214751	227565
6	Devalben Pranavbhai Patel	6	135240	189836	203045	214751	227565
7	Pranavbhai Mahendrabhai Patel	6	135240	189836	203045	214751	227565
8	Khushbuben Shaileshbhai Patel	6	135240	189836	203045	214751	227565
9	Shalinbhai Sudhakarbhai Patel	6	135240	189836	203045	214751	227565
10	Sanjaybhai Jashbhai Patel	6	135240	189836	203045	214751	227565
11	Asheshbhai Jashbhai Patel	6	135240	189836	203045	214751	227565
12	Narayan Litho Offset Works	5	112700	158197	169212	178963	189640
13	Mahendrabhai C.Patel HUF	6	135240	189836	203045	214751	227567
14	Dineshbhai Chhotabhai Patel HUF	6	135240	189836	203045	214751	227567
15	Dipakbhai Chhotabhai Patel HUF	6	135240	189836	203045	214751	227567
16	Sudhakar Chhotabhai Patel HUF	6	135240	189836	203045	214751	227565
17	Jashbhai Chhotabhai Patel HUF	6	135240	189836	203045	214751	227562
	total	100	2254000	3163934	3384099	3579191	3792758

2. The 'AOP' have separately entered into a Lease and License agreements dated 05.12.2008 & 15.12.2009 with the lessee and the rent income was collected individually by the AOP (listed in **Table-A** above) from the aforesaid leased property for the period 2009-10 to 2013-14. The premises rented out by the AOP was used by the lessee for use in the course of or, for furtherance of, business or commerce and accordingly, the rental income received by the AOP from the lessee, appeared taxable under the category of "Renting of Immovable Property Service". Further, on verification of Property tax bills issued by Ahmedabad Municipal Corporation and Electricity bill issued by Torrent Power



5. On being asked regarding common bank account, he stated that the AOP have opened a current account in the Central Bank of India, Mithakhali Branch, Ahmedabad for administration of income and expenditure of the said property on rent, i.e. 301, 302 and 303, Third floor, Avdhesh House, Opp. Gurudwara, S. G. Highway, Ahmedabad - 380054 and authorized any one of (1) Shri Pranavbhai Mahendrabhai Patel (2) Shri Sudhakar Chhotabhai Patel, Karta of HUF Sudhakar Chhotabhai Patel (3) Shri Sanjaybhai Jashbhai Patel and (4) Shri Dipakbhai Chhotabhai Patel (Also Partner of M/s. Narayan Litho Offset Works). He also stated that the AOP had purchased the said property from the builder, M/s. Deepnav Investment Pvt Ltd. in 2001 hence the name of M/s. Deepnav Investment Pvt. Ltd. is mentioned as owner in the tax bills of AMC. However, they are actual owners of the said property since 2001 and M/s. Deepnav Investment Pvt. Ltd. has nothing to do with the said property. He produced the Share Certificates No. 205, 206, 207, 208, 213, 214, 215, 216, 221, 222, 223 & 214 issued by M/s. Deepnav Investment Pvt. Ltd., 10, Sadanand Society, Near Telephone Exchange, Vasna, Ahmedabad in the name of (1) Shri Pranavbhai Mahendrabhai Patel (2) Shri Sudhakar Chhotabhai Patel (3) Shri Sanjaybhai Jashbhai Patel and (4) Shri Dipakbhai Chhotabhai Patel on behalf of **M/s. Narayan Litho Offset Works and 16 others.**

6. Summon was also issued to M/s. Deepnav Investment Co. Pvt Ltd. In response to summons dated 30.05.2014, Shri Ramubhai Nathabhai Patel, Director of M/s. Deepnav Investment Pvt. Ltd. and M/s. Mahishmati Investment Pvt. Ltd. gave his statement dated 03/06/2013, wherein he stated that he is looking after the overall day to day commercial activities of M/s. Deepnav Investment Pvt. Ltd. and produced a copy of the Memorandum of Allotment made at Ahmedabad on 16.08.2001 between (1) (i) M/s. Deepnav Investment Pvt Ltd. (ii) M/s. Mahishmati Investment Pvt. Ltd. (as "the Companies") both having their office at 10, Sadanand Society, Near Telephone Exchange, Vasna, Ahmedabad-380007 (2) M/s. Avdhesh Project and Management Pvt. Ltd. (as "the Project Consultant") having office at 10, Sadanand Society, Near Telephone Exchange, Vasna, Ahmedabad-380007 and (3) M/s. Narayan Litho Offset Works & Others represented by Shri Pranavbhai Mahendrabhai Patel, Shri Sudhakar Chhotabhai Patel, Shri Sanjaybhai Jashbhai Patel and Shri Dipakbhai Chhotabhai Patel, (as "the members") having office at "Anison" 2nd Floor, 4/A, Swastik Society, Navrangpura, Ahmedabad-380009. He further stated that as per the said Memorandum of Allotment, "the members" were allotted premises no. 301, admeasuring about 3880 Sq. Ft, premises no. 302 admeasuring about 2900 Sq. Ft and premises no. 303 admeasuring 3024 Sq. Ft. aggregating to 9804 Sq. Ft. on the Third Floor of the building known as "AVDHESH" to be built on the said plot. He stated that the said property at 301, 302



- (ii) amount of Service Tax of **Rs. 18,17,781/-** (S.T. Rs. 17,64,837/- + Rs.35,296/- E.Cess + Higher Education Cess: Rs. 17,648/-)(Eighteen Lakh Seventeen Thousand and Seven Hundred Eighty One) calculated on the taxable value of Rs.1,61,73,982/- for the period 2009-10 to 2013-14, in the capacity of AOP, not paid by them should not be demanded and recovered from them under the proviso to Section 73(1) of the Finance Act 1994.
- (iii) interest at appropriate rate, should not be charged from them under Section 75 of the Finance Act 1994.
- (iv) Penalty should not be imposed on them under **Section 76** of the Finance Act 1994, for contravention of Section 68(1) of the Finance Act, 1994 read with **Rule 6** of the Service Tax Rules, 1994.
- (v) penalty should not be imposed on them under **Section 77 (1) (a)** of the Finance Act 1994 for the contravention of **Section 69** of the Finance Act, 1994, for failing to take registration in accordance with the said provisions or Rules made there under.
- (vi) Penalty should not be imposed on them under **Section 77(1)(b)** of the Finance Act, 1994 for failure to keep, maintain books of accounts and other documents as required under the provisions of the Finance Act, 1994 or Rules made there under.
- (vii) Penalty should not be imposed on them under **Section 77 (1) (e)** of the Finance Act 1994 for failure to issue invoice in accordance with the provisions of the Act or Rules made there under, with incorrect or incomplete details or fails to account for an invoice in his books of account.
- (viii) Penalty should not be imposed on them under **Section 77 (2)** of the Finance Act 1994 for the contravention the provisions of **Section 70** of the Finance Act, 1994 for failure to self assess the tax due on the services provided by them.
- (ix) prescribed late fee, should not be recovered from them for each return, i. e. S.T. returns for the years 2009-10 to 2013-14 under **Rule 7C** read with **Section 70** of the Finance Act, 1994.



11. Since the show cause notice dated 1.7.2014 mentioned above was pending adjudication being remanded by the Commissioner (A), a personal hearing was granted on 16.1.2018. Shri Mukesh Matreja, Consultant & Shri Rajesh Mehuriya appeared before me and reiterated the submissions made in their written reply dated 16.1.2018. In their written submission dated 16.01.2018, they contested the demand of interest & imposition of penalty on following grounds:-

➤ The matter is sub-judice as all the co-owners have individually filed an Appeal before Hon'ble CESTAT, A'bad against Commr(A)' aforementioned order and the same is pending. Since the matter is sub-judice, they requested to keep the calculation of interest and penalty in the interest of justice. In similar issue, Hon'ble CESTAT has granted unconditional stay in the case of following case laws:-

- K.D.Chudhary : 2013(32) STR 441 (Tr-Ahm)
- Vamini Nitinkumar Shah: 2013(31) STR 239
- Manju Champaklal Bafna: 2013(31) STR 511
- Minaxiben J. Thakker: 2013 (31) STR STR 329

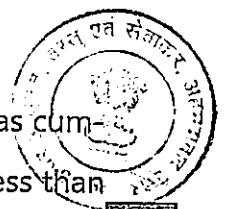
➤ As they were under *bona-fide* belief that the service tax is not payable and the general exemption is available individually to all the co-owners. Further there is reasonable cause for the failure to take registration, maintain specified records, issue invoices and self-assessment and the penalty required to be condoned/waived under Section 80 of the F.A, 1994. In support they relied on following decisions.

- Welspun Gujarat: 2012(37) STR 675
- Ankleshwar Taluka ONGC Land Looseres Travellers Coop: 2012 935) STR 445 (Guj HC DB)
- Dialand Travels: 2007 7 STR 372 (Raj HC DB)

➤ That they have recorded true and complete details of all transactions in specified records and filed S.Tax returns for each year which are on records of department, thus neither suppression nor *mala-fide* intention can be alleged to evade payment of tax. They were under *bona-fide* belief that the general exemption is available individually to all the co-owners therefore tax was not collected. A lenient view needs to be taken in case of *bona fide* or technical issue and relied on following case laws:-

- Cement Marketing Co.: 1980(1) SCC 71
- D.Navinchandra : 1987(29) ELT 492 (SC)
- EID Parry: 117 STC 457

➤ Calculation of interest may be done on the amount of S.Tax by treating it as cum tax amount as the tax was not recovered. Also since the taxable value is less than



the financial years covered by the notice or during the last preceding financial year, as the case may be, such rate of interest, shall be reduced by **three per cent** per annum. The second proviso to Section 75 was inserted vide Finance Act, 2011-12 w.e.f. 8.4.2011. The period covered in the present SCN is 2009-10 to 2013-14. I find that the value of taxable service rendered by the AOP during the 2011-12, 2012-13 & 2014-15 was Rs.33,84,099/-, Rs.35,79,191/- & Rs.37,92,758/- respectively which is below sixty lakh limit thus, I find that the AOP are eligible for the benefit of reduced rate of interest in terms of the proviso to Section 75. Since the amount of service tax liability gets fastened, consequential interest liability also arise on the AOP. Accordingly, I hold that the AOP are liable to pay interest in terms of second proviso to Section 75 on the service tax liability of **Rs.18,17,781/-** as determined and confirmed by Commissioner (A).

15. Penalty under Section 76 & 78: Penalty under Section 76 is proposed on the ground that the AOP have contravened Section 68(1) of the Finance Act, 1994 read with Rule 6 of the Service Tax Rules, 1994. In the instant case the period covered is 2009-10 to 2013-14 and during this period the issue stands settled that if penalty has been imposed under Section 78 of the Act, then no penalty is justified under Section 76 of the Act. By Finance Act, 2008 (18 of 2008) which came into force from 10-5-2008, the Parliament has made the legal position clear by introducing a proviso to Section 78. It reads as under:

"provided also that if the penalty is payable under this section, the provision of Section 76 shall not be attracted."

15.1 Relevant provisions of Section 76 & 78 are reproduced below:-

Section 76 – Penalty for failure to or pay service tax

Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made under this Chapter, who fails to pay such tax, shall pay a penalty which shall not be less than one hundred rupees for every day during which such failure continues or at the rate of one per cent of such tax, per month, whichever is higher, starting with the first day after the due date till the date of actual payment of the outstanding amount of service tax. Provided that the total amount of the penalty payable in terms of this section shall not exceed fifty per cent of the service tax payable.

Section 78 – Penalty for suppressing, etc., of value of taxable services

(1) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of—

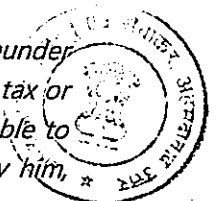
(a) fraud; or

(b) collusion; or

(c) wilful mis-statement; or

(d) suppression of facts; or

(e) contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person, liable to pay such service tax or erroneous refund, as determined under sub-section (2) of section 73, shall also be liable to pay a penalty, in addition to such service tax and interest thereon, if any, payable by him,



under Section 76 when penalty under Section 78 of the Act has been imposed. Accordingly, penalty imposed under Section 76 is set aside.

16. Regarding penalty under Section 77, I further find that the AOP have contravened the provisions of Section 69 of the Finance Act, 1994 read with Rule 4 of the Service Tax Rules, 1994 in as much as they failed to take Service Tax Registration under 'Renting of Immovable Property Service', thus are liable for penalty under Section 77(1)(a) of the Finance Act, 1994. They also contravened the provisions of Rule 5, Rule 4A & Rule 7 of the Service Tax Rules, 1994 in as much as they failed to maintain books of accounts and other documents, failed to issue invoices to their service recipients and failed to assess the service tax on the taxable value received by them and to file ST-3 return as AOP for the F.Y. 2009-10 to 2014-15 in accordance to the provisions of the Finance Act, 1994 and rules made there under. Therefore, it appears that the AOP is liable for penalty under Section 77(1) (a), Section 77(1) (b) and Section 77(1) (e) of the Finance Act, 1994.

16.1 The AOP on the other hand have contended that they were under bonafide belief that the service tax is not payable and the general exemption is available individually to all the co-owners. They also argued that there is reasonable cause for the failure to take registration, maintain specified records, issue invoices and self-assessment hence the penalty is required to be condoned/ waived under Section 80 of the F.A, 1994. In support they relied on various case laws.

16.2 I do not find merit in the above argument, a belief can be said to be *bona fide* only when it is formed after all the reasonable considerations are taken into account. I do not find merit in the above argument as the nature of service provided is renting of a premise for business purpose, to a single recipient only i.e. an indivisible single service has been provided jointly by individuals, which cannot be considered to be divided into individual services on the ground that such service has been provided jointly by different individuals. The property is owned collectively by the AOP as per the terms and condition of the Samjhuta Karar, the expenses and income from the property is distributed as per their share for which a common current account in the Central Bank of India, Mithakali Branch, Ahmedabad was opened and authorized any one of (1) Shri Pranavbhai Mahendrabhai Patel (2) Shri Sudhakar Chhotabhai Patel, Karta of HUF Sudhakar Chhotabhai Patel (3) Shri Sanjaybhai Jashbhai Patel and (4) Shri Dipakbhai Chhotabhai Patel (Also Partner of M/s. Narayan Litho Offset Works) hence they cannot be treated as separate individual.

16.3 During the relevant year 2009-10 onwards, each individual has availed SSI threshold exemption from payment of service tax, in respect of the first aggregate



precedent for attracting penalty. Therefore, first, we have to find out whether in the facts of a given case whether those ingredients exist. Once it is held that those ingredients exist and the provisions are attracted, then if the language used in the said provisions do not leave any discretion in authority in the matter of imposition of penalty, penalty is to be imposed in terms of the said provision. However, if any discretion is left, then the said quasi judicial discretion is to be exercised reasonably. Before levying penalty, the authority is required to find out whether there was any failure referred to in the concerned provision and the same was without a reasonable cause. The initial burden is on the assessee to shown that there existed reasonable cause, which was the reason for the failure referred to in the concerned provision. Thereafter the authority has to consider the explanation offered by the assessee for failure and whether it constitutes a reasonable cause. "Reasonable cause" means an honest belief founded upon reasonable grounds, of the existence of a state of circumstances, which assuming them to be true, would reasonably lead any ordinarily prudent and cautious man, to come to the conclusion that the same was the right thing to do. Only if it found to be frivolous, without substance or foundation, the question of imposing penalty would arise.

Since the AOP have failed to take registration and fulfill the formalities of the Service Tax Law, penalty under Section 77 of the Act is imposable.

17. I further find that the show cause notice also proposes imposition of penalty under Section 78 of the Finance Act, 1994. The AOP have suppressed the facts from the department by not disclosing the correct taxable value by not taking Service Tax Registration and not filing prescribed ST-3 returns. They are well aware of the provisions of the Finance Act, 1994 and Rules made there under and have intentionally not paid the service tax by treating all the members of the AOP as separate. All the above acts of commission and omission on the part of the AOP committed by way of suppression of facts and in contravention of the provisions of Section 66, Section 68, Section 69 and Section 70 of the Finance Act, 1994 read with Rule 4, Rule 4A, Rule 5, Rule 6 & Rule 7 of the Service Tax Rules, 1994 with an intent to evade payment of service tax as discussed in the foregoing paras. Therefore, the AOP is also liable for penalty under Section 78 of the Finance Act, 1994 and willful mis-statement on the part of the AOP has been established beyond doubt as discussed and concluded in the earlier part of this order. Accordingly, I hold that the AOP is also liable to penalty under the provisions of Section 78 of the Finance Act, 1994.

18. As it is already proved that the service provider had suppressed the facts, the consequences shall automatically follow. Hon'ble Supreme Court has settled this issue in the case of **U.O.I Vs Dharmendra Textile Processors** reported in **2008 (231) ELT 3 (S.C)** and further clarified in the case of **U.O.I Vs R S W M** reported in **2009 (238) ELT 3**



the amount specified for delay in furnishing the return is paid by the assessee within sixty days from the date of assent to the said Finance Bill.]]

[(2) Where the annual return referred to in sub-rule (3A) of rule 7 is filed by the assessee after the due date, the assessee shall pay to the credit of the Central Government, an amount 9999 calculated at the rate of one hundred rupees per day for the period of delay in filing of such return, subject to a maximum of twenty thousand rupees.]

21. I find that the AOP have not filed the S.T.-3 returns for the years 2009-10 to 2013-14 till date as they have continued with the practice of evading service tax liability for the subsequent period also for which a demand notice No.SD-02/SCN-04/O&A/AOP/16-17 dated 13.4.2016 was issued to M/s. Narayan Litho Offset Works and 16 Others, proposing demand of service tax of Rs.4,47,244/-. Thus as per the above provisions, the AOP is therefore liable for late fee for non filing/delayed filing of ST-3 returns for the period 2009-10 to 2013-14 in terms of Section 70 read with Rule 7C of Service Tax Rules, 1994. Considering the maximum limit fixed under first proviso of said rule, I impose a fees of **Rs.20,000/-** for non-filing of returns.

22. In view of the above discussions and findings, I pass the following orders:

ORDER

- (i) I order the AOP to pay interest at appropriate rate under Section 75 of the Finance Act 1994 on the amount of the service tax liability of Rs 18,17,781/ confirmed by the Commissioner (A) vide order-in-Appeal no.AHM-SVTax-000-APP-0242-16-17 dt 15.03.2017 .
- (ii) I do not impose any penalty under Section 76 of the Finance Act 1994, in light of my findings at para 16 above.
- (iii) I impose penalty of Rs.10,000/ (Rupees TEN THOUSAND ONLY) under **Section 77 (1) (a)** of the Finance Act 1994 for the contravention of **Section 69** of the Finance Act, 1994, for failing to take registration in accordance with the said provisions or Rules made there under.
- (iv) I impose penalty of Rs.10,000/ (Rupees TEN THOUSAND ONLY) on them under **Section 77(l)(b)** of the Finance Act, 1994 for failure to keep, maintain books of accounts and other documents as required under the provisions of the Finance Act, 1994 or Rules made there under.
- (v) I impose penalty of Rs.10,000/ (Rupees TEN THOUSAND ONLY) on them under **Section 77 (1) (e)** of the Finance Act 1994 for failure to issue invoice in accordance with the provisions of the Act or Rules made there under, with incorrect or incomplete details or fails to account for an invoice in his books of account.
- (vi) I impose penalty of Rs.10,000/ (Rupees TEN THOUSAND ONLY) on them under **Section 77 (2)** of the Finance Act 1994 for the contravention the provisions of **Section 70** of the Finance Act, 1994, for failure to self assess the tax due on the

