


<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 E-mail:- oaahmedabad2@gmail.com</p>
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निबन्धित पावती डाक द्वारा/By R.P.A.D

फा.सं./F.No. STC/15-10/OA/2020

आदेश की तारीख/Date of Order : - 10.06.2021

जारी करने की तारीख/Date of Issue :- 10.06.2021

DIN-2021.0664WT0000000B2F

द्वारा पारित/Passed by:-

मारुत त्रिपाठी / Marut Tripathi
संयुक्त आयुक्त / Joint Commissioner

मूल आदेश संख्या / Order-In-Original No. 06/JC/MT/2021-22

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 दो महिनों के अन्दर आयुक्त (अपील), केन्द्रीयजी.एस.टी., केन्द्रीयजी.एस.टी.भवन, अंबावाड़ी, अहमदाबाद - 380015 को प्रारूप संख्या एसटी-4 (ST-4) में दाखिल कर सकता है। इस अपील पर रु. 5.00 (पांच रूपये) का न्यायालय शुल्क टिकट लगा होना चाहिए।

Any person deeming himself aggrieved by this order may appeal against this order in form ST-4 to the Commissioner(Appeals), GST Bhawan, Ambawadi, Ahmedabad-380015 within two months from the date of its communication. The appeal should bear a court fee stamp of Rs. 5.00 only.

इस आदेश के विरुद्ध अपील करने के लिए आयुक्त(अपील) के समक्ष नियमानुसार पूर्व जमा की धनराशि का प्रमाण देना आवश्यक है।

An appeal against this order shall lie before the Commissioner (Appeals) on giving proof of payment of pre-deposit as per rules .

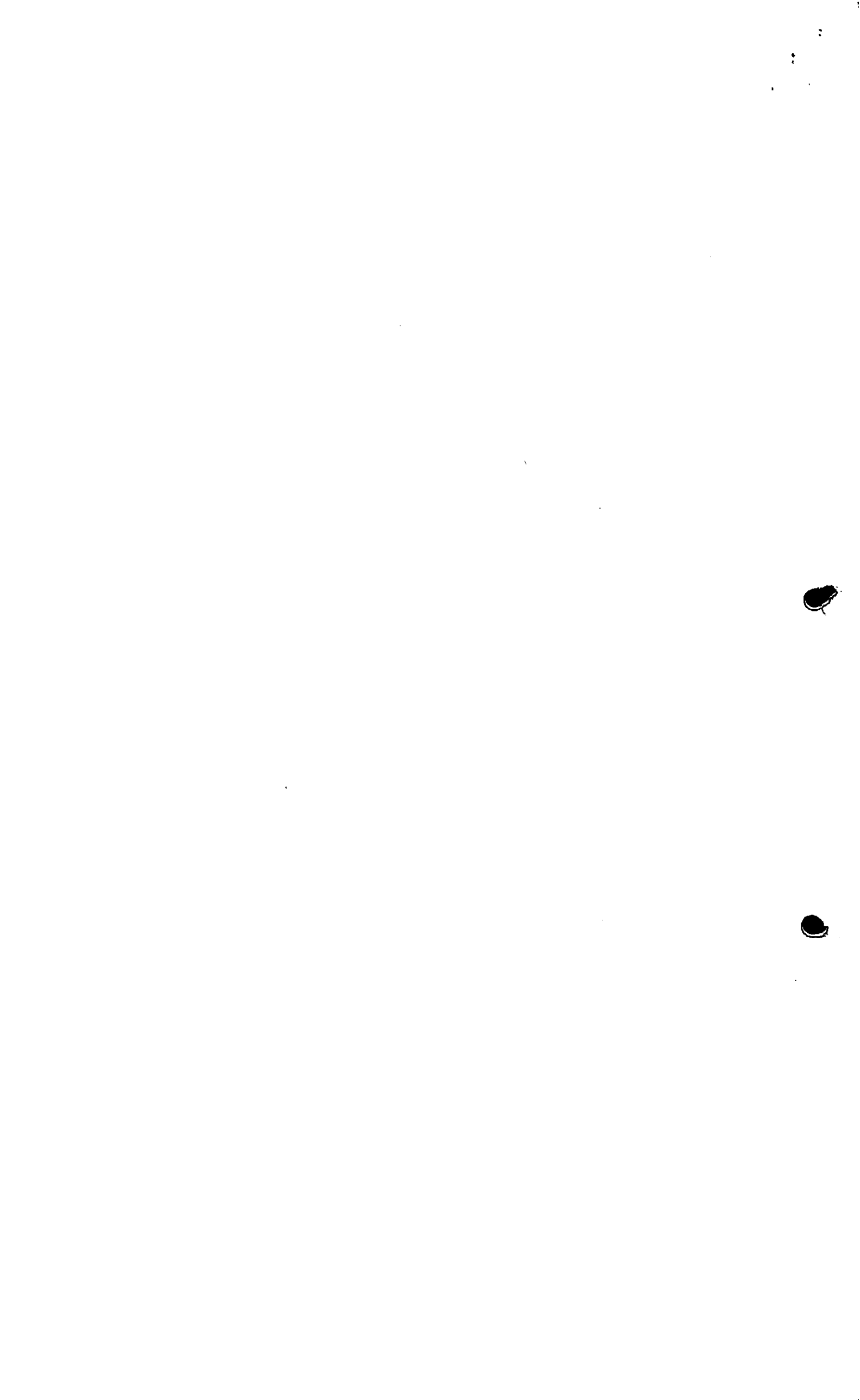
उक्त अपील, अपीलकर्ता द्वारा प्रारूप संख्या एसटी-4 (ST-4) में दो प्रतियों में दाखिल की जानी चाहिए। उस पर केन्द्रीय उत्पाद शुल्क (अपील), नियमावली 2001 के नियम 3 के प्रावधानों के अनुसार हस्ताक्षर किए जाने चाहिए। उक्त अपील के साथ निम्नलिखित दस्तावेज संलग्न किए जाएं।

- (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 जिस पर रु. 5.00 (पांच रूपये) का न्यायालय शुल्क टिकट लगा होना चाहिए।

The appeal should be filed in form ST-4 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.5.00.

विषय:- कारण बताओ सूचना/ The Show Cause Notice No. F.No.VI/1(b)/Tech-49/Royal Orient Tours/2019-20 dated 17.10.2019 issued to M/s. ROYAL ORIENT TOURS & TRAVELS, 4-FF, PRAKASH PARK.SOC., COMMERCE SIX ROAD, NAVRANGPURA, AHMEDABAD, GUJARAT-380009 .



Facts and grounds-

1 M/s. ROYAL ORIENT TOURS & TRAVELS, 4-FF, PRAKASH PARK SOC., COMMERCE SIX ROAD, NAVRANGPURA, AHMEDABAD, GUJARAT-380009 ('assessee') are engaged in providing Air Travel Agent Services, Tour Operator Services, Business Auxiliary Service, Rent-a-cab scheme operator Service & Travel Agent for booking of passage (other than air/rail travel agents) for which they hold a Service Tax Registration No. AAHPT3879RST001. The assessee was availing Cenvat Credit under CENVAT Credit Rules, 2004.

2. Audit of the records of the assessee was carried out by the officers of Central Tax Audit, Ahmedabad for the period from April, 2014 to June, 2017. The assessee was issued a query memo dated 03.10.2016 for issues raised in the course of audit. Final Audit Report No.430/2019-20 dated 14.10.2019 was issued after completion of audit where ten paras remained unsettled and demand has arisen out of these Revenue paras. All ten unsettled paras and demand arising from each para is as below:

3. Revenue Para -1: Non-payment of Service Tax on commission received from airways, travel agencies, hotels & resorts etc.

During the course of audit, on verification of Form 26 AS as well as financial records from 2014-15 to 2017-18 (up to June 2017), it was observed that the assessee has not paid service tax on commission received from airways, travel agencies, hotels and resorts etc. in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017). The assessee was required to pay the same along with applicable interest and penalty. The service tax payable is tabulated below:

Financial Year	TAXABLE VALUE	S. TAX
2014-15	5013993	619730
2015-16	3203401	464493
2016-17	6317319	947597
2017-18 (up to June, 2017)	1075832	161375
Total	15610,545	21,93,195

On being pointed out the assessee did not agree with the observation and has not paid Service Tax of Rs. 21,93,195/- along with Interest and Penalty.

4. Revenue Para 2: Non-payment of Service Tax on charges received for visa services

During the course of audit, on verification of trial balance sheets as well as financial records from 2014-15 to 2017-18 (up to June 2017), it was observed that the assessee has not paid service tax on charges received for visa services provided to customers in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017). The assessee was required to pay the same along with applicable interest and penalty. The service tax payable is tabulated below:

Financial Year	TAXABLE VALUE	S. TAX
2014-15	1191351	147251
2015-16	1621733	235151
2016-17	14550	2183
2017-18 (up to June, 2017)	27945	4192
Total	2855579	3,88,777

On being pointed out the assessee did not agree with the observation and has not paid Service Tax Rs. 3,88,777/- along with Interest and Penalty.

5. Revenue Para 3: Non-payment of Service Tax on charges received for hotel bookings

During the course of audit, on verification of trial balance sheets as well as financial records from 2014-15 to 2017-18 (up to June 2017), it was observed that the assessee has not paid service tax on charges received for hotel bookings in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017). The assessee was required to pay the same along with applicable interest and penalty. The service tax payable is tabulated below:

F. Y.	Sale value (Amount Charge)	Abatement	Taxable value	Service Tax
2014-15	38062926	34256633	3806293	470458
2015-16	27398275	24658448	2739828	397275
2016-17	2420712	2078072	342640	51396
2017-18 (Up to June 17)	437343	174937	262406	39361
Total			7151166	9,58,490

On being pointed out the assessee did not agree with the observation and has not paid Service Tax of Rs. 9,58,490/- along with Interest and Penalty.

6. Revenue Para 4: Non-payment of Service Tax on charges received for passport services:

During the course of audit, on verification of trial balance sheets as well as financial records from 2014-15 to 2017-18 (up to June 2017), it was observed that the assessee has not paid service tax on charges received for passport services in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017). The assessee was required to pay the same along with applicable interest and penalty. The service tax payable is tabulated below:

Financial Year	TAXABLE VALUE	S. TAX
2014-15	127387	15745
2015-16	98615	14299
2016-17	100395	15059
2017-18 (up to June, 2017)	37985	5698
Total	326397	50,801

On being pointed out the assessee did not agree with the observation and has not paid Service Tax of Rs. 50,801/- along with Interest and Penalty.

7. Revenue Para 5: Non-payment of Service Tax on rent incomes:

During the course of audit, on verification of trial balance sheets as well as financial records from 2014-15 to 2017-18 (up to June 2017), it was observed that the assessee has not paid service tax on rent income in the financial year 2016-17. The assessee was required to pay the same along with applicable interest and penalty. The service tax payable is tabulated below:

Financial Year	TAXABLE VALUE	S. TAX
2016-17	1161000	174150
Total	1161000	1,74,150

On being pointed out the assessee did not agree with the observation and has not paid Service Tax of Rs. 1,74,150/- along with Interest and Penalty.

8. Revenue Para 6: Short -payment of Service Tax on rent cab services:

During the course of audit, on verification of reconciliation of trial balance sheets as well as financial records with ST-3 in respect of rent cab service income from 2014-15 to 2017-18 (up

to June 2017), it was observed that the assessee has short paid service tax on rent cab services in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017). The assessee was required to pay the same along with applicable interest and penalty. The differential service tax payable is tabulated below:

F. Y.	Income for Rent cab as per Trial Balance Sheets	Value as per ST-3	Diff.	Abatement	Taxable value	Service Tax
2014-15	3341186	801133	2540053	1524032	1016021	125580
2015-16	5154803	1970310	3184493	1910696	1273797	184700
2016-17	6169578	985883	5183695	3110217	2073478	311022
2017-18(Up to June 17)	139595	0	139595	83757	55838	8376
Total			11047836	6628702	4419134	6,29,678

On being pointed out the assessee did not agree with the observation and has not paid Service Tax of Rs. 6,29,678/- along with Interest and Penalty.

9. Revenue Para 7: Non-payment of Service Tax on sale incentive income:

During the course of audit, on verification of trial balance sheets as well as financial records from 2014-15 to 2017-18 (up to June 2017), it was observed that the assessee has not paid service tax on sales incentive income in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017). The assessee was required to pay the same along with applicable interest and penalty. The service tax payable is tabulated below:

F. Y.	TAXABLE VALUE	S. TAX
2014-15	1940354	239828
2015-16	137190	19892
2016-17	1871778	280767
2017-18(Up to June 17)	29071	4361
Total	3978393	5,44,848

On being pointed out the assessee did not agree with the observation and has not paid Service Tax of Rs. 5,44,848/- along with Interest and Penalty.

10. Revenue Para 8: Non-payment of penalty for late- filing of ST-3 return:

During the course of audit, it was observed that the assessee has not paid Penalty for late filing of ST-3 return for the period of April 2015 – September 2015 (delayed by 43 days), April 2016 - September 2016 (delayed by 88 days). it was also found that the assessee has not filed ST-3 returns for month of April 2017- June 2017. The penalty of Rs. 29,100/- for late/Non- filing of ST-3 returns is required to be paid under Section 70 of Finance Act 1994 read with Rule 7C of the Service Tax Rules, 1994. Hence the same is required to be recovered from them.

On being pointed out the assessee did not agree with the observation and has not paid Penalty of Rs. 29,100/- .

11. Revenue Para 9: Short -payment of Service Tax on Air Travel Agent services:

During the course of audit, on verification of reconciliation of trial balance sheets as well as financial records with ST-3 in respect of Air travel agent service income from 2014-15 to 2017-18 (up to June 2017), it was observed that the assessee has short paid service tax on Air travel agency services in the financial year 2014-15, & 2017-18 (up to June 2017). The assessee was

required to pay the same along with applicable interest and penalty. The Calculation of Service Tax is as under:

F. Y.	Service tax Payable	S. Tax Paid	Diff. Service Tax is required to be paid (Service Tax)
2014-15	797440	562965	234475
2017-18(Up to June 17)	339831	76107	263724
TOTAL	1137271	639072	4,98,199

On being pointed out the assessee did not agree with the observation and has not paid Service Tax of Rs. 4,98,199/- along with Interest and Penalty.

12. Revenue Para 10: Non-payment of Service Tax on charges received for miscellaneous sales:

During the course of audit, on verification of trial balance sheets as well as financial records from 2014-15 to 2017-18 (up to June 2017), it was observed that the assessee has not paid service tax on charges received for miscellaneous sales of services as rail tickets etc. in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017).The assessee was required to pay the same along with applicable interest and penalty. The Calculation of Service Tax is as under:

F. Y.	Sale value	purchase value	value of service portion (charges)	Service Tax
2014-15	4564918	2997037	1567881	193790
2015-16	4720920	746552	3974368	576283
2016-17	5077576	4021091	1056485	158473
2017-18(Up to June 17)	2977899	61830	2916069	437410
Total			9514803	13,65,957

On being pointed out the assessee did not agree with the observation and has not paid Service Tax of Rs. 13,65,957/- along with Interest and Penalty.

13. On above grounds M/s. **ROYAL ORIENT TOURS & TRAVELS, 4-FF, PRAKASH PARK SOC., COMMERCE SIX ROAD, NAVRANGPURA, AHMEDABAD, GUJARAT-380009** were issued a show cause notice by the Additional Commissioner, Audit Commissionerate- Ahmedabad to show cause as to why:

- Service tax amounting to Rs. 68, 04,094/- (Rupees sixty eight lakh four thousand ninety four only) (Revenue para no. 01,02,03,04,05,06,07,09,10), not paid/ short paid, should not be recovered from them, under the proviso of Section 73(1) of the Act.
- Penalty should not be imposed on them, under the provisions of Section 78(1) of the Act on the proposed demand at (i) above.
- Interest should not be charged and recovered from them, under the provisions of Section 75 of the Act on the proposed demand at (i) above.
- Late fees/penalty of Rs 29,100/- (Rev Para No. 08) should not be demanded and recovered from them, under the provisions of Section 70 of the Finance Act read with the provisions of Rule 7C of the Service Tax Rules,1994;

Defence Reply and Personal Hearing-

14. Noticee failed to file any defence reply as per para 17 of the notice and they did not file any reply to the SCN till date despite their disagreement to the revenue paras.

15. Personal hearing in the matter was given to the noticee several times and Shri P.P Jadeja Cunsultant alongwith Shri Alpesh Tripathi ,Proprieter of the noticee firm appeared on 30.3.2021.They denied the demands of Service Tax except renting of immovable property and late filing. Further they requested to give 3 weeks time to allow them to make their written submissions alongwith detailed arguments/submissions. So one more hearing was given to them on 17.05.2021 for their arguments but they failed to appear on the given date neither any written reply to the SCN has been received from them. Further vide letter dated 19.05.2021 they were again requested to file their written reply within a week. The noticee vide letter dated 27.05.2021 sent through e-mail requested for another opportunity of personal hearing. The noticee has already been given more than mandatory opportunities of hearing since January,2021 and they had more than sufficient time to file their written reply since issuance of SCN and the SCN cannot be kept in abeyance forever for want of their reply which is not received till date. So having no other option I am going to adjudicate the matter as per available records.

Discussion and Findings-

16. I have carefully gone through the case papers available on record. I find that show cause notice has been issued in this case on 17.10.2019 and Corrigendum was issued on 21.05.2021 by issuing authority making the notice answerable to Joint/Additional Commissioner Ahmedabad North. Neither the assessee has replied to the show cause notice nor they have given any arguments/grounds in their defence during hearing held on 30.03.2021. One more chance of hearing for arguments was given to them but they did not appear and after that one week more time was given to them for written reply but they failed to submit the same. Since considerable time has been elapsed after issue of the show cause notice, I cannot keep the case pending for decision for a longer period as substantial revenue is involved in the case. Therefore, due to the lack of co-operation on the part of the assessee, I have no option but to proceed with the adjudication as per available records.

17. I will discuss the issue as per each Revenue para of Final Audit Report No.430/2019-20 dated 14.10.2019 and decide the taxability and amount of the different activities carried out by the noticee during disputed period in light of Finance Act,1994 and associated rules-

18. Revenue Para -1: Non-payment of Service Tax on commission received from airways, travel agencies , hotels & resorts etc. (Audit Code: VSR 030):

It was noticed by Audit that the assessee has not paid service tax on commission received from airways, travel agencies, hotels and resorts etc. in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017).The assessee was required to pay the Service Tax amounting Rs.21,93,195/- along with applicable interest and penalty.

The relevant text to Section 65B(44) of the Finance Act, 1944 ('Act') defining 'service' reads as under:

“Service’ means any activity carried out by a person for another for consideration, and includes a declared service”

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

“Taxable service” means any service on which service tax is leviable under section 66B”

I find that the assessee has carried out an activity relating to Air Travel Agent Services, Tour Operator Services, Business Auxiliary Service, Rent-a-cab scheme operator Service & Travel Agent for booking of passage (other than air/rail travel agents) for which the assessee have received consideration/commission and such activity falls with the definition of service under Section 65B(44) of the Finance Act, 1994. Further the activities provided by the assessee do not find mention in Section 66D of the Act nor they are exempted under the Mega Exemption Notfn No 25/2012-ST dated 20.6.2012 as amended or any other notification issued under the Act. Accordingly, the services provided by the assessee are taxable and liable for payment of

Service tax. The assessee had not disclosed to the revenue that they had short paid service tax on the services provided by them. They had shown the entire consideration as income in their financial records but had not shown the same consideration as receipt in their ST3 returns before the audit objection was detected. The assessee suppressed the material facts in their ST3 returns with an intent to evade the payment of service tax.

Therefore the assessee has contravened the provisions of:

- Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 ('Rules') as they failed to pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed;
- Section 70 of the Act read with Rule 7 of the Rules as they failed to assess their tax liability properly and failed to file proper returns as prescribed.

Hence, non-payment of service tax amounting to Rs. 21,93,195 /- is liable to be demanded and recovered from the assessee, under the proviso of Section 73(1) of the Act by invoking the extended period of time of five years as there is a case of suppression of facts with an intent to evade the payment of service tax along with interest under Section 75 of the Act. I find that by act of not disclosing the amount of consideration received on account of the services provided, the assessee has suppressed the material facts with an intention to evade the payment of service tax, and therefore, the assessee would also be liable for penal action under the provisions of Sections 78(1) of the Act.

19. Revenue Para 2: Non-payment of Service Tax on charges received for visa services. (Audit Code: CSR 99):

It was noticed by Audit that the assessee has not paid service tax on charges received for visa services provided to customers in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017). The assessee was required to pay the Service Tax amounting to Rs.3,88,77/- along with applicable interest and penalty.

The relevant text to Section 65B(44) of the Finance Act, 1944 ('Act') defining 'service' reads as under:

“Service’ means any activity carried out by a person for another for consideration, and includes a declared service”

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

“Taxable service” means any service on which service tax is leviable under section 66B”

I find that the assessee has carried out an activity relating to visa services under Business Auxiliary Service for which the assessee have received consideration/charges and such activity falls with the definition of service under Section 65B(44) of the Finance Act, 1994. Further the activities provided by the assessee do not find mention in Section 66D of the Act nor are they exempted under the Mega Exemption Notfn No 25/2012-ST dated 20.6.2012, as amended or any other notification issued under the Act. Accordingly, it appears that the services provided by the assessee are taxable and liable for payment of service tax.

The assessee has also not disclosed to the revenue that they have short paid service tax on the services provided by them. They have shown the entire consideration as income in their financial records but have not shown the same consideration as receipt in their ST3 returns before the audit objection was detected so the assessee has suppressed the material facts in their ST3 returns with an intent to evade the payment of service tax.

Therefore the noticee has contravened the provisions of:

- Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 ('Rules') as they have failed to pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed;

- Section 70 of the Act read with Rule 7 of the Rules as they have failed to assess their tax liability properly and failed to file proper returns as prescribed.

Hence, non-payment of service tax amounting to Rs. 3,88,777/- is liable to be demanded and recovered from them under the proviso to Section 73(1) of the Act by invoking the extended period of time of five years as there is a case of suppression of facts with an intent to evade the payment of service tax along with interest under Section 75 of the Act. By the act of not disclosing the amount of consideration received on account of the services provided, the assessee has suppressed the material facts with an intention to evade the payment of service tax, and therefore, it appears that the assessee would also be liable for penal action under the provisions of Sections 78(1) of the Act.

**20. Revenue Para 3: Non-payment of Service Tax on charges received for hotel bookings.
(Audit Code: VSR 030):**

It was noticed by Audit that the assessee has not paid service tax on charges received for hotel bookings in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017). The assessee was required to pay service tax amounting to Rs. 9,58,490/- along with applicable interest and penalty.

The relevant text to Section 65B(44) of the Finance Act, 1944 ('Act') defining 'service' reads as under:

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

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

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

I find that the assessee has carried out an activity relating to booking of hotels for their clients/customers for which they received consideration/charges from the hotels. Such activity falls with the definition of service under Section 65B(44) of the Finance Act, 1994. Further the activities provided by the assessee do not find mention in Section 66D of the Act nor are they exempted under the Mega Exemption Notfn No 25/2012-ST dated 20.6.2012, as amended or any other notification issued under the Act. Accordingly, it appears that the services provided by the assessee are taxable and liable for payment of service tax.

I find that the assessee has not disclosed to the revenue that they were providing services relating to hotel booking for which they had received a consideration. They have not paid service tax on the services provided by them. They have shown the entire consideration as income in their financial records but have not shown the same consideration as receipt in their ST3 returns before the audit objection was detected. So the assessee has suppressed the material facts in their ST3 returns with an intent to evade the payment of service tax.

Therefore, the assessee has contravened the provisions of:

- Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 ('Rules') as they have failed to pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed;
- Section 70 of the Act read with Rule 7 of the Rules as they have failed to assess their tax liability properly and failed to file proper returns as prescribed.

Hence, non-payment of service tax amounting to Rs. 9,58,490/- is liable to be demanded and recovered from the assessee, under the proviso to Section 73(1) of the Act by invoking the extended period of time of five years as there is a case of suppression of facts with an intent to evade the payment of service tax along with interest under Section 75 of the Act. By the act of not disclosing the amount of consideration received on account of the services provided, the assessee has suppressed the material facts with an intention to evade the payment of service tax, and therefore, it appears that the assessee would also be liable for penal action under the provisions of Sections 78(1) of the Act.

21. Revenue Para 4: Non-payment of Service Tax on charges received for passport services. (Audit Code: CSR 99):

It was noticed by Audit that the assessee has not paid service tax on charges received for passport services in the financial year 2014-15 to 2017-18 (up to June 2017). The assessee was required to pay service tax amounting to Rs. 50,801/- along with applicable interest and penalty.

The relevant text to Section 65B(44) of the Finance Act, 1944 ('Act') defining 'service' reads as under:

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

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

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

I find that the assessee has carried out an activity relating to passport services. The noticee has prepared the documents for obtaining passport for different customers. For this activity the assessee have received consideration/charges and such activity falls with the definition of service under Section 65B(44) of the Finance Act, 1994. Further the activities provided by the assessee do not find mention in Section 66D of the Act nor are they exempted under the Mega Exemption Notfn No 25/2012-ST dated 20.6.2012, as amended or any other notification issued under the Act. Accordingly, it appears that the services provided by the assessee are taxable and liable for payment of service tax.

I find that the assessee has not disclosed to the revenue that they have provided the services relating to obtaining a passport for which they have received a consideration. They have shown the entire consideration as income in their financial records but have not shown the same consideration as receipt in their ST3 returns before the audit objection was detected. So the assessee has suppressed the material facts in their ST3 returns with an intent to evade the payment of service tax.

Therefore, the assessee has contravened the provisions of:

- Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 ('Rules') as they have failed to pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed;
- Section 70 of the Act read with Rule 7 of the Rules as they have failed to assess their tax liability properly and failed to file proper returns as prescribed.

Hence, non-payment of service tax amounting to Rs. 50,801/- is liable to be demanded and recovered from the assessee, under the proviso to Section 73(1) of the Act by invoking the extended period of time of five years as there is a case of suppression of facts with an intent to evade the payment of service tax along with interest under Section 75 of the Act. By the act of not disclosing the amount of consideration received on account of the services provided, the assessee has suppressed the material facts with an intention to evade the payment of service so the assessee would also be liable for penal action under the provisions of Sections 78(1) of the Act.

22. Revenue Para 5: Non-payment of Service Tax on rent incomes. (Audit Code: CSR 99):

It was noticed by Audit that the assessee has not paid service tax rent income in the financial year 2016-17. The assessee was required to pay the service tax amounting to Rs.1,74,150/- along with applicable interest and penalty.

The relevant text to Section 65B(44) of the Finance Act, 1944 ('Act') defining 'service' reads as under:

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

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

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

The definition of 'declared service' under Section 65B(22) of the Act reads as under:

" 'declared service' means any activity carried out by a person for another person for consideration and declared as such under section 66E"

The relevant text to Section 66(E) of the Act reads as under:

" Section 66E: the following shall constitute declared service namely:

(a) Renting of immovable property"

I find that the assessee has carried out an activity relating to renting of immovable property Service, for which the assessee have received consideration. Such activity falls with the definition of service under Section 65B(44) of the Finance Act, 1994. Further by getting a consideration for the service of renting of their immovable property as discussed above the service falls within the meaning of 'declared service' as per clause (a) to section 66E of the Act. Accordingly, the services provided by the assessee are taxable and liable for payment of service tax.

I find that the assessee has not disclosed to the revenue that they have short paid service tax on the services provided by them. They have shown the entire consideration as income in their financial records but have not shown the same consideration as receipt in their ST3 returns before the audit objection was detected. It appears that the assessee has suppressed the material facts in their ST3 returns with an intent to evade the payment of service tax.

It therefore, appears that the assessee has contravened the provisions of:

- Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 ('Rules') as they have failed to pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed;
- Section 70 of the Act read with Rule 7 of the Rules as they have failed to assess their tax liability properly and failed to file proper returns as prescribed.

I find that the noticee at no point of time have informed that they were providing a declared service falling within ambit of clause (a) to Section 66E of the Finance Act. They have nowhere shown receipt of any consideration on receipt of rent in any records/returns before the Audit objection. Therefore I find that they have suppressed the material facts of receiving a consideration on the declared service provided by them within the ambit of clause(a) to Section 66E of the Finance Act.

23. Revenue Para 6: Short -payment of Service Tax on rent cab services. (Audit Code: VSR 030):

It was noticed by Audit that the assessee has short paid service tax on rent a cab services in the financial year 2014-15 to 2017-18 (up to June 2017). The assessee was required to pay the short paid service tax amounting to Rs. 6,29,678/ along with applicable interest and penalty.

The relevant text to Section 65B(44) of the Finance Act, 1944 ('Act') defining 'service' reads as under:

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

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

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

I find that the assessee has carried out an activity relating to renting cabs to their customers/clients. It is seen from the comparison of income in their trial balance relating to this activity vis-à-vis their ST3 returns that they have shown lesser value in their returns and thus short paid the service tax.

I find that the assessee has not disclosed to the revenue that they have short paid service tax on the services provided by them. They have shown the entire consideration as income in their financial records but have not shown the same consideration as receipt in their ST3 returns before the audit objection was detected. So the assessee has suppressed the material facts in their ST3 returns with an intent to evade the payment of service tax.

Therefore, the assessee has contravened the provisions of:

- Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 ('Rules') as they have failed to pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed;
- Section 70 of the Act read with Rule 7 of the Rules as they have failed to assess their tax liability properly and failed to file proper returns as prescribed.

Hence, short-payment of service tax amounting to Rs. 6,29,678/- is liable to be demanded and recovered from the assessee, under the proviso to Section 73(1) of the Act by invoking the extended period of time of five years as there is a case of suppression of facts with an intent to evade the payment of service tax along with interest under Section 75 of the Act. By the act of not disclosing the full amount of consideration received on account of the services provided, the assessee has suppressed the material facts with an intention to evade the payment of service tax, and therefore the assessee would also be liable for penal action under the provisions of Sections 78(1) of the Act.

24 . Revenue Para 7: Non-payment of Service Tax on sale incentive income . (Audit Code: CSR 99):

It was noticed by Audit that the assessee has not paid service tax on sales incentive income in the financial year 2014-15 to 2017-18 (up to June 2017). The assessee was required to pay the service tax amounting to Rs. 5,44,848/- along with applicable interest and penalty.

The relevant text to Section 65B(44) of the Finance Act, 1944 ('Act') defining 'service' reads as under:

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

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

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

I find that the assessee has carried out an activity relating to Air Travel Agent Services, Tour Operator Services, Business Auxiliary Service, Rent-a-cab scheme operator Service & Travel Agent for booking of passage (other than air/rail travel agents), for which they have received consideration as sale incentive and such activity falls with the definition of service under Section 65B(44) of the Finance Act, 1994. Further the activities provided by the assessee do not find mention in Section 66D of the Act nor are they exempted under the Mega Exemption Notfn No 25/2012-ST dated 20.6.2012, as amended or any other notification issued under the Act. Accordingly, it appears that the services provided by the assessee are taxable and liable for payment of service tax.

I find that the assessee has not disclosed to the revenue that they have short paid service tax on the services provided by them. They have shown the entire consideration as income in their financial records but have not shown the same consideration as receipt in their ST-3 returns before the audit objection was detected. It appears that the assessee has suppressed the material facts in their ST-3 returns with an intent to evade the payment of service tax.

Therefore, the assessee has contravened the provisions of:

- Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 ('Rules') as they have failed to pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed;
- Section 70 of the Act read with Rule 7 of the Rules as they have failed to assess their tax liability properly and failed to file proper returns as prescribed.

Hence, non-payment of service tax amounting to Rs. 5,44,848/- is liable to be demanded and recovered from the assessee, under the proviso to Section 73(1) of the Act by invoking the extended period of time of five years as there is a case of suppression of facts with an intent to evade the payment of service tax along with interest under Section 75 of the Act. By the act of not disclosing the amount of consideration received on account of the services provided, the assessee has suppressed the material facts with an intention to evade the payment of service tax, and therefore, the assessee would also be liable for penal action under the provisions of Sections 78(1) of the Act.

25. Revenue Para 8: Non-payment of penalty for late- filing of ST-3 return. (Audit Code: ST-CSR073):

It was noticed by Audit that the assessee has not paid Penalty for late filling of ST-3 return for the period of April 2015 – September 2015 (delayed by 43 days), April 2016 - September 2016 (delayed by 88 days). it was also found that the assessee had not filled ST-3 returns for month of April 2017- June 2017. The penalty of Rs. 29,100/- for late/Non- filing of ST-3 returns was required to be paid under Section 70 of Finance Act 1994 read with Rule 7C of the Service Tax Rules, 1994.

Section 70(1) of the Finance Act reads as under :

SECTION [70. Furnishing of returns. — [(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.]

Rule 7C of the Service Tax Rules, 1994 ('Rules') reads as under:

RULE 7C. Amount to be paid for delay in furnishing the prescribed return. — (1) Where the return prescribed under rule 7 is furnished after the date prescribed for submission of such return, the person liable to furnish the said return shall pay to the credit of the Central Government, for the period of delay of –

- (i) fifteen days from the date prescribed for submission of such return, an amount of five hundred rupees;
- (ii) beyond fifteen days but not later than thirty days from the date prescribed for submission of such return, an amount of one thousand rupees; and
- (iii) beyond thirty days from the date prescribed for submission of such return an amount of one thousand rupees plus one hundred rupees for every day from the thirty first day till the date of furnishing the said return :

Provided that the total amount payable in terms of this rule, for delayed submission of return, shall not exceed the amount specified in section 70 of the Act.

I find that the noticee is required to pay late fee of Rs.29,100/- as per above provisions of Finance Act,1994.

26. Revenue Para 9: Short -payment of Service Tax on Air Travel Agent services . (Audit Code: VSR 030):

It was noticed by Audit that the assessee had short paid service tax on on Air travel agency services in the financial year 2014-15, & 2017-18 (up to June 2017).The assessee was required to pay the service tax amounting to Rs. 4,98,199/- along with applicable interest and penalty.

The relevant text to Section 65B(44) of the Finance Act, 1944 ('Act') defining 'service' reads as under:

“Service’ means any activity carried out by a person for another for consideration, and includes a declared service”

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

“Taxable service” means any service on which service tax is leviable under section 66B”

I find that the assessee has carried out an activity relating to Air Travel Agent Services, for which the assessee have received consideration .From the comparison of their trial balance relating to this activity vis-à-vis their ST-3 returns it was noticed that they have shown lesser value in their returns.

I find that the assessee has not disclosed to the revenue that they have short paid service tax on the services provided by them. They have shown the entire consideration as income in their financial records but have shown lesser value as receipt in their ST-3 returns. So the assessee has suppressed the material facts in their ST-3 returns with an intent to evade the payment of service tax.

Therefore, the assessee has contravened the provisions of:

- Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 (‘Rules’) as they have failed to pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed;
- Section 70 of the Act read with Rule 7 of the Rules as they have failed to assess their tax liability properly and failed to file proper returns as prescribed.

Hence, short-payment of service tax amounting to Rs. 4,98,199/- is liable to be demanded and recovered from the assessee, under the proviso to Section 73(1) of the Act by invoking the extended period of time of five years as there is a case of suppression of facts with an intent to evade the payment of service tax along with interest under Section 75 of the Act. By the act of not disclosing the amount of consideration received on account of the services provided, the assessee has suppressed the material facts with an intention to evade the payment of service tax, and therefore the assessee would also be liable for penal action under the provisions of Sections 78(1) of the Act.

27. Revenue Para 10: Non-payment of Service Tax on charges received for miscellaneous sales. (Audit Code: CSR 99):

It was noticed by Audit that the assessee has not paid service tax on charges received for miscellaneous sales of services as rail tickets etc. in the financial year 2014-15, 2015-16, 2016-17 & 2017-18 (up to June 2017).The assessee was required to pay the service tax amounting to Rs. 13,65,957/- along with applicable interest and penalty.

The relevant text to Section 65B(44) of the Finance Act, 1944 (‘Act’) defining ‘service’ reads as under:

“Service’ means any activity carried out by a person for another for consideration, and includes a declared service”

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

“Taxable service” means any service on which service tax is leviable under section 66B”

I find that the assessee has carried out an activity relating to miscellaneous sales of services as rail tickets etc under Business Auxiliary Service, for which the assessee have received consideration/charges and such activity falls with the definition of service under Section 65B(44) of the Finance Act, 1994. Further the activities provided by the assessee do not find mention in Section 66D of the Act nor are they exempted under the Mega Exemption Notfn No 25/2012-ST dated 20.6.2012, as amended or any other notification issued under the Act. Accordingly, the services provided by the assessee are taxable and liable for payment of service tax.

I find that the assessee has not disclosed to the revenue that they have short paid service tax on the services provided by them. They have shown the entire consideration as income in their financial records but have not shown the same consideration as receipt in their ST3 returns before the audit objection was detected so the assessee has suppressed the material facts in their ST3 returns with an intent to evade the payment of service tax.

Therefore, the assessee has contravened the provisions of:

- Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 ('Rules') as they have failed to pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed;
- Section 70 of the Act read with Rule 7 of the Rules as they have failed to assess their tax liability properly and failed to file proper returns as prescribed.

Hence, non-payment of service tax amounting to Rs. 13,65,957/- is liable to be demanded and recovered from the assessee, under the proviso to Section 73(1) of the Act by invoking the extended period of time of five years as there is a case of suppression of facts with an intent to evade the payment of service tax along with interest under Section 75 of the Act. By the act of not disclosing the amount of consideration received on account of the services provided, the assessee has suppressed the material facts with an intention to evade the payment of service tax, and therefore, the assessee would also be liable for penal action under the provisions of Sections 78(1) of the Act.

Order

28. In view of above discussion I pass following order-

- I order to recover service tax amounting to Rs. 68, 04,094/- (Rupees sixty eight lakh four thousand ninety four only) from M/s. ROYAL ORIENT TOURS & TRAVELS, 4-FF, PRAKASH PARK SOC., COMMERCE SIX ROAD, NAVRANGPURA, AHMEDABAD, GUJARAT-380009 under the proviso of Section 73(1) of the Finance Act,1994 which was not paid/ short paid as per Revenue para no. 01,02,03,04,05,06,07,09,10 of Final Audit Report No.430/2019-20 dated 14.10.2019.
- I impose penalty of Rs.68,04,094/- on them, under the provisions of Section 78(1) of the Act on the demand at (i) above.
- I order interest to be charged and recovered from them, under the provisions of Section 75 of the Act on the demand at (i) above.
- I order late fees/penalty of Rs 29,100/- (in light of Revenue Para No. 08) to be recovered from them, under the provisions of Section 70 of the Finance Act read with the provisions of Rule 7C of the Service Tax Rules,1994;

29. I further Order that in the event the entire amount confirmed as above is paid within thirty days from the receipt of this Order along with applicable interest, the amount of penalty liable to be paid by them shall be 25% (twenty five per cent) of the penalty imposed at Sr. No.ii above, subject to the condition that such reduced penalty is also paid within the period of 30 days (thirty days) in terms of clause (ii) of Section 78(1) of the Finance Act, 1994.



F No. STC/15-10/OA/2020.
By Speed Post AD


(Maru Tripathi)

Joint Commissioner,
CGST & CEX., Ahmedabad-North.

Date:10.06.2021.

To,

M/s. ROYAL ORIENT TOURS & TRAVELS,
4-FF, PRAKASH PARK SOC.,
COMMERCE SIX ROAD, NAVRANGPURA,
AHMEDABAD, GUJARAT-380009.

M/s . ROYAL ORIENT TOURS & TRAVELS,
A-211,212,213,SILVER SQUARE,
OPP.BAGBAN PARTY PLOT,THALTEJ SILAJ ROAD,
THALTEJ, AHMEDABAD, GUJARAT-380015.

Copy to :

- 1) The Commissioner, Central GST & Central Excise, Ahmedabad North, Ahmedabad.
- 2) The Deputy/Assistant Commissioner, Div-VI CGST & Central Excise, Ahmedabad North.
- 3) The Superintendent, Range-IV, Division VI, CGST & Central Excise, Ahmedabad North
- 4) Guard File.

