


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

निबन्धित पावती डाक द्वारा / By REGISTERED POST AD

फा .सं/. STC/15-118/OA/2020

DIN-20211164WT0000333B06

आदेश की तारीख / Date of Order : 22.11.2021  
जारी करने की तारीख / Date of Issue : 23.11.2021

द्वारा पारित/Passed by -

उपेन्द्र सिंह यादव / UPENDRA SINGH YADAV

आयुक्त / COMMISSIONER

मूल आदेश संख्या / AHM-EXCUS-002-COMMR-31/2021-22

ORDER-IN-ORIGINAL No. AHM-EXCUS-002-COMMR-31/2021-22

जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसे व्यक्तिगत प्रयोग के लिए निःशुल्क प्रदान की जाती है।

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2. इस आदेश से असंतुष्ट कोई भी व्यक्ति -इस आदेश की प्राप्ति से तीन माह के भीतर सीमा शुल्क ,उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण ,अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकता है। अपील सहायक रजिस्ट्रार ,सीमा शुल्क ,उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण , द्वितीय तल, बाहुमली भवन असरवा, गिरधर नगर पुल के पास, गिरधर नगर, अहमदाबाद, गुजरात 380004 को संबोधित होनी चाहिए।

Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan Asarwa, Near Girdhar Nagar Bridge, Girdhar Nagar, Ahmedabad, Gujarat 380004.

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

An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

(as per amendment in Section 35F of Central Excise Act,1944 dated 06.08.2014)

3. उक्त अपील प्रारूप सं .इ.ए 3.में दाखिल की जानी चाहिए। उसपर केन्द्रीय उत्पाद शुल्क (अपील) नियमावली 2001 ,के नियम 3 के उप नियम (2)में विनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे। उक्त अपील को चार प्रतियाँ में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो ,उसकी भी उतनी ही प्रतियाँ संलग्न की जाएँ )उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए। अपील से संबन्धित सभी दस्तावेज भी चार प्रतियाँ में अंग्रेषित किए जाने चाहिए।

The Appeal should be filed in Form No. E.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Central Excise (Appeals) Rules, 2001. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.

4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं चार प्रतियों में दाखिल , उसकी भी उतनी ही ,की जाएगी तथा उसके साथ जिस आदेश के विरुद्ध अपील की गई हो उनमें से कम से क) प्रतियाँ संलग्न की जाएंगीम एक प्रमाणित प्रति होगी।

(The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)

5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरण के बिना अपील के कारणों के स्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।

The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.

6. अधिनियम की धारा 35बी के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहां के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठ के सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्ट के जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपील के प्रपत्र के साथ संलग्न किया जाएगा।

The prescribed fee under the provisions of Section 35 B of the Act shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.

7. न्यायालय शुल्क अधिनियम 1970 ,की अनुसूची ,1-मद 6 के अंतर्गत निर्धारित किए अनुसार संलग्न किए गए आदेश की प्रति पर 1.00रूपया का न्यायालय शुल्क टिकट लगा होना चाहिए।

The copy of this order attached therein should bear a court fee stamp of Re. 1.00 as prescribed under Schedule 1, Item 6 of the Court Fees Act, 1970.

8. अपील पर भी रु 4.00 .का न्यायालय शुल्क टिकट लगा होना चाहिए।

Appeal should also bear a court fee stamp of Rs. 4.00.

विषय: -कारण बताओ सूचना:

Subject- Proceedings initiated vide Show Cause Notice No. STC/15-118/OA/2020 dated 21.10.2020 issued to M/s. Saraspur Nagrik co-Op.Bank Ltd., 1, Darshan Society, Commerce road, Nr. Stadium circle, Navrangpura HO, AHMEDABAD:380009.

**BRIEF FACTS OF THE CASE:**

M/s Saraspur Nagrik Co-Operative Bank Ltd, 1, Darshan Society, Commerce Road, Nr. Stadium Circle, Navarangpura HO, Ahmedabad-380009 (hereinafter referred to as "the assessee" or "the said assessee" for the sake of brevity) are engaged in providing taxable services and are having Service Tax Registration No. AANFS1529HST001.

2. It appeared from the Data received from CBDT that the assessee had declared different value in Service Tax Return (ST-3) and Income tax Return (ITR/Form 26AS) for the Financial year 2015-16.

3. Therefore, it appeared that the assessee had declared less taxable value in their ST-3 Returns for the year 2015-16 as compared to the related taxable value declared in their Income Tax Return (ITR) / Form 26AS as detailed below.

(Amount in Rs.)

Sr. No	F.Y.	Total Sale of service as per ITR	Total Gross Value Provided (STR)	Total Gross Value for TDS (including 194C,194I,194J,194H)	Higher Value (Value Difference in ITR & STR) or (Value Difference in TDS & STR)	Resultant Service Tax short paid (including Cess)
1	2015-16	22,90,60,355	36,40,961	0	22,54,19,394	3,26,85,812

4. The assessee was requested vide letter dated 07.10.2020 to explain the difference in value by submitting the documentary evidences such as Balance Sheet, Profit and Loss Account, IT Returns, Form 26AS, ST-3 Returns and ledgers for FY 2015-16, but the assessee neither produced any documentary evidences nor submitted any reply. Hence, the service tax liability was ascertained on the basis of income mentioned in the Income tax returns /form 26AS filed by the assessee. The figures/data provided by the Income tax Department was considered as the total taxable value in order to ascertain the service tax liability under Section 67 of Finance Act, 1944 (hereinafter referred to as "the Act" for sake of brevity).

5. Further, with respect to issuance of unquantified demand at the time of issuance of SCN, Master Circular No. 1053/02/2017-CX dated 10.03.2017 issued by the CBEC, New Delhi clarified that:

**"2.8 Quantification of duty demanded:** It is desirable that the demand is quantified in the SCN, however if due to some genuine grounds it is not possible

to quantify the short levy at the time of issue of SCN, the SCN would not be considered as invalid. It would still be desirable that the principles and manner of computing the amounts due from the noticee are clearly laid down in this part of the SCN. In the case of *Gwalior Rayon Mfg. (Wvg.) Co. Vs. UOI, 1982 (010) ELT 0844 (MP)*, the Madhya Pradesh High Court at Jabalpur affirms the same position that merely because necessary particulars have not been stated in the show cause notice, it could not be a valid ground for quashing the notice, because it is open to the petitioner to seek further particulars, if any, that may be necessary for it to show cause if the same is deficient.”

6. It appeared that CBDT had not shared data for FY 2016-17, and 2017-18 (upto June 2017) and the assessee also had not supplied the information for this period, therefore, the service tax liability could not be ascertained for FY 2016-17 to FY 2017-18 (upto June 17) till the time of issuance of SCN. However, if any other amount was to be disclosed by the Income tax Department or any other agencies, the tax liability arising on account of this in future was to be covered under the subject SCN and was to be recoverable from the assessee under the proviso to Section 73(1) of the Finance Act, 1944 (“the Act”) read with Para 2.8 of the Master Circular No. 1053/02/2017—CX dated 10.03.2017.

7. The government has from the very beginning placed full trust on the service provider so far as service tax is concerned and accordingly measures like Self-assessments etc., based on mutual trust and confidence are in place. Further, a taxable service provider is not required to maintain any statutory or separate records under the provisions of Service Tax Rules as considerable amount of trust is placed on the service provider and private records maintained by him for normal business purposes are accepted, practically for all the purpose of Service tax. All these operate on the basis of honesty of the service provider; therefore, the governing statutory provisions create an absolute liability when any provision is contravened or there is a breach of trust by the service provider, no matter how genuine or bonafide the breach is. From the evidence on record, it appeared that the said assessee had not taken into account all the income received by them for rendering taxable services for the purpose of payment of service tax and thereby evaded their tax liabilities. The service provider appeared to have made deliberate efforts to suppress the value of taxable service to the department and appeared to have not paid the liable service tax in utter disregard to the requirements of law and

the trust reposed in them. Such outright act in defiance of law, appeared to have rendered them liable for stringent penal action as per the provisions of Section 78 of the Finance Act, 1994 for suppression or concealment or furnishing inaccurate value of taxable service with an intent to evade payment of service tax.

8. In light of the facts discussed hereinabove and materials evidences available on records, it was revealed that the assessee had contravened the following provisions of Chapter-V of the Finance Act, 1944 and Rules made thereunder:

- (i) Section 66B and 68 of the Act read with Rule 2 & 6 of Service Tax Rules 1994 in as much as they had failed to pay service tax correctly at the appropriate rate.
- (ii) Section 67 of the Act in as much as they had failed to determine the correct value of taxable service provided by them.
- (iii) Section 70 of the Act read with Rules 6 & 7 of the Service Tax Rules, 1994, in as much as they had failed to declare correct value, assess and pay the service tax due on the taxable value of services provided by them and to maintain records and furnish returns in ST-3 Returns and in such manner and at such frequency.
- (iv) Section 77 of the Act in as much as they had failed to file correct and true ST-3 Returns.

9. It also appeared that all the acts of contravention on the part of the service provider had been committed by way of suppression of the facts by not declaring / not considering the correct value of taxable service provided by them for payment of service tax to the Central Government for the period in question, with an intent to evade payment of service tax and therefore the service tax not paid at the material time was required to be demanded/recovered from them under the proviso to Section 73(1) of the Finance Act, 1994 by invoking extended period of five years read with Notification dated 27.06.2020 issued vide F.No. CBEC-20/06/08/2020-GST, along with interest as per the provision of Section 75 of the said Act.

10. It was also noticed that at no point of time, the said assessee had disclosed or intimated to the Department regarding receipt/providing of Service of the differential value that had come to the notice of the Department only after going through the Third Party CBDT data generated for the Financial Year 2015-16. From the evidences gathered/ available at the relevant time, it appeared that the said assessee had knowingly suppressed the facts regarding receipt of/providing of services by them worth the differential value as can be seen in the table above and thereby not paid/short paid/not deposited Service Tax thereof to the extent of Rs. 3,26,85,812/- (including cess). Thus, it appeared that the above act of omission on the part of the assessee resulted into non payment of service tax on account of suppression of material facts and contravention of provisions of the Act with an intent to evade payment of service tax to the extent of Rs. Rs. 3,26,85,812/- (including cess). Hence, the same appeared to be recoverable from them under the proviso to Section 73(1) of the Act read alongwith applicable interest under Section 75 of the Act. These acts of contraventions on the part of the assessee rendered the assessee liable to penalty under Section 78 of the Act.

11. The provisions of repealed Central excise Act, 1944, the Central Excise tariff Act, 1985 and amendment of the Finance Act, 1944 had been saved vide Section 174(2) of the CGST Act, 2017, and therefore the provisions of the repealed /amended acts and rules are enforceable for the purpose of demand of duty, interest etc. and imposition of penalty under this notice.

12. Therefore, a Show Cause Notice No. STC/15-118/OA/2020 dated 21.10.2020 was issued by the Principal Commissioner, Central Excise & CGST, Ahmedabad North to M/s Saraspur Nagrik Co-Operative Bank Ltd, 1, Darshan Society, Commerce Road, Nr. Stadium Circle, Navarangpura HO, Ahmedabad-380009, asking them to show cause as to why;

- i. Demand of Service Tax to the extent of Rs. 3,26,85,812/- (Rupees Three Crore Twenty Six Lakh Eighty Five thousand Eight Hundred twelve only) short paid /not paid by them, should not demanded and recovered from them under the provisions of Section 73 of the Finance Act, 1994.
- ii. Service Tax liability not paid during the financial year 2016-17, to 2017-18 (upto June 2017) ascertained in future, should not be demanded and recovered under proviso to Section 73(1) of the Finance Act, 1994;

- iii. Interest at the appropriate rates should not be recovered from them as prescribed under Section 75 of the Finance Act, 1994;
- iv. Penalty should not be imposed upon them under the provisions of Section 77(1)(c) and 77(2) of the Finance Act, 1994;
- v. Penalty should not be imposed upon them under Section 78 of the Finance Act, 1994.

**DEFENCE REPLY:**

13. The assessee vide letter dated 21.01.2021 forwarded their written submission, wherein they stated that they are a Co-Operative Bank and their main income was interest income on which no service tax was payable as per Section 66D of the Finance Act, 1944; that they were liable to pay service tax on services offered viz. Locker Rent, Any Charges recovered, commission etc. and accordingly they had paid the service on it; that the other income was interest income which was out of ambit of service tax as per negative list of the Finance Act; that their turnover offered in Income Tax Return was inclusive of all their incomes including interest income and hence there was a difference. They also provided copy of the Profit and Loss account for FY 2015-16.

**PERSONAL HEARING**

14. The assessee was granted personal hearing on 07.10.2021 to present their case. Ms. Urvi Nathani, CA and Ms. Payal Trivedi appeared for personal hearing on behalf of the assessee, wherein, they reiterated the contention/arguments submitted vide their written reply dated 21.01.2021. They also expressed their desire to submit additional documents to buttress their case which was acceded to by the undersigned as adjudicating authority. They also requested to drop the proceedings initiated against them. Subsequently, the assessee vide mail dated 07.10.2021 and 25.10.2021 has submitted Statutory Auditor's report for FY 2015-16, 2016-17 and 2017-18, alongwith reconciliation statements and Trial balance for 2017-18 (upto June 2017).

**DISCUSSION AND FINDINGS:**

15. I have carefully gone through the facts of the case and records available in the case file, which include the SCN, the defence reply dated 21.01.2021, documents submitted and oral submission made by the assessee during the personal hearing.
16. On going through the SCN, I find that data of Sales /Gross receipt from services as per ITR were shared by the CBDT with CBIC for FY 2015-16, which was then compared with the gross value declared in ST-3 Returns filed for FY 2015-16 by the assessee. The difference in value of service to the extent of Rs. 22,54,19,394/- was noticed by the department and therefore, the subject SCN was issued. Apart from the difference noticed ST-3 Returns vis-a-vis the ITR, the SCN had not relied on any other evidence or investigation. Accordingly, I find that the issue which requires determination as of now is whether the assessee is liable to pay service tax on the differential value of Rs. 22,54,19,394/- under proviso to section 73(1) of Finance Act, 1944 or not.
17. Accordingly, first and foremost I feel that it is of utmost importance to understand the activities being carried out by the assessee. I find that after introduction of new system of taxation of services in negative list regime, any services for a consideration is taxable except those services specified in the negative list or which is exempt by virtue of mega exemption.
18. I find that the assessee in its defence reply dated 21.01.2021 has stated that they are a cooperative bank and hence their major income is from interest income which is not taxable as per Section 66D of the Finance Act, 1994. They have also stated they were liable to pay service tax on charges they had recovered for service offered viz. Locker Rent, any other charges, Commission etc. Hence, I find that there is no dispute about the activity of the assessee not falling under the ambit of definition of "Service" as per Section 65B(44) of the Act. It is quite clear that main business activity for any bank is to extend advances or loans to the customers and in turn bank, receives interest from customers; in the same way bank accepts deposits and gives interest. Now, on going through the list of negative services provided under Section 66D of the Finance Act, 1944, I find that the service mentioned at Sr.



No. 66D(n)(i) covers the services as claimed by the assessee. I would like to reproduce the relevant text of Sr. No. 66D(n)(i) as under:

**“Negative list of services**

**66D. The negative list shall comprise of the following services, namely :—**

(a)....

(b)...

(n) *services by way of—*

*(i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;*

I therefore find that the activity of receiving of consideration in terms of interest from the extending deposits, loans or advances is exempt service as apparent from the above.

19. As already mentioned before, apart from the differences noticed in the figures reported in ST-3 returns and in ITR, the department has not adduced/ relied upon any other evidence or investigation to substantiate the allegations. Therefore, in order to ascertain and affirm the plea of the assessee, for having receipt of interest by them, I would like to take support of the Statutory Auditor's Report for FY 2015-16, 2016-17 and 2017-18, which were submitted by the assessee in their support.

19.1 It transpires from the auditor's reports that the assessee is a Bank. I find that the Statutory Auditor is appointed by the Office of the Registrar, Co-Operative Societies, Gujarat State, Gandhingar under the Co-operative Societies Act and auditor has to make a report, in accordance with Co-operative Societies Act read with Banking Regulation Act, 1949, to the members of the Co-Operative Bank on the financial statements /accounts examined prepared by the Bank. Auditor has to prepare report based on verification of records, ledgers maintained by the bank etc. Further, Auditor also has to express his fair and true opinion on preparation of the financial statements in accordance with Banking Regulation Act, 1949 and in accordance with accounting standard prescribed by Institute of Chartered Accounts of India. Based on audit, Auditor has to give his fair and true view on state of affairs of the bank at the end of the year.

19.2 I find that the aforementioned records are prepared in statutory format and reflect financial transactions, income and expenses and profit and loss incurred by the assessee Bank during a financial year. The said financial records are placed before different legal authorities for depicting true and fair financial picture. Assessee is legally obligated to maintain such records according to generally accepted accounting principles. They cannot keep it in an unorganized manner and the statute provides mechanism for supervision and monitoring of financial records. It is mandated upon auditor to have access to all the bills, vouchers, books and accounts and statements of a bank and also to call additional information required for verification and to arrive at fair conclusion in respect of the balance sheet and profit and loss accounts. It is also an onus cast upon the auditor to verify and make a report on balance sheet and profit and loss accounts that such accounts are in the manner as provided by statute and give a true and fair view on the affairs of the company. Therefore, I have no option other than to accept the truthfulness and veracity of the nature of business/source of income to be true and fair.

19.3 Further, the assessee has furnished the reconciliation statements for FY 2015-16, 2016-17 and 2017-18 (upto June 17) detailing the figures appearing in their financial records vis-a-vis those appearing in ST-3 filed by them. It is also observed that the assessee has grouped various income heads into a single head and has assigned general nomenclature for that. On scrutiny, the details provided under reconciliation statement for FY 2015-16 and FY 2016-17 are found to be tallying with financial records. The details provided in reconciliation statements are given hereinunder.

	FY 2015-16	FY 2016-17	FY 2017-18 (upto June 2017)
Total Income as per Books of accounts	237526459	339701664	105090375
Less :			
Interest and discount	232930754	303480145	97715097
Dividend Income	260000	278219	485719
Share Transaction	32	0	0
Excess provision for earlier year	187965	1937026	0
Profit on sale of Govt securities	0	29827250	5947919
Total deduction	233378751	335522640	104148735
Net Taxable	4147708	4179024	941640
Gross value as per ST-3	3640960	3815028	826207

Service Tax Paid	510750	570031	123932
Total Value inclusive of Tax	4151710	4385059	950139

19.4 I find that the SCN shows the amount of sale of service as Rs. 22,90,60,355/- and the difference in value to the tune of Rs. 22,54,19,394/- for FY 2015-16 when value of sales/gross receipt as per ITR are compared with gross value declared in ST-3 as mentioned in forgoing paras. Further, the SCN also demands the levy of service tax for FY 2016-17 and FY 2017-18 (upto June 2017), which was not ascertainable at the time of issuance of the subject SCN, if the same was to be disclosed by the Income Tax department or any other source/agencies, against the said assessee, action was to be initiated against assessee under the proviso to Section 73(1) of the Finance Act, 1994 read with Para 2.8 of the Master Circular No. 1053/02/2017—CX dated 10.03.2017 and the service tax liability was to be recoverable from the assessee accordingly. The details of Incomes booked by the assessee as per the Profit and Loss Account, during FY 2015-16, FY 2016-17 and 2017-18 are tabulated as under.

Income as per P& L account	FY 2015-16		FY 2016-17		FY 2017-18	
1. Interest and Discount		22,90,60,355		30,34,80,144		30,36,34,798
Interest on Advances	12,27,95,218		13,99,82,091			
Interest on Investment	10,62,65,137		16,34,98,053			
2. Commission and Brokerage		3,41,393		5,06,547		7,66,339
3. Profit on sale of Govt securities		0		2,98,27,250		59,58,750
4. Other Income		81,24,711		58,87,722		46,06,899
Share Transfer Fees	32		89		93	
Incidental Charges	8,97,752		10,21,360		14,68,559	
Misc. Income	9,56,475		1,85,145		16,089	
Locker Rent	16,75,158		21,22,060		23,44,580	
PMJJY Commission	10,824		10,578		11,685	
Dividend Income	2,60,000		2,78,219		2,77,500	
Cheque Book Charges	2,76,930		3,33,245		4,26,723	
Urban Bank Credit Equ. Fund Interst	38,59,575		0		0	
Defferd Tax assets	0		17,93,460		0	
Excess IT provision of prev. year	1,87,965		1,43,566		0	
Profit on sale of assets	0		0		61,669	
Final Total		23,75,26,459		33,97,01,663		31,49,66,786

The SCN has observed the amount of sale of service as Rs. 22,90,60,354/- as the same was shown in the ITR for the year. When

compared with the P&L accounts for 2015-16, I find the same to be on account of accrual of Interest Income. On perusing the P&L for 2015-16, it can be seen that, SCN has not taken into consideration income other than Sr. No. 1. Therefore, it is observed on the comparing the data provided in the SCN and P&L account for FY 2015-16, the SCN has pointed out the difference in value without considering the other revenue appearing at Sr. No. 2 to 4 of the table above. I, however, refrain from the discussing the taxability on other revenue/income. I find that the SCN has not relied on any other documents or investigation other than the difference as stated earlier. Hence, applying the same analogy of comparison for FY 2016-17 and 2017-18, it is observed that the income is coming from the interest received by the assessee.

19.5. Having considered these factual and documentary evidence on records, I am now able to come to a conclusion that that the main source of the subject income/revenue of the assessee is from the interest and discount received from the customers and deposits kept with other banks.

20. Keeping in view the aforementioned detailed discussions, I find that the services rendered by the assessee is squarely covered under the services specified under negative list provided under Sr.No. (n)(i) of section 66D of the Act and find that the exemption is quite clearly available to the assessee as claimed by them. Since I am fully convinced with the arguments put forth by the assessee, I therefore hold that no service tax is payable by the assessee as demanded in the subject SCN.


21. Having considered these factual and documentary evidences available on records, I find no reason to disregard the assessee's arguments. Accordingly, it is my considered view that the assessee has established their case quite unambiguously that the difference in value of service as discerned by the department by comparing the value of services in ITR/TDS and gross value of services provided in ST-3 Returns is basically on account of the exempt service rendered by the assessee as discussed hereinabove which was not shown in ST-3 Returns. I therefore hold that no service tax is payable by the assessee as demanded in the subject SCN.

22. In view of the facts and circumstances pertaining to the case, the demand is not tenable in law, accordingly I do not consider it necessary to delve in the merits of invoking extended period of limitation which has been

discussed in the SCN at length and contested by the said assessee in their submissions. For the same reasons, I am also not entering into discussions on the need or otherwise of imposing penalty. Therefore, from the factual matrix and the question of law as discussed in the foregoing paras, I pass the following order: -

**ORDER**

I drop the proceedings initiated against M/s Saraspur Nagrik Co-Operative Bank Ltd, 1, Darshan Society, Commerce Road, Nr. Stadium Circle, Navarangpura HO, Ahmedabad-380009, vide Show Cause Notice F.No. STC/15-118/OA/2020 dated 21.10.2020.

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

By Regd. Post AD./Hand Delivery

F.No. STC/15-118/OA/2020

Date: . . .2021

To,  
 M/s Saraspur Nagrik Co-Operative Bank Ltd,  
 1, Darshan Society, Commerce Road,  
 Nr. Stadium Circle, Navarangpura HO,  
 Ahmedabad-380009

Copy to:

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