


<p>आयुक्त का कार्यालय, केंद्रीय जी. एस. टी. एवं केंद्रीय उत्पाद शुल्क, अहमदाबाद - उत्तर, कस्टम हॉउस, प्रथम तल, नवरंगपुरा, अहमदाबाद- 380009</p>		<p>3374</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

DIN- 20220364WT0000504675

फा.सं./F.No. STC/15-148/OA/21-22

आदेश की तारीख/Date of Order :- 25.03.2021

जारी करने की तारीख/Date of Issue :- 25.03.2021

द्वारा पारित/Passed by:-

मुकेश राठौर / Mukesh Rathore

अपर आयुक्त / Additional Commissioner

मूल आदेश संख्या / Order-In-Original No. 103/ADC/MR /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 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 एस टी -4 (ST-4) में दाखिल कर सकता है। इस अपील पर रु. 5.00 (पांच 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. 5.00 only.

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

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

उक्त अपील, अपीलकर्ता द्वारा प्रारूप संख्या एस टी -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।

(3) उक्त अपील की प्रति।

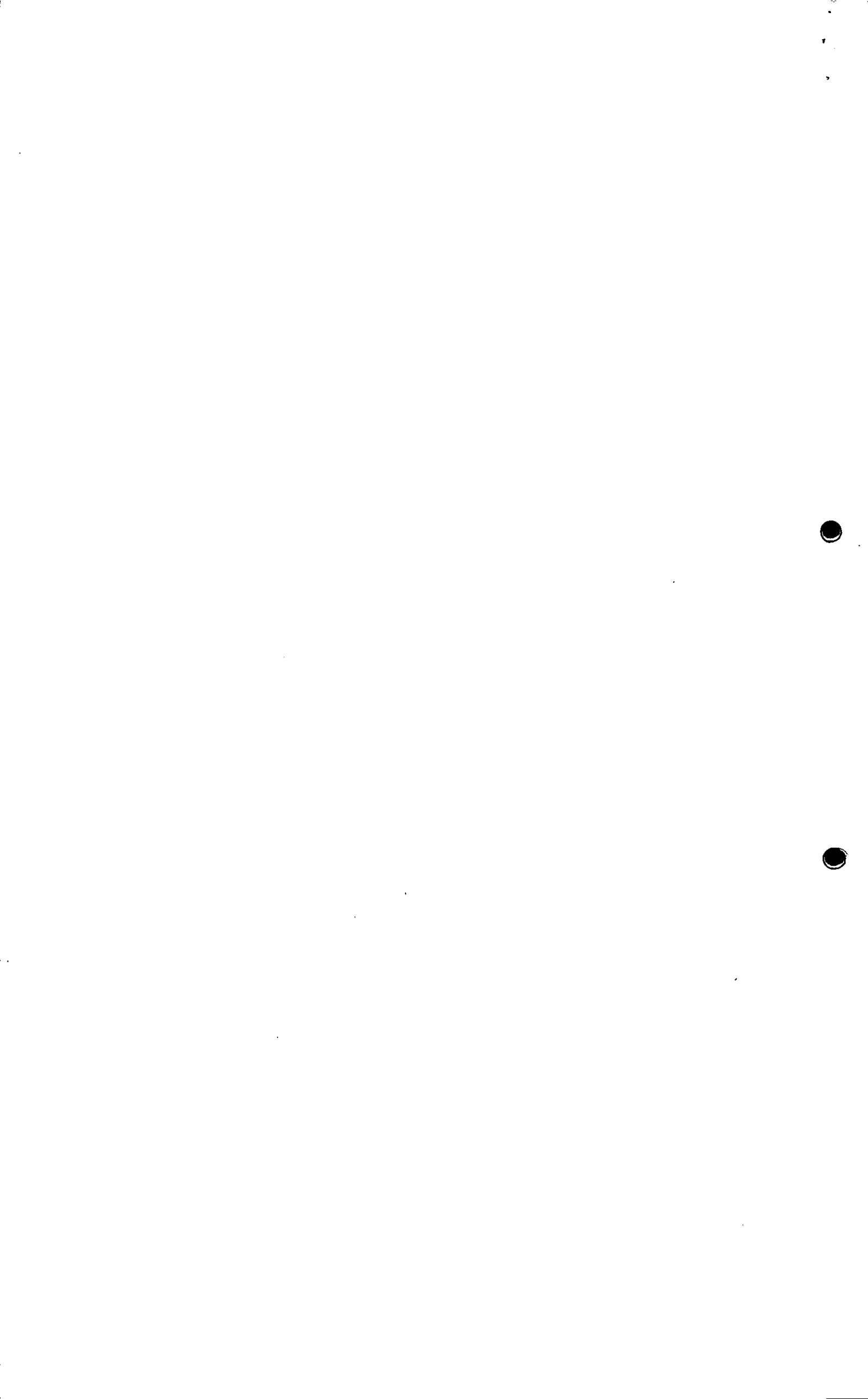
(4) निर्णय की प्रतियाँ अथवा जिस आदेश के विरुद्ध अपील की गई है, उनमें से कम से कम एक प्रमाणित प्रति हो, या दूसरे आदेश की प्रति जिसपर रु.5) 00. पांच रुपये (का न्यायालय शुल्क टिकट लगा होना चाहिए।

The appeal should be filed in form एस टी -4 (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:

(3) Copy of accompanied Appeal.

(4) 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/ Proceeding initiated against Show Cause Notice No. STC/15-148/OA/2021-22 dated 23.04.2021 issued to M/s Radhe Logistics, 45/2, Krishna Gokul Society, Near Priya Cinema, Krishna Nagar, Ahmedabad-382345.



BRIEF FACTS OF THE CASE :

M/s. RADHE LOGISTICS (PAN- AAPFR6059K), 45/2/KRISHNA GOKUL SOCIETY/NEAR PRIYA CINEMA/KRISHNANAGAR, AHMEDABAD-382345, (hereinafter referred to as the 'said service provider' for the sake of brevity) is un-registered in Service Tax despite being providing service during the year 2015-16 & 2016-17.

2. Ongoing through the data received from Income Tax department (CBDT data) for the Financial Year 2015-2016 for un-registered service provider, it has been observed that the said service provider has shown 'Gross receipt from Service' in their Income Tax Return, however, the said service provider has neither obtained valid service tax registration nor paid Service Tax. The details of the value shown in Income Tax return for F.Y 2015-16 is as per table mentioned below: -

F.Y.	Basic value as per ITR/P&L account (Rs)	Resultant Service tax not paid (Rs.)
2015-16	Rs. 4,03,66,472/-	S.T- Rs. 58,53,139/-
Total	Rs. 4,03,66,472/-	S.T- Rs. 58,53,139/-

3. Letters/e-mail dated 28.01.2021 & 09.03.2021 were issued requesting clarification regarding the service turnover as mentioned in the above table with certified documentary evidences, but the said service provider has not replied the observations raised by Range office with supporting documents till the issuance of this notice.

4. Unquantified demand at the time of issuance of SCN-

Para 2.8 of the 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.

5. Form the above facts, it was observed that the "Total Amount Paid / Credited under Section 194C, 194H, 194I, 194J OR Sales / Gross Receipts from Services (From ITR)" for the period 2016-17 & 2017-18 (upto June 2017) has not been disclosed by the Income Tax Department and the service provider has also, even after the issuance of letters and reminders from the Department, not

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submitted the same. Therefore, the assessable value for the period 2016-17 & 2017-18 (upto June 2017) was not ascertainable at the time of issuance of this Show Cause Notice. Consequently, if any other amount is disclosed by any other sources / agencies, against the same service provider, action will be initiated against the said service provider 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, **in as much as the Service Tax liability arising in future, for the period 2016-17 & 2017-18 (upto June 2017) will be recoverable from the said service provider accordingly.**

6. As per Section 69 of the Finance Act, 1994 .— *“(1) Every person liable to pay the service tax under this Chapter or the rules made thereunder shall, within such time and in such manner and in such form as may be prescribed, make an application for registration to the Superintendent of Central Excise.*

(2) The Central Government may, by notification in the Official Gazette, specify such other person or class of persons, who shall make an application for registration within such time and in such manner and in such form as may be prescribed

In the instant case, it was observed that the said service provider has failed to obtain Service Tax registration and thereby violated the provisions of Section 69 of the Finance Act, 1994.

7. Further, as per Section 68 of the Finance Act, 1994 *(1) Every person providing taxable service to any person shall pay service tax at the rate specified in Section [66B] in such manner and within such period as may be prescribed.*

(2) Notwithstanding anything contained in sub-section (1), in respect of [such taxable services as may be notified by the Central Government in the Official Gazette, the service tax thereon shall be paid by such person and in such manner as may be prescribed at the rate specified in section [66B] and all the provisions of this Chapter shall apply to such person as if he is the person liable for paying the service tax in relation to such service. 14 Provided that the Central Government may notify the service and the extent of service tax which shall be payable by such person and the provisions of this Chapter shall apply to such person to the extent so specified and the remaining part of the service tax shall be paid by the service provider. “In this case, the said service provider has failed to pay the service tax on the taxable services provided by them and thereby contravened the provisions of Section 68 of the Finance Act, 1994.

8. In view of above facts, it was observed that the said service provider has contravened the provisions of; (1) Section 69 of the Finance Act, 1994 read with Rule 4 of the Service Tax Rules, 1994 and (2) Section 68 of the Finance Act, 1994 read with Rule 6 of Service Tax Rules, 1994 in as much as they failed to take service tax registration and pay Service Tax to the extent of **Rs. 58,53,139/- for F.Y.2015-16** as per their Income Tax Return/ Form 26AS/P&L account.

9. It has been noticed that at no point of time, the said service provider has disclosed or intimated to the Department regarding receipt/providing of Service, which has come to the notice of the Department only after going through the CBDT Data generated for the Financial Year 2015-2016. The Government has, from the very beginning, placed full trust on the service providers and accordingly measures like self assessment etc, based on mutual trust and confidence are in place. From the evidences, it appears that the said service provider have knowingly suppressed the facts regarding receipt of/providing of services by them. It appears that the above act of omission on the part of the said service provider resulted into non-payment of Service tax on account of suppression of material facts and contravention of provisions of Finance Act, 1994 with intent to evade payment of Service tax to the extent mentioned hereinabove. Hence, the same appears to be recoverable from them under the provisions of Section 73 of the Finance Act, 1994 by invoking proviso under sub-section (1) of Section 73 read with the Notification issued on 27.06.2020 under Section 6 of The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 dated 31.03.2020, along with Interest thereof, at appropriate rate, under the provisions of Section 75 of the Finance Act, 1994. Since the above act of omission on the part of the said service provider constitute offence of the nature specified under Section 68 & Section 69 of the Finance Act, 1994, it appears that the said service provider has rendered themselves liable for penalty under Section 77 (1) (a) & Section 78 of the Finance Act, 1994.

10. Accordingly Show Cause Notice was issued to M/s. RADHE LOGISTICS called upon as to why:

- a) The demand for Service Tax to the extent of Rs. 58,53,139/- for F.Y.2015-16 not paid by them, should not be confirmed and recovered from them under the provisions of Section 73 of the Finance Act, 1994;
- b) Interest at the appropriate rate should not be recovered from them under the provisions of Section 75 of the Finance Act, 1994;
- c) Penalty should not be imposed upon them under the provisions of Section 77 (1) (a) of the Finance Act 1994, for failure to take Service Tax Registration;
- d) Penalty should not be imposed upon them under the provisions of Section 78 of the Finance Act, 1994, for non-payment of service tax by knowingly suppressing the facts from the department with intent to evade the payment of service tax

11. WRITTEN SUBMISSION AND DEFENCE REPLY :

The assessee vide letter dated 08.02.2022 has furnished his written submission and defence reply wherein he stated that they are truck owners and use their trucks for transport of goods by road; that as per Section 66D of the Finance Act, 1994 "Transport of Goods by Road" is attributed to negative list; that the liability of payment of Services tax was under RCM upon the entity making

payment of freight to GTA; that they as a goods transport carriage owners are not liable for payment of Service Tax; that as per the provision of 69 of the Finance Act, 1994 requirement of registration is limited to persons liable to pay Service Tax; that they attach copy of the letter dated 07.07.2021 submitted to jurisdiction office; that copy of their mail/speed post dated 24.04.2021 addressed to jurisdiction is also attached in response to SCN dated 23.04.2021; that they also attached down loaded from Traces copy of 26AS for the financial year 2015-16 and 2016-17.

12. PERSONNEL HEARING :

Personnel Hearing was granted to the assessee on 09.02.2022, wherein Shri Jasmeet Singh Chhabra appeared for personnel hearing on behalf of M/s. Radhe Logistics. He stated that he has submitted his written submission earlier and reiterated the same at the time of personnel hearing.

DISCUSSION AND FINDING :

13. I have carefully gone through the facts of the case and records available in the case file. I have also gone through the defence reply dated 08.02.2022 filed by the assessee. On going through the same, I find that the impugned show cause notice has been issued based on the data shared and provided by the CBDT for the year 2015-16, on the ground that the assessee had earned substantial Service income of Rs. **4,03,66,472** /- by way of providing taxable services, but has not discharged their Service Tax liability fully and not paid the service tax of Rs. 58,53,139/-. The issue in the impugned Show cause notice is whether the assessee is liable to pay service tax of Rs. 58,53,139/- on the difference value of Rs.4,03,66,472/- under provision to Section 73 of Finance Act, 1994 or not;

14. I find that the Assessee is not registered with the Service Tax department and therefore not filing Service Tax returns. They have contended that the services provided by them are covered under Section 66D of the Finance Act, 1994. I find that the Section 66D of the Finance Act, 1994 covers the Negative list of Services; I reproduce herewith Section 66D herewith;

66D. Negative list of services: - The negative list shall comprise of the following services, namely:— (a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere— (i).....

(ii)

(iii) transport of goods or passengers; or

15.1 I also produce herewith the Rules 2(d) of Service Tax Rules, 1994 ;

Rule 2(d)(B)(V) of the Service Tax Rules, 1994 provided that;

(d) "person liable for paying service tax", -

- (i) (B) in relation to service provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,—
- (I) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
 - (II) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India;
 - (III) any co-operative society established by or under any law;
 - (IV) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;
 - (V) any body corporate established, by or under any law; or
 - (VI) any partnership firm whether registered or not under any law including association of persons; any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage : Provided that when such person is located in a non-taxable territory, the provider of such service shall be liable to pay service tax.

15.2 I also produce herewith Para 1(A)(ii) and Para II of Notification No. 30/2012-ST dated 20.06.2012 as amended provided that service tax payable on services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,—

- (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India;
- (c) any co-operative society established by or under any law;
- (d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;
- (e) any body corporate established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons;

(II) The extent of service tax payable thereon by the person who provides the service and the person who receives the service for the taxable services specified in (I) shall be as specified in the following Table, namely :-

TABLE

Sl. No.	Description of Service	Percentage of service tax payable by the person providing service	Percentage of service tax payable by the person receiving service
01	in respect of services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road	NIL	100%

15.3 In view of the above, I find that the Services provided by the assessee for a consideration can be covered under benefit of Notification No. 30/2012 dated 20.06.2012. However, since the assessee has neither provided ledger, lorry Receipt or any financial records nor the PAN card details of the Service recipient, I am not in a position to ascertain whether assessee is entitled to claim the benefit of Sr No 2 of Notification No. 30/2012 dated 20.06.2012. The assessee has provided only form 26AS for the relevant period.

15.4 Further, on perusal of para 4 of SCN, I find that the levy of Service Tax for the financial year 2016-17 and 2017-18 (Up to June 2017), which was not ascertainable at the time of issuance of subject SCN, if he 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 proviso to Section 73(1) read with master Circular No. 1053/02/2017-CX dated 10.03.2017, the service tax liability was to be recovered from the assessee accordingly, I however, do not find any charges level for the demand for the year 2017-18 (Up to June 2017), in charging para of the SCN. On perusal of the SCN, I find that the SCN has not questioned the taxability on any income other than the income from sale of services. I therefore refrain from discussing the taxability on other income other than the sale of service.

15.5 I find that **noticee** had contravened the provisions of Section 67 of the Finance Act, 1994 read with Rule 2A(ii)(B)(ii) of Service Tax (Determination of Value) Rules, 2006, in as much as they have failed to determine the net taxable value of taxable service and declared the same to the department; Section 68 of the Finance Act, 1994 and Rule 6 of the Service Tax Rules, 1994, as amended, in as much as they did not pay the appropriate Service Tax on the taxable services provided by them; Section 70 of the Finance Act, 1994 read with Rule 7 of the Service Tax Rules, 1994 in as much as they, as a service provider, have failed to furnish proper periodical returns in form ST-3 mentioning the particulars of the aforesaid taxable service provided by them, the value of taxable service determinable and other particulars in the manner as provided therein and incorporating the required information to the jurisdictional Superintendent of Service Tax; Chapter V of the Finance Act, 1994 and the Service Tax Rules, 1994

with intended to evade payment of Service Tax in respect of "taxable Services" as defined under the provisions of Section 65B (51) of Finance Act, 1994, provided by them to their various service receivers during the period for F.Y.2015-16,2016-17.

16. Further, it is observed that the noticee was fully aware about the fact that they were receiving such income which was chargeable under the Service Tax. However, in spite of knowing the facts; they chose not to pay the said applicable dues related to Service Tax by not providing documents. This has been done to escape from the eyes of the department with intent to evade the payment of dues related to Service Tax under the Finance Act, 1994. This fact of non-payment of dues related to Service Tax would have remained unnoticed, if the third party data not received from CBDT. These acts on the part of the noticee are tantamount to willful suppression, concealment and mis-statement of facts, with intent to evade the payment of dues related to Service Tax. In view of the above discussions and findings, the invoking of extended period of limitation under Section 73 of the Finance Act, 1994 is sustainable

17. I find that at no point of time, the noticee have disclosed or intimated to the Department regarding providing/ receipt of Service of the value, the same has come to the notice of the Department only after received the CBDT data for the Financial Year 2015-16 . The Government has right from the very beginning placed full trust on the Service Tax providers and accordingly measures like self-assessment etc, based on mutual trust and confidence are in place. From the evidences, it appeared that the noticee had knowingly suppressed the facts regarding providing/ receipt of services by them worth the differential value as mentioned hereinabove and thereby had not paid / short paid/ not deposited Service Tax thereof to the extent of Rs. 68,67,353/-, the above act of omission on the part of the noticee resulted into non-payment of Service Tax on account of suppression of material facts and contravention of provisions of Finance Act, 1994 with intent to evade the payment of Service tax to the extent mentioned hereinabove.

18. I rely upon the judgment in the case involving *Aircel Digilink India Ltd. v/s Commissioner of Central Excise, Jaipur, reported in 2006 (3) STR 386 (Tri.-Del)* and the case involving *Bharti Cellular Ltd. v/s Commissioner of Central Excise, Delhi, reported in 2006 (3) S.T.R. 423 (Tri.-Del)*. In both cases, the Hon. Tribunal upheld invocation of extended period after taking note of the fact that appellants had not disclosed certain details and mode of computation in their ST-3 details and that there was nothing on record to suggest that appellants ever approached the office of the Service Tax authorities to ascertain the details of their liability to pay the service tax. Similarly, in case of *Insurance & Provident Fund Department v/s. Commissioner of Central Excise, Jaipur-I, 2006 (2) S.T.R. 369 (Tri.-Del.)*, Hon. Tribunal held that non-disclosure of full amount of premium collected would attract invocation of extended period. The ratio of the above judgments can be applied to

the present case also as the noticee had not only suppressed the material facts from the department but also failed to comply with law and procedures, including payment of service tax. In view of the above, I hold that in the facts and circumstances of the present case, proviso to section 73 (1) of Finance Act, 1994, is rightly invoked for raising the demand for service tax against the noticee. In view of the above, I find that extended period for recovery of Service Tax short paid/not paid by the noticee on rendering of said taxable services, under the proviso to section 73(1) of the Finance Act, 1994 was rightly invoked and the SCN is sustainable on limitation. Therefore, the Service Tax amount of Rs. 68,67,353/- is recoverable from the noticee along with Interest as provided in proviso to Section 73(1) of the Finance Act, 1994 read with Section 75 of the Act *ibid*.

19. I find that even on the opportunities arising during the adjudication process, they have not been able to prove their contentions and thus the suppression with an intent to evade payment, on part of the noticee, is proved beyond doubt and proviso to Section 73(1) of the Finance Act, 1994 has rightly been applied in the instant case and therefore, by their such act of omission and commission, the noticee have rendered themselves liable for penalty u/s.76 of Finance Act,1994..

20. Since in the instant case, suppression of material facts have been established beyond doubt after discussions in the paras supra, I consider this as a fit case for imposition of penalty under Section 78 of the Finance Act, 1994 which reads as under:

“SECTION 78. Penalty for failure to pay service tax for reasons of fraud, etc. —

(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 fraud or collusion or willful mis-statement or suppression of facts or 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 who has been served notice under the proviso to sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty which shall be equal to hundred per cent. of the amount of such service tax :

Provided that in respect of the cases where the details relating to such transactions are recorded in the specified records for the period beginning with the 8th April, 2011 upto the 24 date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent. of the service tax so determined :

Provided further that where service tax and interest is paid within a period of thirty days of — the date of service of notice under the proviso to (i) sub-section (1) of section 73, the penalty payable shall be fifteen per cent. of such service tax and

proceedings in respect of such service tax, interest and penalty shall be deemed to be concluded; (ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the service tax so determined :

Provided also that the benefit of reduced penalty under the second proviso shall be available only if the amount of such reduced penalty is also paid within such period :

Explanation. — For the purposes of this sub-section, "specified records" means records including computerised data as are required to be maintained by an noticee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the noticee in the books of accounts shall be considered as the specified records."

21. Thus penalty under Section 78, is attracted whenever any Service Tax has not been levied or not paid or has been short levied or short paid or erroneously refunded by the reasons of fraud, suppression of facts, willful mis-statement or contravention of any provisions of Finance Act, 1994 or of the rules made there under with intent to evade the payment of service tax and this penalty shall not be less than the duty evaded. However, as per the second proviso to section 78, where such service tax along with interest is paid within 30 days from the date of communication of the order penalty would be further reduce to 25% of the service tax so determined. The benefit of reduced penalty shall be available only if such penalty is also paid within 30 days referred to be. Thus the noticee have rendered themselves liable to penalty under Section 78 of the Finance Act, 1994 as they were not paying service tax in spite of the facts that they were providing the taxable service.

22. Regarding penalty under Section 77, I find that the noticee has also contravened the provision of Section 67 of the Finance Act, 1994 in as much as they failed to determine the correct value of taxable services by not obtaining Service Tax registration; violated the provisions of Section 68 of the act read with Rule 6 of the Service Tax Rules, 1994 by not paying the Service Tax during the F.Y. 2015-16. In view of the above, they are liable for imposition of appropriate penalty under Section 77 of the Finance Act, 1994.

23. Further, in view of the discussion made in the forgoing paras, I hold that the noticee has failed to pay the service tax on the income received for providing Goods Transport Services by suppressing the facts from the department by contravening the provisions of Section 68 of the Finance Act, 1994 read with Rule 6 of the Service Tax Rules, 1994, and Section 67(1) of the Finance Act, 1994 read with Rule 5(1) of the Service Tax Rules, 1994. The Service Tax totally amounting to Rs. 58,53,139/- is recoverable from the noticee under the provisions of Section 73(1) of the Finance Act, 1994 and they have also rendered themselves liable to pay interest under section 75 of the Finance Act, 1994. They have further

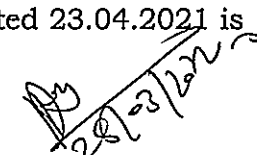
rendered themselves liable for penalty under the provisions of Section 78 of the Finance Act, 1994.

24. Therefore, from the factual matrix and the question of law as discussed in the foregoing paras, I pass the following order: -

ORDER

- (i) I confirm and demand of service tax of Rs. 58,53,139/- under the proviso of Section 73(1) of the Finance Act, 1994.
- (ii) I order for recovery of interest at appropriate rate from the notice under the provisions of Section 75 of the Finance Act, 1994 on the demand (ii) above.
- (iii) I impose penalty of Rs.10,000/- (Rs. Ten Thousand Only) upon them under Section 77 of Finance Act,1994.
- (iv) I impose penalty of Rs. 58,53,139/-under section 78(1) of the Finance Act, 1994. If the service tax amount is paid along with appropriate interest as applicable, within 30 days from the date of receipt of this order, then the amount of penalty under Section 78 shall be reduced to 25% of the Service Tax amount, provided if such penalty is also paid within such period of 30 days.

30. The Show Cause Notice F.No. STC/15-148/OA/2021-22 dated 23.04.2021 is disposed herewith.


(MUKESH RATHORE)
Additional Commissioner
Central Excise & CGST,
Ahmedabad North

By Regd. Post AD./Hand Delivery

F.No. STC/15-148/OA/2021-22

To
M/s. RADHE LOGISTICS,
45/2/KRISHNA GOKUL SOCIETY,
NEAR PRIYA CINEMA/KRISHNANAGAR,
AHMEDABAD-382345

Copy for information to:

1. The Commissioner, CGST & CX, Ahmedabad North.
2. The Dy. /Assistant Commissioner, DIV-I, CGST & CX, Ahmedabad North.
3. The Superintendent, Range-IV, Division-I, CGST & CX, Ahmedabad North
4. The Superintendent, Systems, CGST & CX, Ahmedabad North
5. Guard File.