



आयुक्त का कार्यालय

OFFICE OF THE COMMISSIONER

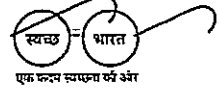
केंद्रीय वस्तु एवं सेवा कर तथा केंद्रीय उत्पाद शुल्क, अहमदाबाद उत्तर
CENTRAL GOODS & SERVICES TAX & CENTRAL EXCISE, AHMEDABAD NORTH

पहली मंजिल, कस्टम हाउस, नवरंगपुरा, अहमदाबाद – 380009

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निवन्धित पावती डाक द्वारा/By R.P.A.D

फा.सं./F.No. STC/15-70/OA/2020

आदेश की तारीख/Date of Order:- 17.01.2022

जारी करने की तारीख/Date of Issue :- 17.01.2022

DIN NO: 20220164WT000066706F

द्वारा पारित/Passed by:- आर गुलजार बेगम *IR. GULZAR BEGUM*

अपर आयुक्त / Additional Commissioner

मूल आदेश संख्या / Order-In-Original No. 47/ADC/GB/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 इ.ए (1-.A.E) 1-में दाखिल कर सकता है। इस अपील पर रू) 2.00 .दो रुपये (का न्यायालय शुल्क टिकट लगा होना चाहिए।

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

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

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

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

(1) उक्त अपील की प्रति।

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

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

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

विषय:- कारण बताओ सूचना/ Show Cause Notice F. No. **STC/15-70/O&A/2020** dated 29.09.2020 issued to **M/s. Radiant Services**, situated at New Paras Mani Appartment, 1, 1st Floor, Tulsi Nagar, Sabarmati, Ahmedabad-380005.

BRIEF FACTS OF THE CASE

M/s Radiant Services, New Paras Mani Apartment, 1st Floor, Tulsi Nagar, Sabarmati, Ahmedabad-380005 (hereinafter referred to as the 'Assessee' for the sake of brevity) is registered under Service Tax having Registration No.AEPPR9339JSD001 and was engaged in providing "Manpower recruitment/supply agency service".

2. On going through the third party CBDT data for the Financial Year 2014-2015, 2015-16 and 2016-17, it has been observed that the Assessee has declared less taxable value in their Service Tax Return (ST-3) for the F.Y.2014-2015, 2015-16 and 2016-17 as compared to the Service related taxable value they have declared in their Income Tax Return (ITR)/ Form 26AS, the details of which are as under:

#	F.Y.	Taxable Value of services provided as per ST-3 returns (In Rs.)	Difference Between Total Amount paid/Credited from TDS/ITR and Gross Value in Service Tax Provided, as applicable(In Rs.)	Rate of Service Tax (in %)	Resultant Service Tax short paid, including Cess (in Rs.)
1	2014-15	48885319	11235136	12.36	1388663
2	2015-16	73467947	12655587	14.50	1835060
3	2016-17	19656705	66402412	15.00	9960362
Total		142009971	90293135	##	13184085

3. Letters dated 13.02.2018, 03.05.2018, 30.09.2019 and 06.07.2020 were issued to the assessee for clarification. But, no clarification was submitted by the assessee and since the said noticee has not provided any details/data for such difference, the reasons for such difference cannot be ascertained and therefore, the exact Service Tax liability cannot be adjudged. Therefore, for calculation and demand of the Service Tax under this notice, the maximum amount of difference between (i) Value of Services declared in ITR filed by the notice & Value of Services provided as per Service Tax Returns or (ii) Value of 'Total Amount paid/Credited Under 194C, 194H, 194I, 194J' & Value of Services provided as per Service Tax Returns i.e. the highest difference between these two is considered and the highest applicable rate is applied for Non-Payment/Short-Payment of Service Tax (Including Cess) for Financial Year 2014-15, 2015-16 and 2016-17. The same is worked out as shown in above table.

4. In view of above, it was found that the assessee has contravened the provisions of Section 68 of the Finance Act, 1994 read with Rule 6 of Service tax Rules, 1994 in as much as they failed to pay/ short paid/ deposit Service Tax to the extent of Rs. 1,31,84,085/- (Including Cess), by declaring less value in their ST-3 Returns vis-a-vis their ITR/ Form 26AS, in such manner and within such period prescribed in respect of taxable services received /provided

by them; Section 70 of Finance Act 1994 in as much they failed to properly assess their service tax liability under Rule 2(1)(d) of Service Tax Rules, 1994.

5. It has been noticed that at no point of time, the Assessee has disclosed or intimated to the Department regarding receipt/providing of Service of the differential value, that has come to the notice of the Department only after going through the third party CBDT data generated for the Financial Year 2014-2015, 2015-16 and 2017-18. 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 was found that the said assessee has knowingly suppressed the facts regarding receipt of/providing of services by them worth the differential value as can be seen in the table hereinabove and thereby not paid / short paid/ not deposited Service Tax thereof to the extent of Rs.1,31,84,085/- (Including Cess). It was also found 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 Finance Act, 1994 with intent to evade payment of Service tax to the extent mentioned hereinabove. Hence, the same is to be recoverable from them under the provisions of Section 73 of the Finance Act, 1994 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 Assessee constitute offence of the nature specified under Section 78 of the Finance Act, 1994, the Assessee has rendered themselves liable for penalty under Section 78 of the Finance Act, 1994.

6. Accordingly Show Cause Notice No. F.No. STC/15-70/OA/2020 dated 29.09.2020 Was issued to M/s Radiant Services, New Paras Mani Appartment, called upon to show cause as to why :

- (i) The demand for Service tax to the extent of Rs.1,31,84,085/- (including cess) (Rupees One Crore Thirty One Lakh Eighty Four Thousand And Eighty Five Only) (including cess) short paid /not paid by them, should not be confirmed and recovered from them under the provisions of Section 73 of the Finance Act, 1994;
- (ii) Interest at the appropriate rate should not be recovered from them under the provisions of Section 75 of the Finance Act, 1994;
- (iii) Penalty should not be imposed upon them under the provisions of Section 78 of the Finance Act, 1994.
- (iv) Penalty should not be imposed upon them for late filling of ST-3 Returns under the provisions of Section 70 of the Finance Act, 1994, if any

DEFENCE REPLY

7. The said assessee vide letter dated 06.03.2021 submitted the reply to SCN, wherein they submitted that they are engage in providing services regarding Manpower recruitment/supply agency service. As regards taxability on the income which he is receiving, they submitted that Sr.No.8 of Noti.30/2012 provides that the extent of service tax payable thereon by the person who provides the service and the person who receives the service for the taxable service specified in (I) shall be as specified in the following table.

Sl.No.	Description of Services	Percentage of service tax payable by the person providing service 01.04.2015 onwards	Percentage of service tax payable by the person receiving service 01:04.2015 onwards	Percentage of service tax payable by the person providing service .F.Y.2014-15	Percentage of service tax payable by the person receiving service F.Y.2014--15
1	In respect of services provided or agreed to be provided by way of supply of manpower for any purpose	NIL	100%	25%	75%

8. They further submitted that as per the above Notification, it is very clear that, services of Manpower Supply Agency are taxable under Reverse Charge from levy of service tax, and in case man power supply agency 100% service tax payable by service receiver for F.Y.2015-16 & 2016-17 and for FY 2014-15 75% service tax payable by service receiver, so there is no question of non payment of in differential; amount by Manpower supply Agency. They also submitted that in the FY 2014-15 range scrutiny has been undertaken and service tax of Rs.1,97,331/- alongwith interest of Rs.90,696/- and penalty Rs.29,600/- has been paid vide challan No.50251 dt.23.02.2017. They have requested to consider the same and remove the SCN. The said assessee vide their letter dated 06.01.2021 further submitted that they have reimbursement income and they have purchased cleaning material which are reimbursed to them by the party on which no service tax has been collected as it is just reimbursement o material expenses. They have also attached sample bills for reference. Further they have submitted that they have provided restaurant service which is exempted vide Sl.No.19 of Notification No.25/2012 as exempted service. They further submitted that they have provided man power recruitment services to M/s.Trent Ltd and Fedex Express Services India P.Ltd amounting to Rs.1,72,822/- and Rs.37,26,010/- respectively and service tax on which has been paid by the service recipient.

PERSONEL HEARING

9. Personnel Hearing was granted to the said assessee on 13.12.2021 and Shri Dipal S shah, C.A, duly authorize representative , appeared on behalf of the assessee. He has submitted reconciliation statement and stated that they have done manpower supply services and requested to consider their reply dated 06.03.2021 for necessary further action.

DISCUSSION AND FINDINGS

10. I have carefully gone through the records of the case, SCN, defence replies, reconciliation statement, audited Balance sheet, copies of Income Tax Returns for the FY 2014-15, 2015-16 and 2016-17, Form 26AS as well as oral submissions made by the said assessee during the proceedings. In the instant case, I find that the said assessee was registered with Service Tax Department under Registration No.AEPPR9339JSD001 and was engaged in providing

"Manpower Recruitment/Supply Agency Service". They were also paying service tax and filing ST 3 returns accordingly. On going through the third party CBDT data for the Financial Years 2014-2015, 2015-16 and 2016-17, I find that the assessee has declared less taxable value in their Service Tax Return (ST-3) for the F.Y.2014-2015, 2015-16 and 2016-17 as compared to the Service related taxable value they have declared in their Income Tax Return (ITR)/ Form 26AS.

11. On perusal of case records and SCN, I find that for calculation and demand of the Service Tax, the maximum amount of difference between (i) Value of Services declared in ITR filed by the assessee & Value of Services provided as per Service Tax Returns or (ii) Value of Total Amount paid/Credited Under 194 C, 194 H, 194 I, 194 J & Value of Services provided as per Service Tax Returns i.e. the highest difference between these two is considered and the highest applicable rate is applied for Non-Payment/Short-Payment of Service Tax (Including Cess) for Financial Year 2014-15, 2015-16 and 2016-17 accordingly SCN was issued to the said assessee to recover the short paid Service Tax of Rs.1,31,84,085/- for the financial year 2014-16, 2015-16 and 2016-17 on the basis of data received from Income Tax authorities. The Show Cause Notice alleged non-payment of Service Tax, charging of interest in terms of Section 75 of the Finance Act, 1994 and penalty under Section 78 of the Finance Act, 1994.

12. The said assessee in their reply to SCN submitted that as per Sr.No.8 of Noti.30/2012, it is very clear that, services of Manpower Supply Agency are taxable under Reverse Charge from levy of service tax, and in case man power supply agency 100% service tax payable by service receiver for F.Y.2015-16 & 2016-17 and for FY 2014-15 75% service tax payable by service receiver, so there is no question of non payment of in differential; amount by Manpower supply Agency. They also submitted that in the FY 2014-15 range scrutiny has been undertaken and service tax of Rs.1,97,331/- alongwith interest of Rs.90,696/- and penalty Rs.29,600/- has been paid vide challan No.50251 dt.23.02.2017

13. Prior to the introduction of Negative list w.e.f. 1.7.2012, various services were classified according to the different category of services. Further after introduction of negative list with effect from 01.07.2012, service has been defined as "*service*" means any activity carried out by a person for another for consideration, and includes a declared service. Services covered under Negative list, defined in Section 66D (inserted by the Finance Act, 2012 w.e.f. 1-7-2012), comprise of the following services viz.,

- (a) Service by the Government/Local Authority
- (b) Service by RBI
- (c) Service by Foreign Diplomatic Mission located in India
- (d) Service in relation to agriculture
- (e) Trading of goods
- (f) Manufacture of goods
- (g) Selling of space/time for advertisement
- (h) Services by access to road or bridge on a payment of Toll charges
- (i) Betting, gambling or lottery
- (j) Admission to Entertainment Events & Amusement Facilities
- (k) Transmission or distribution of electricity

- (l) Educational Services
 (m) Renting of Residential dwelling for use as residence
 (n) Financial services by way of extending deposits, loans or advances and inter se sale or purchase of foreign currency
 (o) Transportation of Passenger with or without accompanied belongings
 (p) Transportation of goods.
 (q) Mortuary/Funeral services

14. In view of the above, I find that the activity carried out by the assessee i.e. Manpower Recruitment/Supply Agency Service falls under the category of taxable service prior to introduction of Negative List as well as post introduction of Negative List the security service provided by the assessee does not fall under category of negative list of services under the provisions of Section 66D of the Finance Act. Therefore, I find that the said service provider is liable to pay Service Tax on income earned from provision of Manpower Recruitment/Supply Agency Service for the period 2014-15 to 2016-17. Further the liability to pay service tax has been notified at Sr.No.8 of Noti.30/2012 provides that the extent of service tax payable thereon by the person who provides the service and the person who receives the service for the taxable service specified in (l) shall be as specified in the following table.

Sl.No.	Description of Services	Percentage of service tax payable by the person providing service 01.04.2015 onwards	Percentage of service tax payable by the person receiving service 01.04.2015 onwards	Percentage of service tax payable by the person providing service .F.Y.2014-15	Percentage of service tax payable by the person receiving service F.Y.2014--15
1	In respect of services provided or agreed to be provided by way of supply of manpower for any purpose	NIL	100%	25%	75%

15. Further, I find that as per Noti.No.30/2012-ST dated 20.06.2012 vide Sr.No.8 Service Tax shall be payable in respect of service provided or agreed to be provided in the case of security service by service provider to the extent of service tax on 25% of value of taxable service and balance service tax on 75% of value of taxable service to be paid by the person receiving the service under partial reverse charge mechanism, if service are provided by any individual/HUF/proprietary concern/partnership firm to the business entity registered as Body corporate. Subsequently the said Noti. No. 30/2012-ST dated 20.06.2012 was amended through Noti.7/2015 dated 01.03.2015 and according to which if the service provider is individual/HUF/Proprietor/partnership Firm and service receiver is business entity registered as body corporate, entire (100%) service Tax is payable by service receiver with effect from 01.04.2015.

Further the restaurant services has been exempted from paying service tax vide Notification No.25/2012 dt.20.06.2021 at Sl.No.19 which reads as under

G.S.R. 467(E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification number 12/2012- Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 210 (E), dated the 17th March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services from the whole of the service tax leviable thereon under section 66B of the said Act, namely:-

1....

2....

19. *Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year;*

16. The Balance sheet and profit and loss account of an assessee is vital statutory records. Such records are prepared in statutory format and reflect financial transactions, income and expenses and profit and loss incurred by company during a financial year. The said financial records are placed before different legal authorities for evincing true financial position. Assessee was legally obligated to maintain such records according to generally accepted accounting principles. They cannot keep it in unorganized method. The statute provides mechanism for supervision and monitoring of financial records. It is mandate upon auditor to have access to all the bills, vouchers, books and accounts and statements of a company and also to call additional information required for verification and to arrive fair conclusion in respect of the balance sheet and profit and loss accounts. It is also onus upon 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. The Chartered Accountant, who audited the accounts of the assessee, being qualified professional has given declaration that the balance sheet and profit and loss accounts of the noticee reflect true and correct picture of the transaction and therefore, I have no optioned other than to accept the classification of incomes under profit and loss account as true nature of the business and to proceed to conclude instant proceedings accordingly.

17. The said assessed has submitted balance sheet, Audit Report duly audited by Chartered Accountant copies of ledger account, profit and loss account, copies of ITR , copies of Form 26AS and reconciliation statement to in support of their claim to drop the Show Cause Notice. On perusal of books of accounts, I find that the assessee is providing manpower Recruitment/supply agency service to various clients. For the sake of clarity, I intend to discuss the matter year wise as the entire SCN is spread into the dispute for three years i.e.2014-15, 2015-16 and 2016-17.

FINANCIAL YEAR 2014-15

18. On perusal of Show Cause Notice, I find that total income credited as per 26AS is Rs. 6,01,20,455/- (4,88,85,319/- + 1,12,35,136/-) during the year against the declared as taxable income of Rs. 4,88,85,319/- in their ST-

3 Returns filed. Hence the SCN is proposed for demanding service tax on differential income of Rs. 1,12,35,136/- (Rs.6,01,20,455/- - Rs. 4,88,85,319/-). The said assessee submitted copy of Form No. 26AS, ITR, Balance Sheet/ Profit and Loss account and other documents for financial year 2014-15.

19. On perusal of Sr.No.8 of Noti.No.30/2012-ST dated 20.06.2012, I find that Service Tax shall be payable in respect of service provided or agreed to be provided in respect of security service by service provider to the extent of service tax on 25% of value of taxable service and balance service tax on 75% of value of taxable service to be paid by the person receiving the service under partial reverse charge mechanism, if services are provided by any individual/HUF/proprietary concern/partnership firm to the business entity registered as Body corporate until 31.03.2015. On verification of reconciliation statement and copies of ledger account and other details submitted by the said assessee, I find that the said assessee has provided manpower agency services amounting to Rs.4,88,85,319/- and declared the same in their ST 3 Returns for the FY 2014-15. Further on perusal of documents and ledger income statement provided by the said assessee, I find that they have provided services of restaurant service on which they have an income of Rs.36,61,531/-. Restaurant services are covered under the definition of taxable service, however which are exempted from payment of service in view of Entry of Sl.No.19 of Noti No.25/2012 dated 20.06.2012.

20. On perusal of audited balance sheet and income ledger, I find that there is a reimbursement of expenses made by the assess to the tune of Rs.60,27,624/- This amount has been received as reimbursement of expenses already made by the assessee and has no relevance with the taxable income of the said assessee as same has not, any element of service. Hence the same expenses are to be deducted from their differential income. Further they have income of RS.14,64,549/- on account of reimbursement of PF & ESIC to their employees which they have paid which is also allowed to be exempted from taxable value as the same is reimbursed income and not an income earned from any taxable services provided by the said assessee and also not covered under the definition of "service". Accordingly the total allowable deductions arrived at Rs.1,11,53,704/- (Rs.36,61,531/- + Rs.60,27,624/- + Rs.14,64,549/-) and which allowed to be deducted from the total differential value of Rs.1,12,35,136/-. After the said deductions the total taxable income for the year 2014-15 is arrived at Rs.81,432/-(Rs. 1,12,35,136/- - 1,11,53,704/-). As the said assessee explained that scrutiny was conducted by the Range Office on the ST 3 returns for the year 2014-15 and accordingly they have paid Service Tax on Rs.1,97,331/- alongwith interest and penalty. They have also produced copy of the challan for consideration. In view of the above facts, the service tax demand of remaining amount of Rs. 1,11,53,704/- for the period 2014-15 is not sustainable and is liable to be dropped.

FINANCIAL YEAR 2015-16

21. Similarly during the year 2015-16, I find that total income credited as per 26AS is Rs. 8,61,23,534/- (Rs.7,34,67,947/- + Rs.1,26,55,587/-) against the declared as taxable income of Rs. 7,34,67,947/- in their ST-3 Returns filed. Hence the SCN is proposed for demanding service tax on differential income of Rs. 1,26,55,587/- (Rs. 8,61,23,534/- - Rs. 7,34,67,947/-). On perusal of audited balance sheet and ledger income statement provided by the said

assessee, I find that they have provided services of restaurant service on which they have an income of Rs.16,21,701/-. Restaurant services are covered under the definition of taxable service, however which are exempted from payment of service in view of Entry of Sl.No.19 of Noti No.25/2012 dated 20.06.2012. I further find that there is a reimbursement of expenses made by the assess to the tune of RS.55,81,260/- This amount has been received as reimbursement of expenses already made by the assessee and has no relevance with the taxable income of the said assessee and is not covered under the definition of service. Hence the same expenses are to be deducted from their differential income. Moreover they have provided manpower supply services to M/s.Trend Ltd of Rs.17,26,822/- and to M/s.Fedeex Express Services India P.Ltd of Rs.37,26,010/-. As these service receivers are falling under the category of corporate body and therefore the liability to pay service tax on these service is falling on the service receiver as per Noti.no. Sr.No.8 of Noti.30/2012 for the year under consideration. Accordingly the total allowable deductions comes to Rs.1,26,55,587/- (Rs.16,21,701/- + Rs.55,81,260/- + Rs.17,26,822/- +Rs.37,26,010/- and which is allowed to be deducted from the total differential value of Rs.1,26,55,792/-. Hence the net difference is arrived at of(-) Rs.206/- (Rs.1,26,55,587/- - Rs.1,26,55,793/-) which is on the negative side. Hence the service tax demand of Rs.18,35,060/- for the period 2014-15 is not sustainable and is liable to be dropped

FINANCIAL YEAR 2016-17

22. Further, during the year 2016-17, I find that total income credited as per 26AS is Rs. 8,60,59,117/- (Rs.6,64,02,412/- + Rs.1,96,56,705/-) against the declared as taxable income of Rs. 1,96,56,705/- in their ST-3 Returns filed. Hence the SCN is proposed for demanding service tax on differential income of Rs. 6,64,02,412/- (Rs. 8,60,59,117/- - Rs.1,96,56,705/-). On perusal of documents and ledger income statement provided by the said assessee, I find that they have provided services of restaurant service on which they have an income of Rs.33,82,559/-. Restaurant services are covered under the definition of taxable service, however which are exempted from payment of service in view of Entry of Sl.No.19 of Noti No.25/2012 dated 20.06.2012. I further find that there is a reimbursement of expenses made by the assess to the tune of Rs.1,20,24,905/- This amount has been received as reimbursement of expenses already made by the assessee and has no relevance with the taxable income of the said assessee. Hence the same expenses are to be deducted from their differential income. Moreover they have provided manpower supply services to various clients falling under the category of corporate body to the tune of Rs.5,10,14,948/- and therefore the liability to pay service tax on these service is falling on the service receiver as per Noti.no. Sr.No.8 of Noti.30/2012 for the year under consideration. Accordingly the total allowable deductions comes to Rs.6,4,04,059/- (Rs.33,82,559/- + Rs.1,20,24,905/- + Rs.5,10,14,948/-) and which is allowed to be deducted from the total differential value of Rs.6,64,02,412/-. Hence the difference is arrived at (-) Rs.-1647/- (Rs. 6,4,04,059/- - Rs. 6,64,02,412/-) which is on the negative side. Hence the service tax demand of Rs.99,60,362/- for the period 2016-17 is also not sustainable and is liable to be dropped. A consolidated reconciliation for the entire period is tabulated as under:

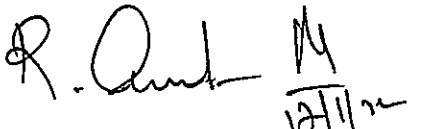
	Financial Year	2014-15	2015-16	2016-17
1	Income as per 26 AS and as mentioned in SCN	60120455	86123534	86059117
2	Taxable Value of services provided as per ST 3	48885319	73467947	19656705
3	Difference on which service tax demanded	11235136	12655587	66402412
4	Income from Restaurant service and exempted vide Noti.No.25/2012 as discussed	3661531	1621701	3382559
5	Reimbursement of material as discussed above	6027624	5581260	12024905
6	Reimbursement of PF & ESIC as discussed above	1464549	0	0
7	Value of services provided to body corporate on which Service tax is to be paid by receiver under RCM	0	5452832	51014948
8	Total (4+5+6+7)	11153704	12655793	664020412
9	Difference (3-8)	81432	-260	-1647
		Service tax paid on this amt. As discussed in Para 19.		

23. In view of the above discussion and on perusal of SCN, submissions made by the said assessee, duly audited Balance Sheet, ITR, reconciliation statement, I find that the service tax demand of Rs.1,31,84,085/- for the period 2014-15 to 2016-17 is not sustainable and accordingly Show Cause Notice F.No.STC/15-70/OA/2020 dated 29.09.2020 is liable to be dropped. Further, as the SCN itself is not sustainable there is no reason to charge interest or to impose penalty upon assessee on this count.

Accordingly, I pass the following order;

ORDER

24. I hereby order to drop proceedings initiated for recovery of service tax of Rs. 1,31,84,085/- along with interest and penalties vide SCN No. STC/15-70/OA/2020 dated 29.09.2020.


(R.GULZAR BEGUM)

Additional Commissioner
Central GST & Central Excise
Ahmedabad North

To
M/s Radiant Services,
New Paras Mani Appartment, 1,
1st Floor, Tulsi Nagar, Sabarmati,
Ahmedabad-380005

Copy to:

1. The Commissioner of CGST & C.Ex., Ahmedabad North.
2. The Deputy Commissioner Division-VII, Central Excise & CGST, Ahmedabad North.
3. The Superintendent, Range-V, Division-VII, Central Excise & CGST, Ahmedabad North
- ✓ 4. The Superintendent(system) CGST, Ahmedabad North for uploading on website.
5. Guard File