



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

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निबन्धित पावती डाक द्वारा/By R.P.A.D

फा.सं./F.No. STC/15-101/OA/2020

आदेश की तारीख/Date of Order:- 25.01.2022

जारी करने की तारीख/Date of Issue :- 25.01.2022

DIN-20220164WT00005555AA

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

अपर आयुक्त / Additional Commissioner

मूल आदेश संख्या / Order-In-Original No. 50/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-380015को प्रारूप संख्या इ.ए (1-.A.E) 1-में दाखिल कर सकता है। इस अपील पर रु) 2.00 .दो रुपये (का न्यायालय शुल्क टिकट लगा होना चाहिए।

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

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

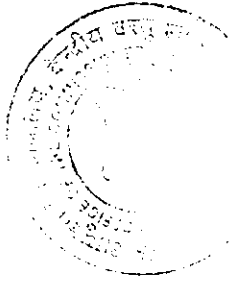
उक्त अपील की प्रति।

(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/15-101/OA/2020 dated 30.09.2020 issued to M/s. Shankarlal Ishwardas Patel, T403 Aarohi Crest, Near Saal Parisar, 200 FT Ring Road, South Bopal Ahmedabad, Gujarat.



Brief Facts of the case :

M/s. SHANKERLAL ISHWERDAS PATEL (hereinafter referred to as "the said service provider") situated at "T403 AAROHI CREST NEAR SAAL PARISAR, 200FT. RING ROAD SOUTH BOPAL AHMEDABAD GUJARAT", holding PAN No. **ACKPP9351P**, and engaged in the business of providing taxable services under the Finance Act, 1994, not registered with the Service Tax department.

2. An analysis of "Sales/Gross Receipts from Services (Value from ITR)", the "Total Amount Paid/Credited under 194C, 194H, 194I, 194J" and "Gross value of Services Provided" was undertaken by the Central Board of Direct Taxes (CBDT) for the **F.Y. 2014-15 to 2016-17**, and details of said analysis was shared by the CBDT with the Central Board of Indirect Taxes (CBIC).

3. As per the data shared by the Income Tax Department with CBIC, the said service provider had earned substantial taxable service income for **F.Y. 2014-15 to 2016-17**, however, they have not obtained service tax registration and had not pay service tax thereon.

4. Therefore, a letter dated letter/e-mail dated 31.07.2020, followed by reminder dated 24.09.2020 was issued to the said Service Provider with request to submit documentary evidence in support of their income within a week time from the date of receipt of above referred letter. However, the said Service Provider failed to submit the required details / documents or offer any explanation / clarification regarding income earned by them.

5. Since the said Service Provider had failed to submit the required details of services provided during the **Financial Year 2014-15 to 2016-17**, the service tax liability of the Service Provider was required to be ascertained on the basis of income shown in the ITR and Form 26-AS filed by the said Service Provider with the Income Tax Department. 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 67A of the Finance Act, 1994 as the said Service Provider failed to determine the correct taxable value.

6. The Service Tax payable was calculated on the basis of value of "sales of services under Sales/Gross Receipts from Services (Value from ITR)" as provided by the Income Tax Department for the **Financial Year 2014-15 to**



2016-17. By considering the said amount as taxable income, as the said Service Provider failed to submit the required details, the service tax liability was calculated as under:-

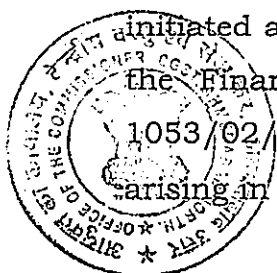
Sr. No.	Financial Year	Sales/Gross Receipts from Services (ITR) (in Rs.)	Service Tax (in Rs.)
01	2014-15	12561726/-	1552629/-
02	2015-16	16408294/-	2289276/-
03	2016-17	11209461/-	1672052/-
	TOTAL	40179481/-	5513957/-

7. 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 would not be considered as invalid. It would still be desirable that the principles and manner of computing the amounts due from the notice are clearly laid down in this part of the SCN. In the case of Gwalior Rayon Mfg. (Wvg.) Co. Vs. UOI, 1982 (OIO) 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.'

8. 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 **F.Y. 2017-18 (upto June,2017)** have not been disclosed thereof by the Income Tax Department, nor the reason for the non-disclosure was made known to this department. The said service provider had also failed to provide the required information even after the issuance of letters from the Department. The assessable value for the year **F.Y. 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 the Income tax Department or any other sources/agencies, against the said 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 **F.Y. 2017-18 (upto June,2017)** covered under



this Show Cause Notice, will be recoverable from the said service provider accordingly.

9. With effect from 01.07.2012, the negative list regime came into existence under which all services are taxable and only those services that are mentioned in the negative list are exempted.

10. It is also observed that, the nature of activities carried out by the assessee as Service Provider were covered under the definition of service and did not appear to be covered under the Negative List as given in the Section 66D of the Finance Act, 1994, as amended from time to time. These services also appeared to be not exempted under Mega Exemption Notification No. 25/ 2012-S.T. dated 20.06.2012, as amended from time to time. Accordingly, the aforesaid services provided by the assessee appeared to be liable to payment of Service Tax.

11. It is observed that as per Section 69(1) of the Act, *every person liable to pay the Service Tax under this Chapter or the rules made there under 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.*

12. It is also observed that as per Section 69(2) of the Act 1994, *any service provider, whose aggregate value of taxable service in a financial year exceeds Rs. 9 lakh is required to take Registration.* Further, according to Notification No. 33/2012-(Service Tax) dated 20.06.2012, Central Government has exempted taxable services of aggregate value not exceeding ten lakh rupees in preceding year from the whole of the Service Tax leviable thereon under Section 66B of the Finance Act, 1994. Therefore, it appears that the said Service Provider was required to obtain Service Tax Registration and comply the Service Tax laws accordingly.

12A. It is also observed that as per provision of Section 68 of Finance Act, 1994 read with Rule 6 of Service Tax Rule 1994 as amended, *every person providing taxable service to any person is liable to pay Service Tax at the rate prescribed in Section 66B to Central Government by the 5th of the month/ quarter immediately following the calendar month/ quarter in which the taxable service is deemed to be provided (except for the month of March which is required to be paid on 31st March).*

13. According to Section 70 of the Finance Act, 1994 read with Rule 7(1) of the Service Tax Rules, 1994, *every person liable to pay Service Tax shall himself assess the tax due on the services provided by him and thereafter*

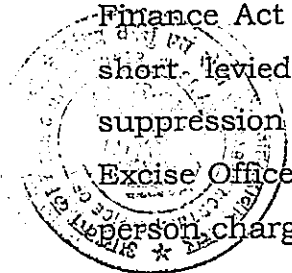
furnish a return to the jurisdictional Superintendent of Service Tax by disclosing wholly & truly all materials facts in ST-3 returns.

14. It is observed that the said Service Provider had neither obtained a Service Tax registration for the services provided by them for the period of **F.Y. 2014-15 to F.Y. 2016-17**, nor responded to correspondence made with them regarding actual services provided by them, concealed the value from the department, declared to the income tax department. Therefore, it was observed that the said Service Provider had not paid service tax by way of willful suppression of facts to the department in contravention of provision of the Finance Act, 1994 relating to levy and collection of service tax and the Rules made there under, with intent to evade payment of service tax. The service tax **Rs. 5513957/-** was recoverable from them by invoking extended period of five years under first proviso to sub-section (1) of Section 73 of Finance Act, 1994 along with interest at the prescribed rate under Section 75 of the Finance Act, 1994, and rendered himself liable for penal action under Section 78 of Finance Act, 1994.

15. it is observed that the said service provider had neither submitted the documents nor extended the cooperation in the matter although sufficient time was provided. This act of non-cooperation of the said the said service provider had contravened the provisions of Section 72 of the Finance Act, 1994 and thus rendered themselves liable for penal action under Section 77 of Finance Act, 1994.

16. It is observed that as per the provisions of **Section 72** of the Finance Act, 1994, if any person, liable to pay service tax having made a return, fails to assess the tax, the Central Excise Officer, may require the person to produce such accounts, documents or other evidence as he may be deem necessary and after taking into account all the relevant material which was available or which he has gathered, shall by an order in writing, after giving the person an opportunity of being heard, make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by the Service Provider on the basis of such assessment.

17. It is observed that as per the provisions of **Section 73(1)** of the Finance Act where any service tax have not been levied or paid or had been short-levied or short paid by the reasons of willful mis-statement or suppression of facts with intent to evade payment of service tax, the Central Excise Officer may within five years from the relevant date, serve notice on the person chargeable with service tax which have not been levied or paid of which



had been short levied or short paid requiring him to show cause why he should not pay amount specified in the notice.

18. It is observed that as per **Rule 6** of the Service tax Rules, 1994, the service tax should be paid to the credit of the Central Government by 5th day of the month, immediately following the said calendar month in which the payments were received, towards the value of taxable service. **Rule 7** of the Service Tax Rules, 1994 stipulates that Service Provider shall submit their service tax returns in the form of ST-3 within the prescribed time.

19. In view of above, it is observed that the said service provider have contravened the provisions of :

(a) **Section 66** of the Finance Act, 1994 in as much as they have failed to collect and pay the service tax as, to the credit of Central Government.

(b) **Section 68** of the Finance Act, 1994 read with Rule 6 of the Service Tax Rules, 1994, as amended, in as much as they have not paid the service tax within the stipulated time limit;

(c) **Section 70** of the Finance Act, 1994 read with Rule 7 of the Service Tax Rules, 1994, as amended, in as much as they had failed to properly assess their Service Tax liability under Rule 2(1)(d) of Service Tax Rules, 1994 and failed to declare correct value of taxable services as well as exempted services to the department in the prescribed return in Form ST-3.

20. It further appeared that on account of all the above narrated acts of commission and omissions on the part of the said service provider, they have rendered themselves liable to penalty under the following proviso of the Finance Act, 1994 and Rules framed there under:

➤ Section 70 and Section 77 of the Finance Act, 1994 as amended in as much as they failed to correct self assess the tax due on the services provided and have not filed the correct ST-3 return and contravened the provisions of Service Tax.

➤ Section 78 of the Finance Act, 1994, in as much as they have suppressed the material facts from the department about service provided and value realized by them with intent to evade payment of service tax.

It is observed that as per Section 70 of Finance Act, 1994, the fees for the late filing of return are prescribed. The nature of default for late filing of



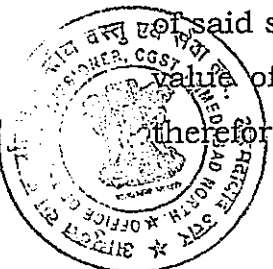
fees was less than 15 days, the amount of penalty is Rs. 500 for 15 days; where the nature of default is more than 15 days & less than 30 days, the amount of penalty is Rs. 1000; and where the nature of default is more than 30 days, the amount of penalty is Rs. 1000 + Rs. 100 for each day subject to maximum penalty of Rs. 20000/-. Hence, they were liable for payment of late fees for non filing of ST 3 returns for the aforesaid period in stipulated time.

22. It is observed that Section 70 of the Finance Act, 1994 stipulates that every person liable to pay the Service Tax shall himself assess the tax due. The Government has introduced self-assessment system under a trust base regime which casts the onus of proper assessment and discharging of the Service Tax on the Service Provider. The definition of "assessment" available in Rule 2(b) of Service Tax Rules, 1994 is reproduced as under:-

"Assessment" includes self assessment of service tax by the Service Provider, re-assessment, provisional assessment, best judgment assessment and any order of assessment in which the tax assessed is nil; determination of the interest on the tax assessed or re-assessed."

23. In the instant case, the said service provider has failed to obtained the Service Tax Registration and assess the Service Tax liability. They have restored to suppression of material facts to the department by not obtained the Service Tax registration and not declared the taxable income incurred in respect of the services liable to Service Tax. It appeared that the Service Tax as quantified herein above was liable to be recovered by invoking the extended period of limitation as provided for under Section 73 of the Finance Act, 1994 along with interest in terms of the provisions of Section 75 of the Finance Act, 1994. The said Service Provider have not disclosed full, true and correct information about the value of the service provided by them, and thus, it appeared that there was berated withholding of essential and material information from the department about service provided and value realized by them. It appeared that all these had been concealed from the department deliberately, consciously and purposefully to evade payment of Service Tax. Therefore, in this case all essential ingredients existed to invoke the extended period of limitation in terms of proviso to Section 73(1) of Finance Act, 1994 to demand the Service Tax short/not paid.

24. It appeared that all the above acts of suppression of facts, misstatement and contravention, omissions and commissions were on the part of said service provider that they had willfully suppressed the facts, nature and value of service provided by them by not assessing and paying Service Tax, therefore, the above said amount of Service Tax of **Rs. 5513957/-** (Non-



payment of Service Tax for the period **2014-15 to 2016-2017** on Income from taxable service provided by them), and Late fee (Non filing of Service Tax returns) for the above period was required to be demanded and recovered from them under the proviso to Section 73(1) of the Finance Act, 1994 by invoking extended period of five years. It appeared that the said service provider have contravened the provisions of Section 66B of the Finance Act, 1994, Section 68 of the Finance Act, 1994 as amended read with Rule 6 of the Service Tax Rules, 1994 and Section 70 of the Finance Act, 1994 read with Rule 7 of the Service Tax Rules, 1994 in as much as that they had failed to pay Service Tax amounting to **Rs. 5513957/-** (including applicable EC, SHEC, SBC & KKC) for the period **F.Y. 2014-15 to 2016-17**, they have failed to declare value of taxable service to the department and thus suppressed the amount of charges received by them for providing taxable services as detailed above.

25. The said Service Provider had failed (a) to take Service Tax Registration under the provisions of section 69 *ibid*; (b) to keep, maintain or retain books of account and other documents as required in accordance with the provisions of Finance Act, 1994; (c) to furnish information / documents called for from them; and (d) to pay the service tax, accordingly the said Service Provider was liable for penalty under the provisions of Section 77(1) of Finance Act, 1994.

26. All these acts of contravention of the provisions of Section 67, Section 68 and Section 70 of the Finance Act, 1994 read with Rule 6 & Rule 7 of the Service Tax Rules, 1994, it appeared to be punishable under the provisions of Section 76 and 77 of the Finance Act, 1994 as amended from time to time. It appeared that the said service provider have contravened the provisions of Finance Act, 1994 and the rules made there under. All the contraventions and violations made by the said the said service provider appear to have rendered themselves liable for penalty under **Section 76 & Section 77** of the Finance Act 1994.

27. In addition to the contravention, omission and commission on the part of the said service provider as stated in the foregoing paras, it appeared that the said service provider had wilfully suppressed the facts, nature and value of service provided by them with an intent to evade the payment of service tax, rendering themselves liable for penalty under **Section 78** of the Finance Act, 1994.

The proceedings proposed and that may be taken against the said Service Provider, under the aforementioned provisions of the Finance Act, 1994



read with the Service Tax Rules, 1994 framed there under, are saved by the Section 174(2) of the CGST Act, 2017.

29. Accordingly Show Cause Notice was issued to **M/s, SHANKERLAL ISHWERDAS PATEL** asking them as to why :-

➤ The services rendered by them should not be considered as "taxable services" under Section 65 of the Finance Act, 1994, as amended, and the total/gross amount of **Rs.40179481** received towards rendering such services should not be considered as taxable value of the said taxable services charged by them for the **F.Y. 2014-15 to 2016-17** ;

➤ **Service Tax of Rs. 5513957/- (Fifty Five Lakh Thirteen Thousand Nine Hundred Fifty Seven)** which was not paid for the F.Y.2014-15 to 2016-17, should not be demanded and recovered from them under proviso to Sub-section (1) of Section 73 of Finance Act,1994; read with relaxation provisions of Section 6 of Chapter V of the Taxation and Other Laws(Relaxation of Certain Provisions) Ordinance, 2020(No. 2 of 2020) promulgated on 30.03.2020 by invoking extended period of time limit ;

➤ **Interest** at the prescribed rate should not be demanded and recovered from them for the period of delay of payment of service tax mentioned above under Section 75 of the Finance Act,1994 ;

➤ **Prescribed late fee**, should not be recovered from them for each S.T.-3 return filed late, for the relevant period, under Rule 7C of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994 ;

➤ **penalty** should not be imposed upon them under **Section 76** of the Finance Act, 1994 for the failure to make payment of service tax payable by them within prescribed time-limit ;

➤ **Penalty** should not be imposed upon them under Section 77(1) of the Finance Act, 1994 for failure to take Service Tax registration as per the provisions of Section 69 of the Finance Act, 1994 ;

➤ **Penalty** should not be imposed upon them under Section 78 of the Finance Act, 1994, for non-payment of Service Tax by willfully suppressing the facts from the department with intent to evade the payment of Service Tax as explained herein above.



DEFENCE REPLY ;

30. The noticee vide letter dated 08.10.2020 submitted their written submission. They have forwarded the details of sales for the year 2014-15, 2015-16 and 2016-17. They have submitted the copies of some work order under which they have been awarded the work to them and some work order in which they have worked as sublet in respect of original work have been awarded to main contractor. The noticee vide letter dated 09.10.2020 submitted that they were Civil Contractor in the field of drainage services for Government & Semi Government Organisations for many years; that as per Notification No. 25/2012, Civil Contractor doing contracts of plumbing, Drainage for Government & Semi Government Organisations was exempted for main contractor and sub contractor; that for the year 2014-15, 2015-16, and 2016-17 they have done contract work for Government and semi government organisations;

Personal Hearing:

31. The Personnel Hearing was granted to the assessee on 23.09.2021. Shri Malav Mehta, Chartered Accountant appeared for personal hearing on behalf of the assessee. He reiterated the written submission made by the assessee. They submitted written submission during Personal Hearing and requested to drop proceedings as the service provided falls under the exempted category.

Further Submission;

32. The assessee vide letter dated 01.10.2021 and 20.10.2021 further submitted Form ITR, Balance Sheet and Profit & Loss Account for F.Y.2014-15 to 2016-17, Copy of exemption notification, copy of ledger of M/s. Green Environment services Co.Op. Society, B.M.Patel Engineering Corporation, Patel Construction, P. Das infrastructure, Patel Construction, Aditya Infra, J. Kumar Infra Projects. Form 26AS, some work orders of main contract and subcontract work done by them for the year 2014-15, 2015-16 and 2016-17. They have submitted letter dated 10.12.2021, the details of the bills issued by them to the service receivers.

Additional Submission :

The noticee vide letter dated 19.10.2021 has also furnished the Income Tax returns alongwith the ledger account and balance sheet for the year 2014-15, 2015-16 and 2016-17 and vide letter dated 10.12.2021



the service provider has submitted the remaining bills for the year 2014-15 to 2016-17, which were not submitted earlier.

34. The noticee vide letter dated 13.01.2022 has furnished the agreement between P.Das infrastructure and Shree Sat Kaiwal Corporation (2) work order given by AMC to P. Das infrastructure (3) work Contract between Kalathia Engineering and Construction Ltd. and Shree Sat Kaiwal Corporation and stated that Vatva Industrial Estate Infrastructure is sister concern of Green Environment Services Co Op Society and hence work done for green environment service co op society but payment received from Vatva Industrial Estate Infrastructure.

DISCUSSION AND FINDINGS:

35. I have carefully gone through the facts of the case and records available in the case file, which include the SCN, the defence reply, written submission made during Personal Hearing, and additional reply/documents submitted by the assessee after Personal Hearing on the subject matter.

36. On going through the SCN, I find that data of Sales /Gross receipt from services as per ITR provided by the Service Provider were shared by the CBDT with CBIC for FY 2014-15, 2015-16 & 2016-17. The difference in value of service to the extent of Rs. **4,01,79,481/-** was noticed and therefore, the subject SCN was issued. Accordingly, I find that the issue which requires determination as of now is whether the Service Provider liable to pay service tax on the differential value of Rs. **4,01,79,481/-** under proviso to section 73(1) of Finance Act, 1944 or not.

37. Thus, first and foremost I feel it necessary to understand the activities being carried out by the Service Provider. I find that after introduction of new system of taxation of services in negative list regime, any services for a consideration was taxable except those services specified in the negative or exempt list by virtue of mega exemption notification.

38. I find that the noticee have submitted that, they were Contractor of Civil construction in the field of drainage for Government & Semi Government Organisations for many years; that by Notification No.25/2012 Civil Contractor doing contracts of plumbing, Drainage for Government & Semi Government Organisations were exempted from levy of service tax; that for the year 2014-2015-16, and 2016-17 they had works contract for Government and semi government organisations; that they had submitted party wise contract and



memorandum of understanding for the same; they also submitted bills raised to the service receiver.

39. They had contended that the services provided by them were covered under entry no. 12, 12A and 13 of the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012.

40. In order to comprehend the nature of service, I would like to take support of the ITR, form 26AS and Audited balance sheet and profit and loss account for the FY 2014-15, 2015-16 & 2016-17. I would like to discuss and reproduced the relevant excerpt of the documents.

41. I find that the Profit and Loss Accounts for FY 2014-15, 2015-16, 2016-17 recognises main Revenue as "Contract Receipt". I find that the activities carried out by the Service Provider for a consideration were squarely covered under the definition of "Service" as defined under Section 65B (44) of the Act and I also find that there was no dispute in this regard.

42. I find that the Service Provider in his written submission stated that the activities carried out by them were covered under entry no. 12,12A and 13 of the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012, and stated that the Services provided by them were exempted. I reproduce the relevant entry of the said notification which are as under;

Notification No. 25/2012-Service Tax dated- 20th June, 2012, as amended. Incorporating changes made till issuance of notification no 10/2017-Service Tax dated 8-3-2017 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:-

12. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -

(a) ***

(b) **a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);**

(c) ***



(d) canal, dam or other irrigation works; (e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or

(f) *** "

12A. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of - (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause (44) of section 65 B of the said Act; under a contract which had been entered into prior to the 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date: provided that nothing contained in this entry shall apply on or after the 1st April, 2020;" Inserted vide Notification 9/2016- Service Tax to be in effect from 1 March 2016..

13. Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-

(a) a road, bridge, tunnel, or terminal for road transportation for use by general public; (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana; "

(ba)

43 I find that the Exemption Notification No. 25/2012-Service Tax dated 20th June, 2012 issued under Section 93(1) of the Act, grants exemption to the taxable services enlisted therein from whole of Service Tax leviable under section 66B of the Act. I find that the Service Provider had contested the demand of service tax on services rendered by them being Civil Contractor carried out contract works of Plumbing, Drainage for Government & Semi Government Organisation and covered by entry no. 12, 12A and 13 of the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012.

44 I find that the submission dated 01.10.2021, 19.10.2021 and 10.12.2021 and 13.01.2022, wherein the Service Provider had furnished the amount of total services provided to Government & Semi Government Organisation during the period 2014-15 to 2016-17. Based on the documents submitted by the noticee, I discuss one by one herein as under :



FINANCIAL YEAR 2014-15

Year	Name of the organization	Contractor/ Sub contractor	Details of contract	Bills No.	Bills received.	Entry in 26As
2014-15	B. M. Patel Engineering corporation	Sub contract work	Electrical and mechanical work	03/01.01.2015	2222230	5122230
				02/03.10.2014	700002	
				01/30.06.2014	2200000	
				TOTAL	5122232	5122230
	Green Environmental Services	Main contractor	Drainage/ construction work allotted by main contractor	07/27.02.2015	86850	6771055
				06/04.10.2015	60000	
				05/24.09.2014	165000	
				04/20.08.214	280000	
				03/2014-15	5179205	
				02/18.07.2014	325000	
				01/10.04.2014	75000	
				TOTAL	6771055	6771055

44.1 I had gone through the work allotted, the bills received and the respective entry in their 26As. I Find that Shri B. M. Patel Engineering Corporation had received work contract from Ahmedabad Urban Development Authority, Ahmedabad vide work order dated 01.03.2014 for construction and electrical and mechanical work and work order dated 30.05.2013 for providing & laying sewerage network in TP 37, 38/1 for SPS-1 in Baherampura ward, subsequently which had been allotted to Shri Sat Kaiwal Corporation vide letter dated 03.03.2014 by B. M. Patel Engineering Corporation. The said work was required to be completed within 2 years. Shri Sat Kaiwal Corporation had raised Bills for the said work and the amount of the said bills had been reflected in the form 26As for the respective year. Similarly, the Green Environment Services Co-Op Society Ltd, awarded work for repairing of breakdown on Gravity line of 450mm dia near, Vatva GIDC and other work vide work orders dated 08.07.2014, 21.07.2014 and 28.07.2014 to Shri Sat Kaiwal Corporation. Total income of Rs. 67,71,055/- from Green Environment Services Co-Op Society Ltd had been reflecting in their 26AS.



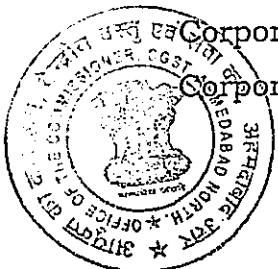
44.2 FINANCIAL YEAR 2015-16

Year	Name of the organization	Contractor / Sub contractor	Details of contract	Bills No.	Bills received.	Entry in 26As
2015-16	B. M. Patel Engineering corporation	Sub contract work	Civil, Electrical and Mechanical work	01/2015-16	1100000	1100000
	Green Environmental Services	main contract	Repairing of mega line civil work	02/2015-16	265000	465000
			Drainage work	01/2015-16	200000	
			TOTAL		465000	465000
	Kalathia Engineering & Constr	sub contract work	Drainage work & Civil work	01/28.04.2015	322000	2230965
			Job work for pumping station	2/13.05.2015	203895	
			Drainage work	3/30.05.2015	1083070	
			Drainage work	4/30.05.2015	322000	
			Civil & Drainage work	5/24.06.2015	300000	
			TOTAL		2230965	
	Patel Construction	sub contract work	Civil Work	01/02.06.2015	4764995	8697399
			civil work	02/30.06.2015	3882280	
			Drainage/civil work	03/10.03.2016	50124	
			TOTAL		8697399	8697399
	P. Das infrastructure	sub contract work	Drainage work	1/30.06.2015	607124	3702930
			drainage work	2/08.08.2015	447124	
drainage work			3/04.11.2015	755292		
drainage work			4/29.03.2016	1613140		
TOTAL				3422682	3702930	
				15916046	16196294	

44.3 I find that the service provided as main contractor and sub-contractor as well as amount shown in form 26AS as under ;

(i) B. M. Patel :

I Find that Shri B. M. Patel Engineering Corporation had received work contract from Ahmedabad Urban Development Authority, Ahmedabad vide work order dated 01.03.2014 for construction and electrical and mechanical work , subsequently which had been allotted to Shri Sat Kaiwal Corporation vide letter dated 03.03.2014 by B. M. Patel Engineering Corporation. The said work was required to be completed within 2 years. Shri



Sat Kaiwal Corporation had raised Bills for the said work and the amount of the said bills had been reflected in the form 26As for the respective year..

(ii) The Green Environment Services Co-Op Society Ltd, had awarded work for repairing of Mega line on new Maninagar Road, Nr. CTM express way and in other areas, vide work order dated 03.04.2015, 06.04.2015. The work had been carried out by Shri Sat Kaiwal Corporation. The total income of Rs. 4,65,000/- received from Green Environment Services Co-Op Society Ltd., had been reflected in 26AS.

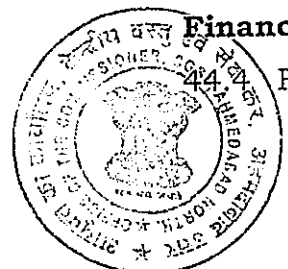
(iii) Patel Construction : The Ahmedabad Municipal Corporation had awarded work to Shri Patel Construction for drainage and construction, the said work had been allotted to the assessee by Patel Construction vide letter dated 24.04.2015. The total income of Rs. 86,97,399/- received from Patel Construction had been reflecting in 26AS.

(iv) Kalathia Engineering & Construction Ltd; I find that M/s. Gujarat Water supply & Sewerage Board awarded work to **Shri Kalathia Engineering & Construction vide work order dated No. 33 dated 29.01.2011** and the said work has been awarded to the noticee by M/s. Kalathia Engineering and construction Ltd vide letter dated 02.11.2014. The work awarded for repairing, renovation, cleaning of RCC Pipe etc. for 5 years. Shri Sat Kaiwal Corporation had raised Bills for the said work and the amount of the said bills had been reflected in the form 26AS for the respective year.

(v) P. Das Infrastructure : I find that the work Agreement had been made between P. Das Infrastructure and Shri Sat Kaiwal Corporation on 18.02.2015 for drainage and construction work. I also find that Ahmedabad Municipal Corporation vide work order No. AMC Dranage Project Inward No. 3186 dated 11.12.2014 has awarded the work to P. Das Infrastructure which has been awarded to the noticee vide MOU cum agreement dated 18.02.2015. **Shri Sat Kaiwal Corporation had raised Bills for an amount of Rs. 34,22,682/-** However, in their 26AS an amount of Rs. 37,02,930/- has been reflected. I consider the difference of Rs. 2,80,248/- for the said service provided as threshold limit notified vide Notification No. 33/2012-ST dated 20.06.2012 wherein Service Provided is exempted taxable services of aggregate value not exceeding ten lakh rupees in any financial year from the whole of the service tax leviable thereon under section 66B of the said

Finance Act.

FINANCIAL YEAR 2016-17



difference of Rs. 99,860/- for the said service provided as threshold limit notified vide Notification No. 33/2012-ST dated 20.06.2012 wherein Service Provided is exempted taxable services of aggregate value not exceeding Rs.Ten lakh in any financial year from the whole of the service tax leviable thereon under section 66B of the said Finance Act. The said agreement was also shown in the financial year 2015-16.

44.7 I find that the service provider has furnished the Bill No. Bill/06/2014-15 dated 04.10.2014 raised to M/s. Vatva Industrial Estate Infrastructure Development Ltd for drainage work. I find that noticee vide written submission dated 13.01.2022 stated that Vatva Industrial Estate Infrastructure is sister concern of Green Environment Services Co Op Society and hence work done for green environment service co.op society but payment received from Vatva Industrial Estate Infrastructure. I find that the said work is as per work order received and work carried out of which bills have been raised and receipt of payment were reflecting in 26AS.

45. I find that the **Notification No. 25/2012-Service Tax dated- 20th June, 2012** issued under Section 93(1) of the Act, grants exemption to the taxable services enlisted therein from whole of Service Tax leviable under section 66B of the Act. I find that the Service Provider had contested the demand of service tax on services rendered by them being Civil Contractor carrying out contract for Plumbing, Drainage for Government & Semi Government Organisation and were covered by entry no. 12,12A and 13 of the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012.

46. Having considered above facts and discussion, I am of the view that the service provider was engaged in providing the works contract services and claiming the benefit of Mega Exemption Notification NO.25/2012-ST dated 20.06.2012, Sr. No. 12, 12A & 13, as they were Civil Contractor in the field of drainage services for Government & Semi Government Organisations. Having considered these factual and documentary evidences available on records, I find no reason to disregard the assessee's arguments. I am, therefore, of the view that the assessee has established their case quite clearly and therefore I hold that no service tax is payable by the assessee as demanded in the subject SCN.

47. I find that the SCN had not questioned the taxability on any income other than the income from sale of services shown in ITR/Form 26AS. I therefore refrain myself from to enter in to the taxability on other income other than the sale of service.



48 In view of the facts and circumstances pertaining to the case as aforementioned, 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 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. SHANKERLAL ISHWERDAS PATEL situated at "T403 AAROHI CREST NEAR SAAL PARISAR, 200FT. RING ROAD SOUTH BOPAL AHMEDABAD GUJARAT", having PAN No. **ACKPP9351P**, vide Show Cause Notice F.No. STC/15-101/OA/2020 dated 30.09.2020.



R. Gulzar Begum

(R. GULZAR BEGUM)
Additional Commissioner
Central GST & Central Excise
Ahmedabad North

F.No. STC/15-101/OA/2020

Dated- 25 .01.2022

BY REGD. POST A.D./SPEED POST/Hand Delivery

To,
M/s. SHANKERLAL ISHWERDAS PATEL,
T403 AAROHI CREST NEAR SAAL PARISAR,
200FT. RING ROAD SOUTH BOPAL
AHMEDABAD GUJARAT

Copy to:

1. The Commissioner of CGST & C. Ex., Ahmedabad North.
2. The Assistant Commissioner, CGST & C. Ex., Division-VI, 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