
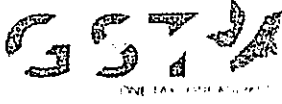


<p>आयुक्त का कार्यालय, केंद्रीय जी. एस. टी. एवं केंद्रीय उत्पाद शुल्क, अहमदाबाद - उत्तर, कस्टम हाँउस, प्रथम तल, नवरंगपुरा, अहमदाबाद- 380009</p>		 <p>OFFICE OF COMMISSIONER CENTRAL GST & CENTRAL EXCISE, AHMEDABAD- NORTH CUSTOM HOUSE, 1ST FLOOR, NAVRANGPURA, AHMEDABAD-380009</p>
<p>फ़ोन नंबर/ PHONE No.: 079-27544557</p>	<p>फैक्स/ FAX : 079-27544463</p>	<p>E-mail:- oaahmedabad2@gmail.com</p>

निबन्धित पावती डाक द्वारा/By R.P.A.D

DIN- 20220364WT0000555A10

फा.स./F.No. STC/15-83/OA/2020

आदेश की तारीख/Date of Order :- 21-03-2022

जारी करने की तारीख/Date of Issue :- 21-03-2022

द्वारा पारित/Passed by:-

आर गुलजार बेगम /R. GULZAR BEGUM

अपर आयुक्त / Additional Commissioner

मूल आदेश संख्या / Order-In-Original No. 90/ADC/ GB /2021-22

जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसके/उनके निजी प्रयोग के लिए मुफ्त प्रदान की जाती है।

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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।

(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 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:

(1) Copy of accompanied Appeal.

(2) Copies of the decision or, one of which at least shall be certified copy, the order

Appealed against OR the other order which must bear a court fee stamp of Rs.5.00.

विषय:- कारण बताओ सूचना/ Proceeding initiated against Show Cause Notice F.No.STC/15-83/OA/2020 dated 29.09.2020 issued to M/s Simran Outsourcing Services Pvt Ltd., Labh Complex, 407, Nr. C.U. Shah College, Opp. Sakar III, Income Tax, Ashram Road, Ahmedabad.



BRIEF FACSTS OF THE CASE

M/s. Simran Outsourcing Services P.Ltd, Labh Complex, 407, NR. C. U. Shah College , Opp. Sakar III, Income Tax, Ashram Road, Ahmedabad (hereinafter referred to as the 'Assessee' for the sake of brevity) is registered under Service Tax having Registration No. AAKCS6360CSD001.

2. On going through the third party CBDT data for the Financial Year 2014-2015 to 2016-17, it has been observed that the Assessee has declared less/ not declared any taxable value in their Service Tax Return (ST-3) for the F.Y.2014-2015 to 2016-17 as compared to the Service related taxable value declared in their Income Tax Return (ITR)/ Form 26AS, the details of difference as per CBDT data for the Financial Year 2014-2015 to 2016-17 are as under:

(Amount in Rs.)

F.Y.	Value As per B/S, P&L, Form 26AS of ITR	Value declared in ST-3 Returns	Differential amount	Service tax payable (including cess)
2014-15	13968358/-	1306844/-	12661514/-	1564963/-
2015-16	22724871/-	2250717/-	20474154/-	2968752/-
2016-17	26787183/-	3536781/-	23250402/-	3487560/-
Total				8021275/-

3. The clarification along with documents were called for from the assessee for assessment purpose, vide letter F.No. STC/Prev/Gr-I/TPD-/2017-18 dated 12.02.2018 followed by Reminders dated 03.05.2018, 30.07.2019 and 13.07.2020. The assessee neither submitted the documents nor extended the co-operation in the matter although sufficient time was provided. This act of non-co-operation of assessee has contravened the provision of Section 72 of the Finance Act, 1994 has rendered themselves liable for penal action under Section 77 of Finance Act, 1994.

4. In view of above, it appeared 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.8021275/-, 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 to 2016-17. 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 appeared 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.8021275/-. It further appeared that the above act of omission on the part of the Assessee resulted into non-payment of Service tax on account of suppression of material facts and contravention of provisions of 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 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, it appears that the Assessee has rendered themselves liable for penalty under Section 78 of the Finance Act, 1994.

6. Therefore Show Cause Notice was issued to M/s.Simran Outsourcing Services P.Ltd is called upon to show cause as to why :

- (i) The demand for Service tax to the extent of Rs.80,21,275/-(Rupees Eighty Lakh Twenty One Thousand Two Hundred Seventy Five Only) short paid /not paid by them, should not be demanded 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 of Rs.10,000/- (Rupees Ten thousand only) should not be imposed under Section 77 of the Finance Act, 1994.

DEFENCE REPLY

7. No reply to the Show Cause Notice has been received from the said assessee.

PERSONNE HEARING

8. Personal hearing in the matter was fixed on 06.10.2021, 21.12.2021, 31.01.2022 and 03.03.2022. However neither the assessee nor any representative on behalf of assessee appeared for personal hearing nor filed any intimation for their non-appearance and they have also not filed any defence submission against the notice.

DISCUSSION AND FINDINGS

9. The proceedings under the provisions of the Finance Act, 1994 and Service Tax Rules, 1994 framed there under are saved by Section 174(2) of the Central Goods & Service Tax Act, 2017 and accordingly I am proceeding further.

10. I have carefully gone through the records of the case and as per the facts available on record I have noted that ample opportunity of personal hearing was given to the said assessee however, they have not availed the same to defend their case. Therefore, I am proceeding to decide the case ex-parte based upon the records available with this office. I find that the show cause notice was served to the assessee as can be seen from the acknowledgement receipt received from the assessee. A photo of the acknowledgment receipt is displayed below.

भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA

प्राप्ति स्वीकार / ACKNOWLEDGEMENT

रजिस्ट्री-पत्र / पार्सल प्राप्त हुआ
Received Registered Letter/Parcel

सं.सं. - 54
R.P.-54

रमाण / No. _____ तारीख / Dated _____ का / Of _____

भारतीय डाक विभाग
Insured for Rupees _____

प्राप्त किया / Addressed to _____

को / on _____

वितरण डाकघर की तारीख-मोहर
Date/stamp of office of delivery _____

हस्ताक्षर और नाम / Signature and Name _____

PREPARED BY: 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for calculation of service tax is the gross amount charged for providing the taxable services.

14. In view of facts stated hereinabove, the Value of Services declared in ITR filed by the assessee for Financial Year F.Y. 2014-15, 2015-16 & 2016-17 is considered as the taxable Value of Services provided and since the said notice has not provided any details/data and the reasons for non-payment of service tax, therefore, the exact Service Tax liability cannot be adjudged. Therefore, for calculation and demand of the Service Tax under this notice, the Value of Services declared in ITR filed by the notice has been considered for Non-Payment of Total Service Tax, which comes to Rs.80,21,275/- including cess for Financial Year F.Y. 2014-15, 2015-16 & 2016-17 as tabulated in the Table.

15. It is provided under section 68 of the Finance Act, 1994 that 'every person liable to pay service tax shall pay service tax at the rate specified in Section 66/66B *ibid* in such a manner and within such period which is prescribed under Rule 6 of the Service Tax Rules, 1994. In the instant case, the said assessee had not paid service tax as worked out above in Table-A.

16. As per section 70 of the Finance Act 1994, every person liable to pay service tax is required to himself assess the tax due on the services provided/received by him and thereafter furnish a return to the jurisdictional Superintendent by disclosing wholly & truly all material facts in their service tax returns (ST-3 returns). The form, manner and frequency of return are prescribed under Rule 7 of the Service Tax Rules, 1994. In this case, it appears that the said service provider has not assessed the tax dues properly, on the services provided by him, as discussed above, as they failed to file ST-3 Returns and thereby violated the provisions of Section 70(1) of the Act read with Rule 7 of the Service Tax Rules, 1994. From the foregoing paras and discussion made herein above, I find that the assessee has contravened the provisions of -

- (i) *Section 67 of the Finance Act, 1994 in as much as they have failed to assess and determine the correct value of taxable services provided by them, as explained in foregoing paras for the SCN period;*
- (ii) *Section 68 of the Finance Act, 1994 read with Rule 6 of the Service Tax Rules, 1994 in as-much-as they failed to make payment of service tax during the SCN period, to the credit of the Government account within the stipulated time limit;*
- (iii) *Section 70 of the Finance Act, 1994 as amended read with Rule 7 of the Service Tax Rules, 1994 in as much as they have failed to self-assess the Service Tax on the taxable value and to file correct ST-3 returns during the SCN period.*
- (iv) *Section 77 of the Finance Act, 1994 as much as they did not provide required data / documents, as called for from them.*

16. The government has from the very beginning placed full trust on the service tax assessee so far as service tax is concerned and accordingly measures like self-assessments etc., based on mutual trust and confidence are in place. All these operate on the basis of honesty of the service tax assessee; therefore, the governing statutory provisions create an absolute liability, when any provision is contravened or there is a breach of trust, on the part of service tax assessee, no matter how innocently. From the information/data received from CBDT, it appeared that the assessee has not discharged service tax liability in spite of declaring before Income Tax Department. Non-payment of service tax is utter disregard to the

requirements of law and the breach of trust deposited on them which is outright act of defiance of law by way of suppression, concealment & non-furnishing value of taxable service with intent to evade payment of service tax. All the above facts of contravention on the part of the service provider have been committed with an intention to evade the payment of service tax by suppressing the facts. Therefore, service tax not paid by the assessee worked out in Tables supra for financial Year F.Y. 2014-15, 2015-16 & 2016-17 is required to be recovered from them under Section 73 (1) of Finance Act, 1994 by invoking extended period of five years under the proviso to Section 73(1) of the Finance Act, 1994.

17. Further, as per Section 75 *ibid*, every person liable to pay the tax in accordance with the provisions of Section 68 *ibid*, or rules made there under, who fails to credit the tax or any part thereof to the account of the Central Government within the prescribed period is liable to pay the interest at the applicable rate of interest. Since the service provider has failed to pay their Service Tax liabilities in the prescribed time limit, I find that the assessee is liable to pay the said amount along with interest. Thus, the said Service Tax is required to be recovered from the assessee along with interest under Section 75 of the Finance Act, 1994.

18. I further find that on account of all the above narrated acts of commission and omissions on the part of the service provider, they have rendered themselves liable to penalty under the provisions of the Section 78 Finance Act, 1994, as amended in as much as they have mis-stated the taxable value of the services provided/received by them and they have, knowingly and willfully not paid the correct amount of Service Tax leviable on such amount.

19. All the above acts of contravention of the various provisions of the Finance Act, 1994, as amended from time to time, and Rules framed there under, on the part of the assessee has been committed by way of suppression of facts with an intent to evade payment of service tax and, therefore, the said service tax not paid is required to be demanded and recovered from them under the proviso to Section 73 (1) of the Finance Act, 1994, as amended from time to time, by invoking extended period of five years along with applicable interest. All these acts of contravention of the provisions of Section 67, 68 & 70 of the Finance Act, 1994, as amended from time to time read with Rules 6 and 7 of the erstwhile Service Tax Rules, 1994 on part of assessee have rendered them for penal action under the provisions of Section 78 of the Finance Act, 1994, as amended from time to time.

20. In view of the above facts and findings, I pass the following order.

ORDER

1. I confirm the demand of Service Tax of Rs.80,21,275/- (including cess) (Rupees Eighty Lakh Twenty One Thousand Two Hundred Seventy Five only), which was short paid during the period from 2014-15, 2015-16 & 2016-17 as per Table supra and order to recover from them under proviso to Sub-section (1) of Section 73 of Finance Act, 1994;
2. I confirm the demand of Interest at the appropriate rate and order to recover from them for the period of delay of payment of service tax mentioned at (i) above under Section 75 of the Finance Act, 1994;
3. I impose Penalty of Rs.10,000/- (Rupees Ten Thousand only), under Section 77 of the Finance Act, 1994, as amended
4. I impose Penalty of Rs. Rs.80,21,275/- (Rupees Eighty Lakh Twenty One Thousand Two Hundred Seventy Five only), under Section 78 of the Finance

Act, 1994, as amended. I further order that in terms of Section 78 (1) of the Finance Act, 1994 if M/s. Simran Outsourcing Services P.Ltd pays the amount of Service Tax as determined at Sl. No. (1) above and interest payable thereon at (2) above within thirty days of the date of communication of this order, the amount of penalty liable to be paid by M/s. Simran Outsourcing Services P.Ltd shall be twenty-five per cent of the penalty imposed subject to the condition that such reduced penalty is also paid within the period so specified.

R. Gulzar Begum $\frac{14}{21/3/20}$

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

F.No. STC/15-83/OA/2020

Dt. $\frac{21}{3/20}$

To
M/s. Simran Outsourcing Services P.Ltd,
Labh Complex, 407,
NR. C. U. Shah College , Opp. Sakar III,
Income Tax, Ashram Road, Ahmedabad

Copy to:

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