
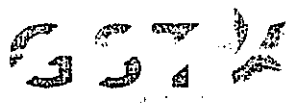


<p>आयुक्त का कार्यालय, केंद्रीय जी. एस. टी. एवं केंद्रीय उत्पाद शुल्क, अहमदाबाद – उत्तर, कस्टम हॉउस, प्रथम तल, नवरंगपुरा, अहमदाबाद- 380009</p>		 <p>OFFICE OF COMMISSIONER CENTRAL GST &amp; CENTRAL EXCISE, AHMEDABAD- NORTH CUSTOM HOUSE, 1<sup>ST</sup> FLOOR, NAVRANGPURA, AHMEDABAD-380009</p>
<p>फ़ोन नंबर./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

निबन्धित पावती डाक द्वारा/By R.P.A.D

DIN- 20220364WT0000333A78

फा.सं./F.No. STC/15-61/OA/2020

आदेश की तारीख/Date of Order :- 25-03-2022

जारी करने की तारीख/Date of Issue :- 25-03-2022

द्वारा पारित/Passed by:-

आर गुलजार बेगम /R. GULZAR BEGUM

अपर आयुक्त / Additional Commissioner

**मूल आदेश संख्या / Order-In-Original No. 99/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 एस टी -४ (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 -४ (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।

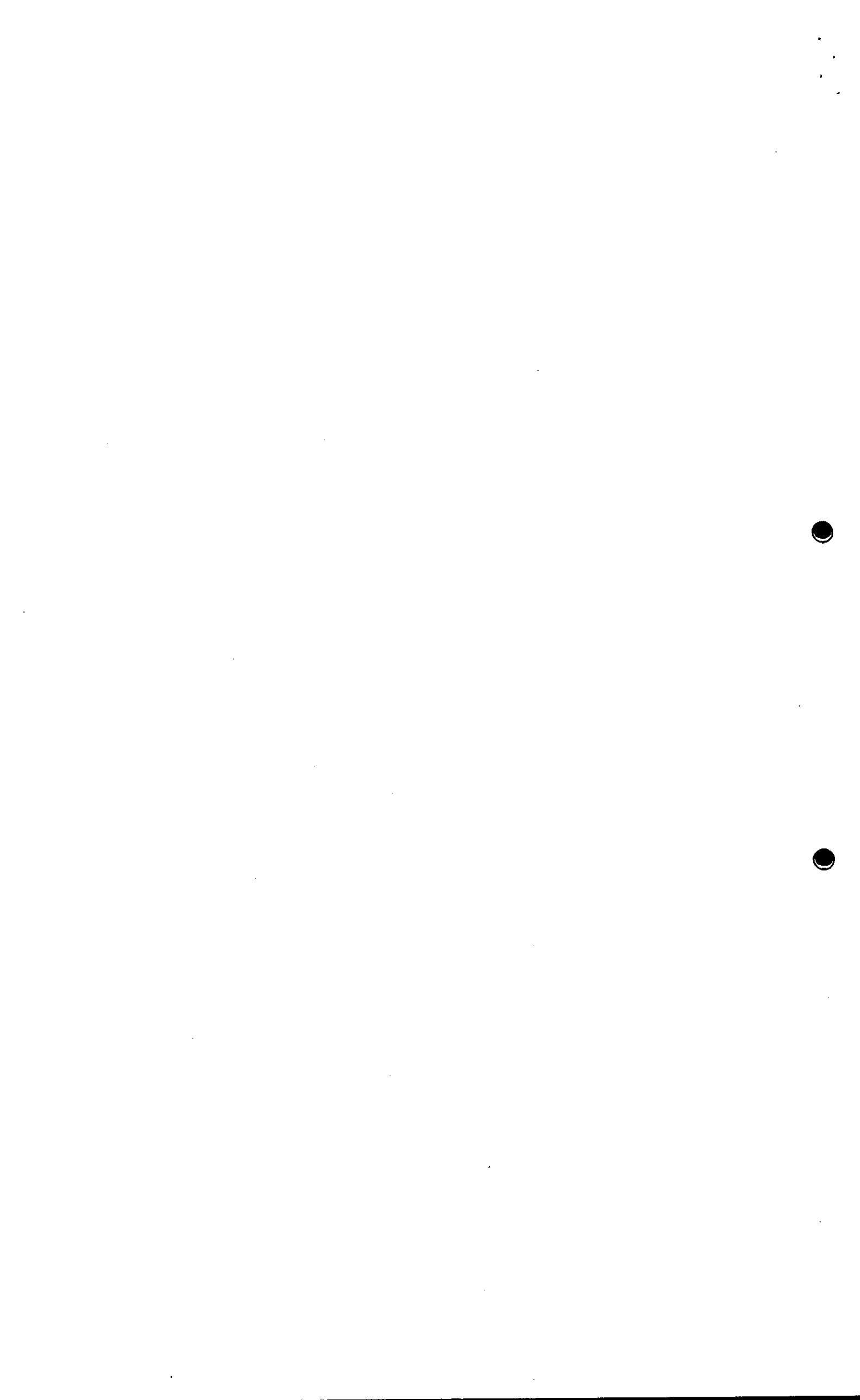
(2) निर्णय की प्रतियाँ अथवा जिस आदेश के विरुद्ध अपील की गई है, उनमें से कम से कम एक प्रमाणित प्रति हो, या दूसरे आदेश की प्रति जिसपर रु .5) 00. पांच रुपये (का न्यायालय शुल्क टिकट लगा होना चाहिए।

The appeal should be filed in form एस टी -४ (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/15-61/OA/2020 dated 28.09.2020 issued to M/s M/s Heart Care Associates, Aditya Complex, FF 32/33, Maninagar CHSL, Part 2, Opp. Sal Hospital, Thaltej, Ahmedabad.



**BRIEF FACTS OF THE CASE :**

M/s. Heart Care Associates, Aditya Complex, FF 32/33, Maninagar CHSL, Part 2, Opp Sal Hospital, Thaltej, Ahmedabad (hereinafter referred to as the 'Assessee' for the sake of brevity) is registered under Service Tax having Registration No.- ACRPJ0378DSD001 .

2. Information was received from CBDT regarding third party data for the Financial Year 2014-2015 to 2016-17 wherein it was observed that the assessee had declared different values in Service Tax Return ( ST-3) and Income Tax Return (ITR/Form 22AS). Vide letter no. 381/77/2012/1908 to 1932, dated 25.07.2016, the Directorate General of Audit, New Delhi, had informed that the third batch of CBDT data for the year 2014-15 to 2016-17 has been disseminated through Antarang portal <https://antarang.icegate.gov.in>. The said data along with the data for the subsequent periods was forwarded from the office of the Chief Commissioner, C.G.S.T, Ahmedabad Zone, Ahmedabad, to the respective through Preventive Section, H.Q.,C.G.S.T., Ahmedabad North.

3. On scrutiny of the above data, it was noticed that the Assessee has declared less 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 by them in their Income Tax Return (ITR)/ Form 26AS, the details of which are as under:

(Amount in Rs.)

Sr No	F. Y.	Total Sale of Service as per ITR	TOTAL GROSS VALUE PROVIDED (STR)	VALUE DIFFERENCE in ITR and STR	Resultant Service Tax short paid (including Cess)
1.	2014-15	52251456/-	2560067/-	49691389/-	6141856/-
2.	2015-16	45314489/-	2356487/-	42958002/-	6228910/-
3.	2016-17	46972053/-	535537/-	46436516/-	6965477/-
Total Duty					Rs.19336243/-

4. It was requested to explain the reasons for such difference and to submit documents in support thereof viz. Balance Sheet, Profit & Loss Account, Income Tax Returns, Form: 26AS, Service Income and Service Tax Ledger and Service Tax (ST-3) Returns for the Financial Year 2014-15, vide letters dated 08.02.2018,25.06.2019 and 17.07.2020 issued to the said assessee. However, the said assessee neither submitted any details/documents explaining such difference nor responded to the letters in any manner. For this reason, no further verification could be done in this regard by the department.

5. Since the assessee has not submitted the required details of services provided during the Financial Year 2014-15 to 2016-17, the service tax liability of the service tax assessee has been ascertained on the basis of income mentioned in the ITR returns and Form 26AS filed by the assessee with the Income Tax Department. The figures/data provided by the Income Tax Department is considered as the total taxable value in order to ascertain the Service tax liability under Section 67 of the Finance Act, 1994.

6. No data was forwarded by CBDT, for the period 2017-18 (upto June-2017) and the assessee has also failed to provide any information regarding rendering of taxable service for this period. Therefore, at this stage, at the time of issue of SCN, it is not possible to quantify short payment of Service Tax, if any, for the period from 2017-18 (upto June-2017).

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 issue by the CBEC, New Delhi clarified that:**

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

8. From the facts, it observed that the **“Total Amount Paid/Credited Under Section 194C,194H,194I,194J OR Sales/Gross Receipts From Services (From ITR)”** for the assessment year 2017-18 (upto June-2017) has not been disclosed thereof by the Income Tax Department, nor the reason for the non disclosure was made known to this department. Further, the assessee has also failed to provide the required information even after the issuance of letters and summons from the Department. Therefore, the assessable value for the year 2017-18 (upto June-2017) is 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 assessee, action will be initiated against the said assessee under the proviso to Section 73(1) of the Finance Act 1994 read with para 2.8 of the Master Circular No. 1053/02/2017-CX dated 10.03.2017, **in as much as the Service Tax liability arising in future, for the period 2017-18 (upto June-2017) covered under this Show Cause Notice, will be recoverable from the assessee accordingly.**

9. The government has from the very beginning placed full trust on the service provider so far service tax is concerned and accordingly measures like Self-assessments etc., based on mutual trust and confidence are in place. Further, a taxable service provider is not required to maintain any statutory or separate records under the provisions of Service Tax Rules as considerable amount of trust is placed on the service provider and private records maintained by him for normal business purposes are accepted, practically for all the purpose of Service tax. All these operate on the basis of honesty of the service provider; therefore, the governing statutory provisions create an absolute liability when any provision is contravened or there is a breach of trust placed on the service provider, no matter how innocently. From the evidence, it appears that the said assessee had not taken into account all the income received by them for rendering taxable services for the purpose of payment of service tax and thereby evaded their tax liabilities. The service provider appears to have made deliberate efforts to suppress the value of taxable service to the department and appears to have not paid the liable service tax in utter disregard to the requirements of law and breach of trust deposed on them. Such outright act in defiance of law, appear to have rendered them liable for stringent penal action as per the provisions of Section 78 of the Finance Act, 1994 for suppression or concealment or furnishing inaccurate value of taxable service with an intent to evade payment of service tax.

10. In light of the facts discussed here-in-above and the material evidences available on records, it is revealed that the assessee, M/s. Heart Care Associates have contravened the following provisions of Chapter-V of the Finance Act, 1944, the Service Tax Rules, 2004:

- (i) Failed to declare correctly, assess and pay the service tax due on the taxable services provided by them and to maintain records and furnish returns, in such form i.e. ST-3 and in such manner and at such frequency, as required under

Section 70 of the Finance Act, 1994 read with Rule 6 & 7 of the Service Tax Rules, 1994;

- (ii) Section 67 of the Finance Act, 1994 in as much as they have failed to determine the correct value of taxable service provided by them as discussed above;
- (iii) Section 66B and Section 68 of the Finance Act, 1994 and Rules 2 & 6 of the Service Tax Rules, 1994 in as much as they have failed to pay the Service Tax correctly at the appropriate rate within the prescribed time in the manner and at the rate as provided under the said provision. In the instant case, the said assessee had not paid service tax as worked out in the Table for Financial Year 2014-15 to 2016-17.
- (iv) All the above acts of contravention on the part of the said assessee appear to have 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 Section 73 (1) of the Finance Act, 1994 by invoking extended period of five years. All these acts of contravention of the provisions of Section 68, and 70 of the Finance Act, 1994 read with rule 6, and 7 of Service Tax Rules, 1994 appears to be punishable under the provisions of Section 78 of the Finance Act, 1994 as amended from time to time.
- (v) The said assessee is also liable to pay interest at the appropriate rates for the period from due date of payment of service tax till the date of actual payment as per the provisions of Section 75 of the Finance Act, 1994.
- (vi) Section 77 of the Finance Act, 1994, in as much as they failed to file correct and true ST-3 returns.

11. And the above said service tax liabilities of the assessee, M/s. Heart Care Associates, has been worked out on the basis of limited data/ information received from the Income tax department for the financial years 2014-15 to 2016-17. Thus, the present notice relates exclusively to the information received from the Income Tax Department.

12. 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. From the evidences, it appears 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. 1,93,36,243/-(including Cess). It appears 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(1) of the Finance Act, 1994 read with Notification dated 27.06.2020 issued vide F.No.CBEC-20/06/08/2020-GST by invoking extended period of time, along with Interest thereof at appropriate rate under the provisions of Section 75 of the Finance Act, 1994 and penalty under Section 78 of the Finance Act, 1994.

13. Therefore, M/s. Heart Care Associates, Aditya Complex, FF 32/33, Maninagar CHSL, Part 2, Opp Sal Hospital, Thaltej, Ahmedabad called upon to show cause before the Additional Commissioner, Central Goods and Service Tax, Ahmedabad North having his office situated at 1st Floor, Customs House, Opposite Old High Court, Income Tax Cross Road, Navrangpura, Ahmedabad -380009 as to why :

- (i) The Service Tax to the extent of Rs. Rs. 1,93,36,243/- (Rupees One Crore Ninety Three lakhs Thirty Six Thousand Two hundred Forty Three 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 read with Notification dated 27.06.2020 issued vide F.No.CBEC-20/06/08/2020-GST;
- (ii) Service Tax liability not paid during the financial year 2017-18(upto June-2017),ascertained in future, as per paras no. 7 and 8 above, should not be demanded and recovered from them under proviso to Sub-section (1) of Section 73 of Finance Act,1994.
- (iii) Interest at the appropriate rate should not be demanded and recovered from them under the provisions of Section 75 of the Finance Act, 1994;
- (iv) Penalty under the provisions of Section 77(1) and 77(2) of the Finance Act, 1994 amended, should not be imposed on them.
- (v) Penalty should not be imposed upon them under the provisions of Section 78 of the Finance Act, 1994.

#### DEFENCE REPLY :

The assessee Dr. **Anil Ranjeetmal Jain** vide letter dated 17.03.2022 inform that he is a registered medical practitioner as a Doctor and doing his practice as Cardio Vascular and Thoracic Surgeon; that he attached copy his medical practice certificate; that he is Proprietor of M/s Heart Care Associates located at FF 32/33, Manisagar CHSL, Part 2 Opp SAL Hospital Thaltej Ahmedabad and registered under service tax having Registration No. ACRPJ0378DSD001; that he is working at various clinical establishments from which he receives most of his income; that he pays income tax on all the income received by him according to tax bracket; that after introduction of negative list tax regime, Notification No. 25/2011-ST exempted levy of service tax on health care services rendered by clinical establishments; that the terms '**Clinical establishment**' and '**Health Care Services**' is defined as "**Clinical establishment**" means hospital, nursing home, clinic, sanatorium or any other institution by whatever name called, that offers services or facilities requiring diagnosis or treatment of care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases."

"health care services" means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment but does not include their transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of both affected due to congenial defects, developmental abnormalities, injury or trauma."; that these two provisions available in **Notification No.25/2012** 1 show that clinical establishments or individual medical practitioner providing health care services are exempted from service tax and therefore he is not liable to pay GST (Service Tax ) for his services at various clinical establishments. He further stated that his professional work as surgeon, occasionally some remuneration has been received by him from companies to cover travel booking and miscellaneous expenses of patients for which GST is payable and he has done so according to the rules. They also attached duly audited Balance sheet for the FY 2014-15, 2015-16 and 2016-17 along with form 26AS, S.Tax returns.

#### PERSONNEL HEARING

12. Personal Hearing was granted to the assessee on 22.03.2022. Shri Alpesh Solanki, Advocate, authorized representative appeared for personnel hearing. He has

stated that the assessee is doctor and perform health care services and not liable to pay Service Tax.

### DISCUSSION AND FINDINGS

13. I have carefully gone through the records of the case, SCN, defence reply, duly audited Balance sheet for the FY 2014-15, 2015-16 and 2016-17, as well as oral submissions made by the said assessee during the proceedings. In the instant case, I find that the said assessee is registered with Service Tax Department under Registration No. ACRPJ0378DSD001 and was engaged in providing "Healthcare Services". On going through the third party CBDT data for the Financial Years 2014-2015, 2015-16 and 2016-17, it was observed that the assessee has less declared 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 and accordingly SCN was issued to the said assessee to recover the short paid Service Tax of Rs.1,93,36,243/- along with interest and penalty. 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 77 and 78 of the Finance Act, 1994.

14. In the instant case, I find that the assessee vide their reply dated 17.03.2022 contended that the receipts are from healthcare services and healthcare services is exempted under entry No.2(i) of Noti.25/2012 dated 20.06.2012 and therefore he is not supposed to pay any service tax on their receipts. Now, I consider necessary to look into the definition of "Health Care Service" provided under the Act as the assessee has claimed their service to be Health Care Service. I find that the definition of "Health Care Service" is provided under the Notification No. 25/2012-ST dated 20.06.2012 at Sr. No. (2) (i), the same is reproduced for better comprehension:

*"health care services" means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;"*

15. The said assessee vide their letter dated 17.03.2022 submitted that he is registered medical practitioner as a Doctor and doing his practice as Cardio Vascular and Thoracic Surgeon and is proprietor of Heart Care Associate. As mentioned in SCN, the difference in value of service as per ITRS and gross value of services provided in ST 3 returns is Rs. 139085907 /- for the period under reference. They contended that the above receipts are from healthcare services and healthcare services is exempted under entry No.2(i) of Noti.25/2012 dated 20.06.2012 and therefore he is not supposed to pay any service tax on their receipts. They have also submitted audit report and Balance sheet 2014-15 to 2016-17.

16. On perusal of defence reply dated 17.03.2022 and other documents available on record, I find that the assessee have rendered Health Care Services which is rightly an exempted service as provided vide Sr.No. 2(i) of Mega Exemption Notification No. 25/2012-ST dated 20.06.2012 and Sr. No. (I) of negative list of service specified under Section 66D of the Act. Hence, I find that the activities being carried out by the assessee for a consideration are squarely covered under the definition of "Service" as defined under Section 65B (44) of the Act and I also find that there is no dispute in this regard. The assessee has also submitted the Independent Auditors' Reports for FY 2014-15, 2015-16 and 2016-17. I find that the Independent Auditor is appointed by the Company under Section 139 of the Company Act, and auditor has to make a report, in accordance with Section 143 of Company Act, to the members of the company on the accounts examined by him and on every financial statements which are required by or under this Act to be laid before the company in general meeting and

the report shall after taking into account the provisions of this Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of this Act or any rules made there under or under any order made under section 143(1) and to the best of his information and knowledge, the said accounts, financial statements give a true and fair view of the state of the company's affairs as at the end of its financial year and profit or loss and cash flow for the year and such other matters as may be prescribed.

17. On perusal of audited Balance Sheet, I find that the assessee's revenue from operations i.e Direct Income has been depicted in Note No.9 of the financial statements attached to the Auditors report for the year 2014-15 to 2016-17 under the Direct Income.

18. I find from the available records in the file that the total Gross Value provided in their STR for the respective years are the income received from 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.

19. In the instant case, on perusal of Balance Sheet, I find that the assessee earned an income by way of providing health services as mentioned above. The said assessee has also furnished photocopies of ledgers wherein the sale of service income under various heads under which they collected service income for both the financial years in support of their claim. They have also furnished photocopies of various Bills raised against the services provided by them on description details of sale of services under every major head.

20. Having considered above facts and discussion, I find that the service provided by the assessee is appropriately classifiable under the Health Care Service. On going through the ST-3 returns, it is noticed that the assessee has declared service tax liability to be discharged under RCM only and no liability under forward charge has been declared. From the SCN, I find that the SCN has not questioned the taxability on any income other than the income from sale of services. I therefore refrain from discussing the taxability on other income other than the sale of service.

Further, on perusal of paras 6,7 & 8 of SCN, I find that the levy of Service Tax for the financial year 2017-18 (Up to June 2017), which was not ascertainable at the time of issuance of subject SCN, if he same was to be disclosed by the Income Tax department or any other source/agencies, against the said assessee, action was to be initiated against assessee under proviso to Section 73(1) read with master Circular No. 1053/02/2017-CX dated 10.03.2017, the service tax liability was to be recovered from the assessee accordingly, I however, do not find any charges leveled for the demand for the year 2017-18 (Up to June 2017), in charging para of the SCN.



21. I find that the Notification No. 25/2012 -ST dated 20.06.2012 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 assessee has contested the demand of service tax on services rendered by them being Health Care Service and has claimed the exemption from levy of service tax under Sr. No. 2(i) of Notification No. 25/2012-ST dated 20.06.2012.

22. On perusal of various records and documents available, I find that the assessee is a Hospital which is engaged in business of providing Health Care Service and is rightly covered under the above definition of clinical establishment. Keeping in view the aforementioned detailed discussions, I find that the services rendered by the assessee is squarely covered under the Sr.No. 2(i) of the Notification No. 25/2012-ST dated 20.06.2012 and find that the exemption is quite clearly available to the assessee as claimed by them. As they are eligible for exemption as discussed herein above, I hold that no service tax is payable by the assessee as demanded in the subject SCN. I have also verified their 26AS for the year 2015-16 and 2016-17 wherein I find and observed that the assessee has received income under head 194 J from various Hospitals for rendering Healthcare services. For the sake of clarity, the consolidated worksheet are tabulated and reconciled as under:

Financial Year	2014-15	2015-16	2016-17
Income as per Audited Balance Sheet/ITR	52251456/-	45314489/-	46972053/-
Income as per ST 3 Return from clinical and research expenses on which Service Tax paid	25600067/-	2356487/-	535537/-
Difference	49691389/-	42958002/-	46436516
Services covered under Noti.No.25/2012 dt.20.06.212 ( exempted) as discussed above as the same are appearing under head 194 J	49691389/-	42958002/-	46436516
Difference	0	0	0

23. In view of the above discussion and findings and also on perusal of SCN, audited Balance Sheet for the year 2014-15 to 2015-16, 2016-17 ITR, 26ASS as well as submissions made by the said assessee, I find that the difference in value of service by comparing the value of services in ITR/TDS and gross value of services provided in ST-3 Returns is basically on account of the services exempted vide Sr.No. 2(i) of the Notification No. 25/2012-ST dated 20.06.2012 being the Health Care Service rendered by the assessee as discussed hereinabove which was not shown in ST-3 Returns. As the income received from medical services is exempted from taxable services by above Exemption Notification, I find that the service tax demand of Rs. 1,93,36,243/- is not sustainable and accordingly Show Cause Notice dt.28.09.2020 is liable to be dropped. Further, as the SCN itself is not sustainable there is no reason to charge interest u/s.75 of Finance Act, 1994 or to impose penalty u/s.78 of Finance Act, 1994 upon the said assessee on this count.

24. In view of the above I pass the following order;

**ORDER**

25. I hereby order to drop the proceedings initiated against M/s. Heart Care Associates, Aditya Complex, FF 32/33, Maninagar CHSL, Part 2, Opp Sal Hospital, Thaltej, Ahmedabad for recovery of service tax of Rs. 1,93,36,243/- along with interest and penalties vide SCN No. STC/15-61/OA/2020 dated 28.09.2020.



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

By Regd. Post AD./Hand Delivery  
F.No.STC/15-61/OA/2020

Date: 23.03.2022

To

M/s. Heart Care Associates,  
Aditya Complex, FF 32/33, Maninagar CHSL,  
Part 2, Opp Sal Hospital, Thaltej, Ahmedabad

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-II, Division-VII, Central Excise & CGST, Ahmedabad North
4. The Superintendent (System) CGST, Ahmedabad North for uploading on website.
5. Guard File