



आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER

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

पहली मंजिल, कस्टम हाउस, नवरांगपुरा, अहमदाबाद - 380009

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निबन्धित पावती डाक द्वारा/By R.P.A.D
फा.सं./F.No. GST/15-55/OA/23-24

DIN- 20240464WT0000222FEC

आदेश की तारीख/Date of Order: - 25.04.2024

जारी करने की तारीख/Date of Issue :- 25.04.2024

द्वारा पारित/Passed by:-

लोकेश डामोर /Lokesh Damor

अपर आयुक्त / Additional Commissioner

मूल आदेश संख्या / Order-In-Original No. 06/ADC/LD/GST/2024-25

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 90 दिन के अन्दर आयुक्त (अपील), केंद्रीय वस्तु एवं सेवा कर एवं उत्पाद शुल्क, केंद्रीय उत्पाद शुल्क भवन, अंबावाड़ी, अहमदाबाद 380015-को प्रारूप GST-APL-01 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 GST-APL-01 to the Commissioner(Appeals), Central GST & Central Excise, Central Excise Building, Ambawadi, Ahmedabad-380015 within three months 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 GST-APL-01 में दो प्रतियों में दाखिल की जानी चाहिए। उस पर केंद्रीय जी. एस. टी. नियमावली, 2017 के नियम 108 के प्रावधानों के अनुसार हस्ताक्षर किए जाने चाहिए। उक्त अपील के साथ निम्नलिखित दस्तावेज संलग्न किए जाएं।

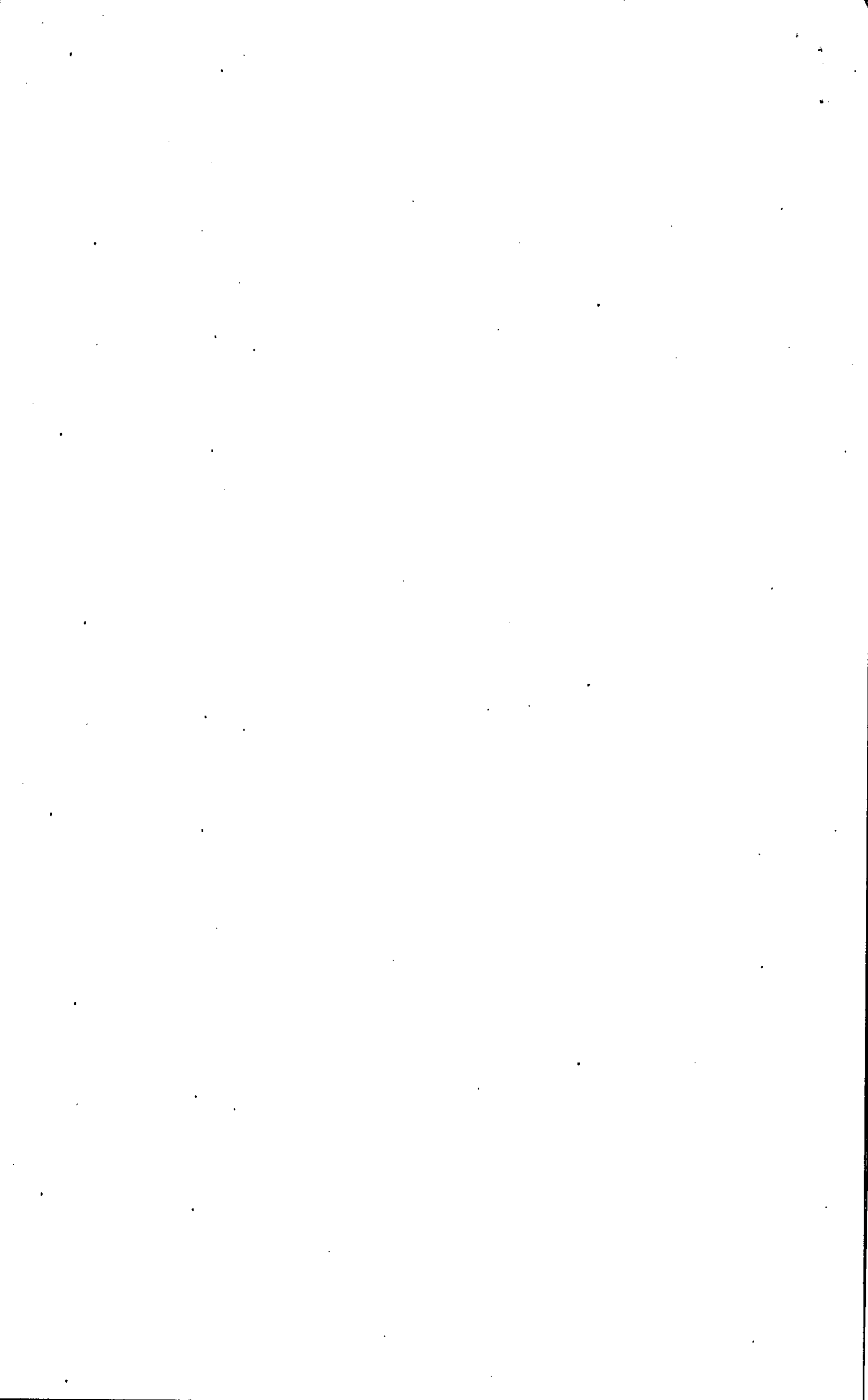
- (1) उक्त अपील की प्रति।
- (2) निर्णय की प्रतियाँ अथवा जिस आदेश के विरुद्ध अपील की गई है, उनमें से कम से कम एक प्रमाणित प्रति हो, या दूसरे आदेश की प्रति जिसपर रु. 5.00 (पांच रुपये) का न्यायालय शुल्क टिकट लगा होना चाहिए।

The appeal should be filed in form GST-APL-01 in duplicate. It should be signed by the appellant in accordance with the provisions of Rule 108 of CGST Rules, 2017. 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. GADT/TECH/SCN/GST/84/2023 dated 18.07.2023 issued to M/s. SKF Engineering and Lubrication India Pvt. Ltd. (formerly Lincon (Helios) India Limited), GSTIN: 24AAACL2061P1ZH, Mile Stone-Kandla 333, Village - Kerla, Taluka - Bavla, Ahmedabad, Gujarat - 382220





BRIEF FACTS OF THE CASE

M/s SKF ENGINEERING AND LUBRICATION INDIA PRIVATE LIMITED (EARLIER Lincon (helois) India Limited), GSTIN: 24AAACL2061P1ZH having their principal place of business situated at Mile stone-Kandla 333, Village-Kerala, Taluka-Bavla, Ahmedabad, Gujarat, 382220 are engaged in the outward supply of goods i.e. BALL OR ROLLER BEARINGS -OTHER CYLINDRICAL ROLLERBEARINGS: RADIAL TYPE : OF ALLBORE DIAMETERS - CTH 8482.

2. The audit of the records of the said taxpayer was conducted for the period from April, 2020 to March, 2022 and subsequently Final Audit Report No :103/2023-24-GST dated 09.06.2023 was issued to the said taxpayer, wherein 02 revenue paras remained unsettled which are discussed in detail hereunder. Wherever the provisions of the CGST Act, 2017 (hereinafter referred to as "the said Act") have been referred, it includes reference to the parallel provisions under the Gujarat GST Act, 2017 and provisions of IGST Act, 2017 as made applicable vide Section 20 thereof. The revenue para detected which is unsettled is as follows:

Revenue Para No 02 :- Nonpayment of interest on the delayed payment of tax on outward supplies owing to lower value being declared at the time of initial supply

3. Whereas, during the audit proceedings and verification of records/GST returns / & documents etc. of the taxpayer, it was revealed that the taxpayer had issued tax invoices in Dec, 2020 in respect of price difference of clearances which were made by them during May, 2020 to Nov, 2020 and paid the tax due on the price difference in December, 2020. It was found that this price difference was not on account of any price revision at a later stage, but, due to deliberate non inclusion of the values of expenses as mentioned at Section 15(2)(b) & (c) of the CGST Act, 2017, in their assessable value and accordingly have discharged lower tax at the time of supply of the goods. Therefore, it appeared that in terms of Section 12(2)(a) read with Section 15(1) and Section 15(2)(b) & (c) of CGST Act, 2017, tax liability in this case arose at the time of supply of the first clearance and not at the time of issue of price difference, as the value applied at the time of supply of the goods was lower than the actual value of the goods. It was also found that there are two different prices for the same item during a particular period, which was later rectified by the taxpayer during December, 2020. The details of differential value and differential amount of tax along with interest liability is worked out in the table below :

Diff Value	CGST - 9%	SGST - 9%	tax invoice no	TOTAL TAX	Interest
39,81,093	3,58,298	3,58,298	IN0005658	7,16,596	75272
1,51,75,790	13,65,821	13,65,821	IN0005659	27,31,642	246521
2,12,34,285	19,11,086	19,11,086	IN0005660	38,22,172	286506
2,51,24,090	22,61,168	22,61,168	IN0005661	45,22,336	269853
3,08,91,970	27,80,277	27,80,277	IN0005664	55,60,554	249540
3,89,25,155	35,03,264	35,03,264	IN0005665	70,06,528	207316
3,17,34,712	28,56,124	28,56,124	IN0005666	57,12,248	84510
16,70,67,094	1,50,36,038	1,50,36,038		3,00,72,076	14,19,519/-

3.1 Section 12 of the CGST Act, 2017 is reproduced as under :



(1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of goods shall be the earlier of the following dates, namely:-

(a) the date of issue of invoice by the supplier or the last date on which he is required, under ^{1[****]} section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply:

Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Explanation 1.- For the purposes of clauses (a) and (b), "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 2.- For the purposes of clause (b), "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:-

(a) the date of the receipt of goods; or

(b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

(4) In case of supply of vouchers by a supplier, the time of supply shall be-

(a) the date of issue of voucher, if the supply is identifiable at that point; or

(b) the date of redemption of voucher, in all other cases.

(5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall-

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

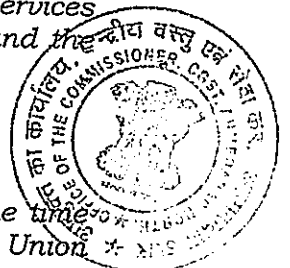
(b) in any other case, be the date on which the tax is paid.

3.2 Section 15 of the CGST Act, 2017 is reproduced as under :

(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include-

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union



Period	CGST	SGST	IGST	Total
20-21	47613	47613	0	95226
21-22	57424	57242	0	114848
TOTAL	105037	105037	0	2,10,074/-

4.1. Section 2(60) of the CGST Act, 2017 is reproduced as under :

"any service used or intended to be used by a supplier in the course of furtherance of business;"

4.2 Section 16(1) of the CGST Act, 2017 is reproduced as under :

"Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person."

4.3. Section 17(1) of the CGST Act, 2017 is reproduced as under :

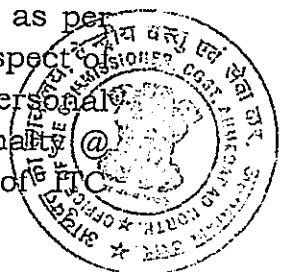
"Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business."

5. It appeared that the taxpayer has taken ITC in respect of invoices issued by M/s Sai Krupa Landscapes, providing materials for Gardening and also gardening services. The services are mainly in relation to maintenance of garden around the factory and administrative building. Accordingly, it appeared that maintenance of the garden is not an activity which is necessary for the production or supply of bearings and as such the said input service cannot be said to be used in the furtherance of business of the taxpayer as mandated under Section 16(1) of the CGST Act, 2017 and the same appeared to be blocked credit under Section 17(1) of the CGST Act, 2017.

6. It appeared that the said taxpayer has contravened the provisions of Section 16(1) read with Section 17(1) of the CGST Act, 2017/Gujarat GST Act, 2017, in as much as, they have availed credit which are blocked under Section 17 of the CSGT Act, 2017 and also availed credit in respect of input services which are not used for furtherance of their Gujarat unit.

7. A query memo dated 26.04.2023 was issued to the taxpayer informing them about the tax liability arising on account of the above transaction. In response to the above query, the taxpayer paid an amount of tax amounting to Rs.32,320/- along with interest of Rs.13,449/- and penalty of Rs.4,848/- vide DRC-03 dated 08-06-2023 in respect of **Food and Beverages & FORTAL Z VITAMIN C E.(medicines for personal consumption of employees etc).**

8. Out of total ITC involved in Revenue Para No.3 is Rs.2,10,074/- as per above table and the taxpayer has paid an amount of Rs.32,320/- in respect of ITC availed on food & beverages, Fortal Z Vitamin C & E medicines for personal consumption of employees along with interest of Rs.13,449/- and penalty 15% amounting to Rs.4,848/-. Therefore, the remaining amount of



involved amounting to Rs.1,77,754/-(CGSTRs.88,877/-, SGSTRs.88,877/-) in respect of services used for gardening services, is required to be disallowed, demanded and recovered from the taxpayer under Section 74(1) of the CGST Act, 2017/Gujarat GST Act, 2017. It appeared that they are also required to pay applicable Interest under Section 50(3) of the CGST Act, 2017 read with Rule 88B of the CGST Rules, 2017 on the said wrongly availed and utilised ITC. The taxpayer appeared to have deliberately availed and utilised the blocked ITC with intent to utilise the same for discharging their GST liability, thus, they appeared to be liable for penalty under Section 74(1) of the said CGST Act, 2017/Gujarat GST Act.

Other Legal Provisions :-

9. Section 39 of the CGST Act, 2017 :

[(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

(2) A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.]

(3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.

(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.

(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within ²[thirteen] days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

(6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

³[(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:



⁴**Provided** that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,—

(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or

(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed]

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.]

(8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.

(9) ⁵[Where] any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or subsection (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars. ⁶[in such form and manner as may be prescribed], subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the ⁷[thirtieth day of November] following ⁸[the end of the financial year to which such details pertain], or the actual date of furnishing of relevant annual return, whichever is earlier.

(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods ⁹[or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him:

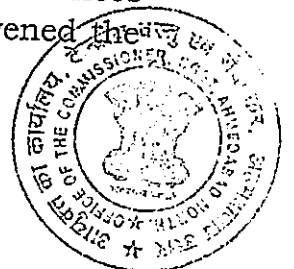
9.1 Rule 61 of the CGST Rules 2017:-

[Rule 61. Form and manner of furnishing of return.-

(1) Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return in **FORM GSTR-3B**, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner,

10. From conjoint reading of Section 2(6), 12, 15 & 39 of the CGST Act, 2017 read with Rule 61 of the CGST Rules, 2017, it appeared that the taxpayer should have filed correct GSTR-3B returns, however, it appeared they have knowingly failed to file correct GSTR-3B returns. They should have suo moto paid the interest on the delayed payment of tax under Section 50(1) and also not availed the input tax credit in respect of the gardening services which is not the service used in or in relation to furtherance of business.

11. In light of the facts discussed hereinabove and the material evidences available on records, it appeared that the said taxpayer have contravened the following provisions of CGST Act, 2017/CGST Rules, 2017:



- (i) Section 12 and 15 of the CGST Act, 2017 wherein they have supplied full goods at the time of issue of initial invoice, however only part of the tax was paid at the time of supply of goods and the remaining tax was paid at a later stage. They have also not paid the interest on the delayed payment of tax as discussed above.
- (ii) Section 39 of the CGST Act, 2017 read with Rule 61 of the CGST Rules, 2017 in as much as they failed to file correct GSTR-3 returns, failing which the interest payment on delayed payment of tax and availment of ineligible ITC credit on gardening services was unearthed;
- (iii) Section 50(1) of the CGST Act, 2017, in as much as they failed to discharge their GST liability in due time and not paid the interest leviable thereon;
- (iv) Section 59 of the CGST Act, 2017, in as much as they failed to self assess their tax liability to evade payment of tax;

12. In terms of the provisions of Rule 142(1A) of the CGST Rules, 2017, DRC-01 A was issued to the said taxpayer on 05.07.2023 intimating their liability under Section 74(5) of the CGST Act, 2017 or to file any submissions against the above ascertainment in Part-B of DRC-01A on or before 26.12.2022. The taxpayer has neither paid the dues nor filed any submissions for consideration.

13. Accordingly, A Show Cause Notice No.- GADT/TECH/SCN/GST/84/2023 dated 18.07.2023 was issued to M/s SKF ENGINEERING AND LUBRICATION INDIA PRIVATE LIMITED as to why:

- (i) the total tax amounting to Rs 3,00,72,076/- (CGST of Rs 1,50,36,038/and SGST of Rs 1,50,36,038/-) (Rupees Three Crore Seventy Two Thousand and Seventy Six Only), as per Revenue Para No.2, should not be demanded and recovered from them under Section 74(1) of the CGST Act, 2017/Gujarat GST Act, 2017;
- (ii) tax amounting of Rs 3,00,72,076/-(CGST of Rs.1,50,36,038/-and SGST of Rs.1,50,36,038/-) (Rupees Three Crores Seventy Two Thousand and Seventy Six Only) as per Revenue Para No.2, paid by the taxpayer vide GSTR-3B for the month of December, 2020 should not be appropriated against the proposed demand at (i) above;
- (iii) Interest amount of Rs.14,19,519/(CGST+SGST) should not be demanded and recovered from them on the amount mentioned at (i) hereinabove, under Section 50(1) of the CGST Act, 2017/Gujarat GST Act, 2017;
- (iv) Penalty should not be imposed upon them, under the provisions of Section 74(1) of the CGST Act,2017/ Gujarat GST Act,2017 on tax amount mentioned at (i) above;
- (v) Wrongly availed ITC totally amounting to Rs.1,77,754/-(Rupees One Lakh Seventy Seven Thousand Seven Hundred Fifty Four Only) (CGST+SGST) as per Revenue Para No.3 should not be demanded and



recovered from them under Section 74 (1) of the CGST Act, 2017/Gujarat GST Act, 2017;

(vi) Interest at appropriate rate should not be charged and recovered from them on the tax mentioned at (v) above under Section 50(3) of the CGST Act, 2017/Gujarat GST Act, 2017 read with Rule 88B of the CGST Rules 2017;

(vii) Penalty should not be imposed upon them under Section 74(1) of the CGST Act, 2017/Gujarat GST Act, 2017 on tax amount mentioned at (v) above.

DEFENCE REPLY

14. M/s SKF ENGINEERING AND LUBRICATION INDIA PRIVATE LIMITED vide their letter dated 08.09.2023 submitted their reply to the SCN wherein they stated that:-

- (i) They submitted that there is error in the calculation of the interest on the price difference debit notes issued in Dec 2020 pertaining to the invoices raised during the period May 2020 to Nov 2020. The interest has been calculated on the gross liability instead of the net cash outflow. The interest calculation is enclosed with reply. Further, they submitted that Section 34 of the CGST Act 2017 stated that a registered supplier of goods or services or both is mandatorily required to issue a tax invoice. However, during the course of trade or commerce, after the invoice has been issued there could be situations may arise like: - (1) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply (Where Declared Value less than Actual Value) / (Rate of tax charged lesser than rate applicable) or ~ (2) where the goods supplied are received by the recipient, or where goods or services or both supplied are found to be in excess (Quantity received more than Declared Quantity) the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed. (3) Where the supplier charges a penalty for delayed payment of consideration from the customer, the supplier would issue a debit note for that amount of penalty, to the customer to specify that amount which is payable to the supplier by the customer. Further, reading of Section 34(4) clarifies that there is no time limit for issuance of debit note.
- (ii) Further amendment proposed by the Finance Act, 2020 was notified and made effective from 01.01.2021 vide NN. 92/2020-CT dt. 22.12.2020, which delinked the debit notes and credit notes from the date of original invoice. Though, the amendment is notified as effective from 01.01.2021, it is very much clear that the said amendment is merely a declaratory of the previous law and is also beneficial to the community as a whole. The intention of the law makers is also very much clear which was discussed in 38th GST Council meeting. Accordingly, such amendment should be treated as curative amendment and hence, should have application retrospectively w.e.f. 1st July 2017. There are various precedences to support this claim.



- (iii) They submitted that when a tax invoice is issued and later a debit note is issued, supply made earlier becomes a part supply and the amount paid as per debit note is for the supply of portion covered by the debit note and vice versa. The Hon'ble Supreme Court recently in the case of *Steel Authority of India - 2015 (326) ELT 450 (SC)*, held that it would be impossible to expect the assessee to pay the excise duty, 'at the time of clearance of the goods, on the basis of price escalation that took place at a later date in future. Therefore, as on the date of clearance when excise duty was paid, it could not be treated as 'short-paid' on the said date. As a consequence, when the principal amount, namely, the excise duty itself was not payable (i.e., on the differential) on the date of clearance of the goods, there cannot be any question of payment of interest.
- (iv) They had raised Debit notes for the price revision in the month of December 2020. As regards the price revision, they submitted that their Transfer Price is being calculated based on Product grouping and its reference Price (Standard Cost). The said cost and price was being monitored on a monthly basis for variations, if any. Due to some technical issue with respect to Transfer Price Factor defined in the system, Transfer Price of the Products sold to SKF India Ltd, had been reduced significantly. On going through the variations, the Transfer Price Factor was re-calculated and the same has been rectified in the month of Dec 2020 by changing the same and accordingly, the Tax Invoices were raised for Price Increase. The email correspondence with respect to the price revisions enclosed as Annexure - 2.
- (v) When an assessee is having enough eligible credits lying in its electronic credit ledger, then the question of interest on debit note does not come into 'picture' as amendment to Section 50 has been made applicable retrospective from 01.07.20217 where in interest is applicable only on cash liability. Further, they submitted that tax liability in case of Debit notes triggers only on the date of Debit note and not the original invoice date.
- (vi) As per the provisions of section 50 of the Act, the same should be calculated on the monthly net cash liability that would arise giving the effect of the debit notes as there is sufficient balance lying in the electronic credit ledger of the company for most of the months. They have calculated the same and the net interest liability comes to Rs. 3,01,388 instead of Rs. 14,19,518. The month-wise interest calculation is enclosed as Annexure 1.
- (vii) In respect of garden service, they submitted that gardening services provided by Ms/ Sai Krupa Landscape relates to the maintenance and gardening services located at the factory premises of the company. 'factory premises' means plant area where manufacturing activity is carried out and administrative building. The services of maintenance & upkeep of gardens that are located within the factory premises should be considered to be an "input service" as per section 2(60) of the CGST Act, 2017 and should also be considered to be "used or intended to be uses in the course or furtherance of business" as per section 16(1) of the CGST Act, 2017 and Input Tax Credit should be available in respect of expenditure done on such services on counts. (1)



Gardening is essential & mandated by Pollution Control Board to maintain quality of ambient air & prevent air & water pollution (2) Garden creates better atmosphere and environment which increases working efficiency and thus its maintenance is essential in the course of business for better running & furtherance of business. (3) Cost of such 'gardening expenses' forms part of the cost of the final products and thus forms part of the value of taxable supply.

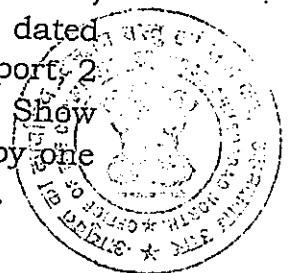
- (viii) On this issue, they relied upon on following judgement:-
- (1) *M/s. Rane TRW Steering System Ltd. vs The Commissioner of Central Excise and Central Tax (2018).*
 - (2) *Mukand Ltd's case Vs. Commissioner of Central Excise, Belapur {2016 (42) STR 88 (Tri-Mumbai)}.*
 - (3) *HCL Technologies Ltd., Vs. Commissioner of Central Excise, Noida {2015 (4) STR 369 (Tri-Del)}.*
 - (4) *Lifelong Meditech Ltd., Vs. Commissioner of Central Excise and Service Tax, Gurgaon II {2016 (44) STR 626 (Tri-Chan)}.*
 - (5) *M.s, Orient Bell Ltd., Vs. Commissioner of Central Excise, Noida, reported in 2016 SCC Online CESTAT, 7923.*
 - (6) *Commissioner of Central Excise, Delhi III, Suzuki Motor Cycle India Private Limited (2017 (47) STR 85 (Tri-Chan)).*
 - (7) *Commissioner of Commercial Taxes and GST, Odisha against an order of the (AAR 2018 (18) G.S.T.L. 508 (A.A.R. - GST) = 2018 (10) TMI 748 - AUTHORITY FOR ADVANCE RULING, ODISHA IN RE : NATIONAL ALUMINIUM COMPANY LTD.)*.
 - (8) *AAAR, Maharashtra in case of In re Ordanance Factory (Order No. MAH /AAAR/SS-RJ/13/2019-20).*

PERSONNEL HEARING

15. In the instant case, Personal Hearing was granted to the taxpayer on 15.02.2024 and 29.02.2024. Shri Rahul V Daga, CA, Shri Durgeshkumar Kathuria, Senior Tax Expert and authorised signatory appeared on behalf of the taxpayer on 29.02.2024. They reiterated their written submissions dated 08.09.2023. He further requested to decide the said SCN on merits.

DISCUSSION AND FINDINGS

16. In the instant case, I have carefully gone through the Show Cause Notice, reply to SCN, facts of the case on record and other submissions made by the noticee. On recapitulating, I find that audit of the financial records of the said taxpayer was conducted for the period from April 2020 to March, 2022 and subsequently Final Audit Report No. :- 103/2023-24- GST dated 09.06.2023 was issued to the said taxpayer. In the said Final Audit Report, 2 Revenue Paras are un-settled and on the basis of said paras, present Show Cause Notice has been issued. Now, I am going to discuss issues one by one and examine the assessee's response to reach a conclusion in the matter.



(A) Revenue Para No 02 :- Nonpayment of interest on the delayed payment of tax on outward supplies owing to lower value being declared at the time of initial supply:-

17.1 I find that during the course of GST audit, it was observed that the taxpayer had issued tax invoices in Dec, 2020 in respect of price difference of clearances which were made by them during May, 2020 to Nov, 2020 and paid the tax due on the price difference in December, 2020. It was found that this price difference was not on account of any price revision at a later stage, but, due to deliberate non inclusion of the values of expenses as mentioned at Section 15(2)(b) & (c) of the CGST Act, 2017 in their assessable value and accordingly have discharged lower tax at the time of supply of the goods. The details of differential value and differential amount of tax along with interest liability is worked out in the table below :

Diff Value	CGST - 9%	SGST - 9%	tax invoice no	TOTAL TAX	Interest
39,81,093	3,58,298	3,58,298	IN0005658	7,16,596	75272
1,51,75,790	13,65,821	13,65,821	IN0005659	27,31,642	246521
2,12,34,285	19,11,086	19,11,086	IN0005660	38,22,172	286506
2,51,24,090	22,61,168	22,61,168	IN0005661	45,22,336	269853
3,08,91,970	27,80,277	27,80,277	IN0005664	55,60,554	249540
3,89,25,155	35,03,264	35,03,264	IN0005665	70,06,528	207316
3,17,34,712	28,56,124	28,56,124	IN0005666	57,12,248	84510
16,70,67,094	1,50,36,038	1,50,36,038		3,00,72,076	14,19,519/-

17.2 However, M/s SKF Engineering and Lubrication India Private Limited has denied said allegation and submitted that due to some technical issue with respect to Transfer Price Factor defined in the system, Transfer Price of the Products sold to SKF India Ltd had been reduced significantly. On going through the variations, the Transfer Price Factor was re-calculated and the same has been rectified in the month of Dec 2020 by changing the same and accordingly, the Tax Invoices were raised for Price Increase.

17.3 Firstly, I reproduced below relevant provision i.e. Section 12 of the CGST Act 2017 and Section 15 of the CGST Act 2017:-

Section 12 of the CGST Act, 2017:

(1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of goods shall be the earlier of the following dates, namely:-

(a) the date of issue of invoice by the supplier or the last date on which he is required, under 1[****] section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply:

Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Explanation 1.- For the purposes of clauses (a) and (b), "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.



Explanation 2.- For the purposes of clause (b), "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:-

(a) the date of the receipt of goods; or

(b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

(4) In case of supply of vouchers by a supplier, the time of supply shall be-

(a) the date of issue of voucher, if the supply is identifiable at that point; or

(b) the date of redemption of voucher, in all other cases.

(5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall-

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(b) in any other case, be the date on which the tax is paid.

Section 15 of the CGST Act, 2017:

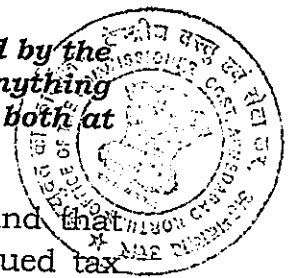
(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include-

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;



17.4 Ongoing through above provision and party's submission, I find that M/s SKF Engineering and Lubrication India Private Limited had issued tax invoices in Dec 2020 in respect of price difference of clearance which were made to M/s SKF India Limited by them during May 2020 to November 2020. Further, said taxpayer paid the tax of Rs. 3,00,72,076/- due on the price

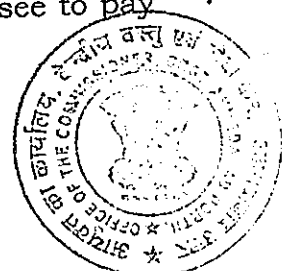
difference in the Month of December 2020. Further, in SCN it is alleged that price difference was due to deliberate non inclusion of value of expense in their assessable value as mentioned in Section 15(2) (b) & (c) of the CGST Act 2017. However, said taxpayer has denied said allegation and submitted that this was due to price revision/variation in Transfer Price Factor. In support of their claim, M/s SKF Engineering and Lubrication India Private Limited submitted merely a copy of email dated 15.05.2023. Apart from copy of email, they have not produced any supporting documents evidencing that said price difference was due to price revision/variation in Transfer Price Factor or otherwise. In absence of any documentary evidence, I do not find any merit in submission of the said Taxpayer that price difference was due to price revision/variation in Transfer Price Factor.

17.5 I relied upon on Audit report that price difference was due to deliberate non inclusion of value of expense in their assessable value. I find that as per Section 12(2)(a), of the CGST Act, 2017 the liability to pay tax arises at the time of supply of the goods. In the instant case, the goods have been supplied during the period from May, 2020 to November, 2020 and hence the liability to pay tax arises at the time of filing of GSTR 3B for the relevant month. Further, I find that as per Section 15(2)(b) & (c) of the CGST Act 2017, value of expenses shall be included in the value of supply, however said taxpayer has failed to include value of expenses at the time of supply of the goods. Therefore, the said taxpayer contravened the following provisions of CGST Act 2017.

- (i) Section 12 and 15 of the CGST Act, 2017 wherein they have supplied full goods at the time of issue of initial invoice, however only part of the tax was paid at the time of supply of goods and the remaining tax was paid at a later stage. They have also not paid the interest on the delayed payment of tax as discussed above.
- (ii) Section 39 of the CGST Act, 2017 read with Rule 61 of the CGST Rules, 2017 in as much as they failed to file correct GSTR-3 returns, failing which the interest payment on delayed payment of tax;
- (iii) Section 50(1) of the CGST Act, 2017, in as much as they failed to discharge their GST liability in due time and not paid the interest leviable thereon;
- (iv) Section 59 of the CGST Act, 2017, in as much as they failed to self assess their tax liability to evade payment of tax;

17.6 Therefore, said taxpayer is liable to pay tax on differential value which comes to Rs 3,00,72,076/- (CGST of Rs.1,50,36,038/- and SGST of Rs.1,50,36,038/-) (Rupees Three Crores Seventy Two Thousand and Seventy Six Only). Further, I find that said taxpayer has already paid Rs 3,00,72,076/- (CGST of Rs.1,50,36,038/- and SGST of Rs.1,50,36,038/-) and same needs to be appropriated. However, said taxpayer has not paid the interest amounting to Rs.14,19,519/- (CGST+SGST) on the delayed payment of tax amounting to Rs 3,00,72,076/- under Section 50(1) of the CGST Act 2017.

17.7 Further, I find that the said taxpayer has relied upon on judgement of Hon'ble Supreme Court of India in *Steel Authority of India - 2015 (326) ELT 450 (SC)*, wherein it held that "it would be impossible to expect the assessee to pay



the excise duty, at the time of clearance of the goods, on the basis of price escalation that took place at a later date in future. Therefore, as on the date of clearance when excise duty was paid, it could not be treated as 'short-paid' on the said date. As a consequence, when the principal amount, namely, the excise duty itself was not payable (i.e., on the differential) on the date of clearance of the goods, there cannot be any question of payment of interest". However, I find that above decision was overruled by Hon'ble Supreme Court of India in case of Steel Authority of India v/s Commissioner of Central Excise, Raipur **2019 SC LB 2019 (366) E.L.T. 769 (S.C.)** holding that interest needs to be paid on the supplementary invoice on the differential amount of duty issued due to price escalation. I find that said judgement of Hon'ble Supreme Court of India in case of Steel Authority of India v/s Commissioner of Central Excise, Raipur **2019 SC LB 2019 (366) E.L.T. 769 (S.C.)** is squarely applicable in present case. Hence, said taxpayer is liable to pay interest on price difference.

17.8 Further, I find that said taxpayer has submitted that there is error in calculation of interest. As per the provision of the Section 50 of the Act, interest should be calculated on the monthly net cash liability and accordingly net interest liability comes to Rs. 3,01,388/- instead of Rs. 14,19,519/-. In this regard, I reproduced below Rule 88B of CGST Rules 2017 which define "manner of calculating interest on delayed payment of tax":-

Rule 88B. Manner of calculating interest on delayed payment of tax.-

- (1) In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under sub-section (1) of section 50.
- (2) In all other cases, where interest is payable in accordance with sub section (1) of section 50, the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid, at such rate as may be notified under sub-section (1) of section 50.
- (3) In case, where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with sub-section (3) of section 50, the interest shall be calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, at such rate as may be notified under said sub-section (3) of section 50.

Explanation.-For the purposes of this sub-rule, -

- (1) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input



tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

(2) the date of utilisation of such input tax credit shall be taken to be, -

(a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or

(b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

17.9 I find that Rule 88B(1) is applicable where tax is belatedly paid on account of delayed filing of GSTR 3B return, before commencement of proceedings under Section 73 or 74 of the CGST Act. In these cases, interest is calculated on the portion of tax which is paid by debiting the electronic cash ledger. Further, Rule 88B(2) comes in light in other cases where interest is payable in accordance with sub section (1) of section 50, the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid. I find that present case is not about delay filing of returns but delay payment of tax/short payment of tax on differential value/price difference, therefore Rule 88B(2) is applicable in present case accordingly interest is required to paid on gross liability under Section 50(1) the CGST Act 2017 which comes to Rs.14,19,519/-.

17.10 Further, I find that said facts emerged during the course of audit only and the said taxpayer has suppressed their actual value of supply goods and subsequently paid differential duty on the differential value including the expenses in terms of Section 15(2)(b) &(C) with an intent to evade the payment of tax. This fact came into light due to audit conduct by CGST, Audit, Ahmedabad. Had the present investigation not been initiated by CGST Audit, Ahmedabad against the said taxpayer, they would have continued with their modus of non payment of interest under Section 50(1) of CGST Act 2017 on a regular basis. This clearly done intentionally in order to suppress their actual tax liability and thereby evading GST. Various Courts including the Apex Court have clearly laid down the principle that tax liability is a civil obligation and therefore the intent to evade payment of tax cannot be established by peering into the minds of the tax payer but has to be established through evaluation of tax behaviour. The responsibility of the tax payer to voluntarily make information disclosures is much greater in a system of self-assessment. In case of evaluation of tax behaviour of said taxpayer, it shows their intent to evade payment of GST by an act of omission in as much as said taxpayer though being well aware of the provisions of the CGST 2017 and Rules made there under failed to disclose to the department at any point of time their interest liability on certain taxable supplies made by them.

17.11 The Government has from the very beginning placed full trust on the taxpayer 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 taxpayer; therefore, the governing statutory provisions create a liability on taxpayer when any provision is contravened or there is a breach of



trust placed on the payer. Further, Explanation 2 to Section 74 of the CGST 2017 has defined suppression as under:

"Explanation 2.-For the purposes of this Act, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer"

17.12 Now, Coming to next limb regarding imposition of penalty under the provisions of Section 74(1) of CGST Act 2017. I find from facts of case elaborated in the notice that the demand of tax not paid of Rs.3,00,72,076/- (CGST Rs.1,50,36,038/+ SGST Rs.1,50,36,038) has been proposed by invoking the provisions of Section 74(1) of the CGST Act, 2017. Further, it is also evident that quantum of penalty equal to ten thousand or the tax due from such person, whichever is higher, for reason of fraud or any wilful misstatement or suppression of facts to evade tax. Looking to the facts of the case and discussion as above, the non payment of has been soundly established in the instant case under Section 74 of the Act. Accordingly, the said taxpayer has made themselves liable for penalty under the provisions of Section 74(1) of CGST Act 2017.

(B) Revenue para No 03 :- Ineligible ITC taken on the items which are not eligible for ITC under Section 17 of CGST Act 2017 read with Section 16 of the CGST Act, 2017 (Gardening services):-

18.1 I find that during the course of audit, it was observed that the said taxpayer has taken ITC of Rs.1,77,754/- (CGSTRs.88,877/-, SGSTRs.88,877/-) in respect of Gardening Service which are inadmissible ITC under Section 17 of CGST Act 2017 read with Section 16 of the CGST Act 2017. However, M/s SKF Engineering and Lubrication India Private Limited has denied said allegation and relied upon many judgments that ITC of Gardening Service is available to them.

18.2 Firstly, I reproduced below relevant provision i.e. Section 2(60) of the CGST Act 2017, Section 12 of the CGST Act 2017 and Section 15 of the CGST Act 2017:-

Section 2(60) of the CGST Act, 2017:-

"input service" means any service used or intended to be used by a supplier in the course or furtherance of business;"

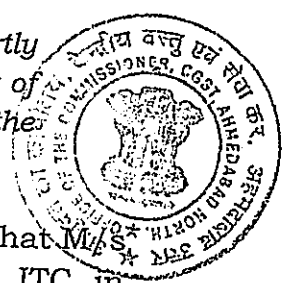
Section 16(1) of the CGST Act, 2017:-

"Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person."

Section 17(1) of the CGST Act, 2017:-

"Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business."

18.3 Ongoing through above provision and party's submission, I find that M/s SKF Engineering and Lubrication India Private Limited had taken ITC in



respect of invoices issued by M/s Sai Krupa Landscapes for Gardening Services i.e. for maintenance of garden around the factory and administrative building. Therefore, main question arises in present case is whether Gardening Services are used in the course of furtherance of business or not under Section 2(60) of the CGST Act 2017, Section 12 of the CGST Act 2017 and Section 15 of the CGST Act 2017. In this regard, said taxpayer has relied upon following judgement:-

(1) *M/s. Rane TRW Steering System Ltd. vs The Commissioner of Central Excise and Central Tax (2018).*

(2) *Mukand Ltd's case Vs. Commissioner of Central Excise, Belapur (2016 (42) STR 88 (Tri-Mumbai)).*

(3) *HCL Technologies Ltd., Vs. Commissioner of Central Excise, Noida (2015 (4) STR 369 (Tri-Del)).*

(4) *Lifelong Meditech Ltd., Vs. Commissioner of Central Excise and Service Tax, Gurgaon II (2016 (44) STR 626 (Tri-Chan)).*

(5) *M.s. Orient Bell Ltd., Vs. Commissioner of Central Excise, Noida, reported in 2016 SCC Online CESTAT, 7923.*

(6) *Commissioner of Central Excise, Delhi III, Suzuki Motor Cycle India Private Limited (2017 (47) STR 85 (Tri-Chan)).*

(7) *Commissioner of Commercial Taxes and GST, Odisha against an order of the (AAR 2018 (18) G.S.T.L. 508 (A.A.R. - GST) = 2018 (10) TMI 748 - A AUTHORITY FOR ADVANCE RULING, ODISHA IN RE : NATIONAL ALUMINIUM COMPANY LTD.).*

(8) *AAAR, Maharashtra in case of In re Ordnance Factory (Order No. MAH /AAAR/SS-RJ/13/2019-20).*

18.4 On perusal of the submission made by the said taxpayer and various judicial pronouncement cited by the said taxpayer, I find that ratio of these judicial pronouncement is clearly applicable in present case as the facts and circumstances of the present case is similar to the facts and circumstance of case of *M/s. Rane TRW Steering System Ltd. vs The Commissioner of Central Excise and Central Tax (2018)* wherein Hon'ble High Court has held that maintenance of the garden inside the factory premises is a mandatory conditions imposed by the Tamil Nadu Pollution Control Board for setting up and operation of the factory of the factory and accordingly garden maintenance service would fall within the definition of input service. In the present case also, it is mandate of Gujarat Pollution Control Board to maintain the garden in the factory premises. Therefore, such activities are integral to the business activity of the taxpayer and hence can be treated as activities in course or furtherance of its business Accordingly, I hold that ITC of Rs.1,77,754/- (CGST Rs. 88,877/-, SGST Rs. 88,877/-) for service of gardening within factory premises is admissible to the said taxpayer and demand of the same alongwith interest and penalty is required to be dropped.

19. In view of the discussions and findings at Para 17 and 18, I pass the following order:

ORDER

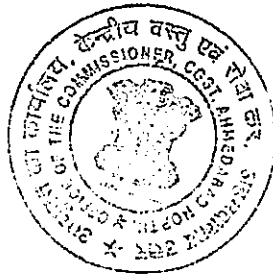
- (i) I confirm the demand of tax amounting to Rs 3,00,72,076/- (CGST of Rs 1,50,36,038/and SGST of Rs 1,50,36,038/-) (Rupees Three Crore Seventy Two Thousand and Seventy Six Only) as per Revenue Para No.2



and order to recover the same from M/s SKF Engineering and Lubrication India Private Limited under Section 74(9) of the CGST Act, 2017 read with Section 74(9) of the Gujarat GST Act, 2017.

- (ii) I appropriate amount of Rs 3,00,72,076/- (CGST of Rs.1,50,36,038/- and SGST of Rs.1,50,36,038/-) (Rupees Three Crores Seventy Two Thousand and Seventy Six Only) paid by M/s SKF Engineering and Lubrication India Private Limited against the confirmed demand at (i) above.
- (iii) I confirm the demand of interest of Rs. 14,19,519/- (CGST+SGST) and order to recover the same from M/s SKF Engineering and Lubrication India Private Limited on the amount mentioned at (i) above under the provisions of Sections 50(1) of the Central Goods and Services Tax Act, 2017 and Section 50(1) of the State Goods and Service Tax Act, 2017.
- (iv) I impose penalty of Rs 3,00,72,076/- (Rupees Three Crore Seventy Two Thousand and Seventy Six Only) on M/s SKF Engineering and Lubrication India Private Limited under Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the Gujarat GST Act, 2017 on the basis of confirmed demand at Sr.No.(i) above.
- (v) I drop the demand of ITC amounting to Rs.1,77,754/- (Rupees One Lakh Seventy Seven Thousand Seven Hundred Fifty Four Only) (CGST+SGST) as per Revenue Para 3 under Section 74 (9) of the CGST Act, 2017/Gujarat GST Act, 2017.
- (vi) I drop the demand of interest on the ITC mentioned at (v) above under Section 50(3) of the CGST Act,2017/Gujarat GST Act, 2017.
- (vii) I drop the penalty on the ITC mentioned at (v) above under Section 74(1) of the CGST Act,2017/Gujarat GST Act, 2017.
- (viii) I further order that in terms Section 74(11) of CGST Act 2017, if the said taxpayer pays the tax amount and interest thereon under section 50 as determined at S.N. (i) to (iii) above and a penalty equivalent to fifty per cent of such tax within thirty days of communication of the order, all proceedings in respect of this notice shall be deemed to be concluded.

20. Accordingly, the Show Cause Notice F.No. GADT/TECH/SCN/GST/84/2023 dated 18.07.2023 is disposed off in above terms.



(Lokesh Damor)
Additional Commissioner,
Central GST & CE,
Ahmedabad North

F.NO.GST/15-55/OA/23-24

Date 25.04.2024

By RPAD/MAIL

To,
M/s SKF Engineering and Lubrication
India Private Limited, GSTIN 24AAACL2061P1ZH
Mile stone-Kandla 333, Village-Kerala,
Taluka-Bavla, Ahmedabad, Gujarat, 382220

Copy to:

1. The Commissioner, Central GST & Central Excise, Ahmedabad North.
2. The DC/AC, Central GST & Central Excise, Div- V Ahmedabad North.
3. The Superintendent, Range-V, Division-V, Central GST & Central Excise, Ahmedabad North **for generating and uploading DRC- 07 on the portal in terms of DSR advisory No.01/2018 dated 26.10.2018 and Instruction No. 04/2023-GST dated 23.11.2023.**
- ✓ 4. The Supdt.(System), CGST & C.E. Ahmedabad North for uploading the order on website.
5. Guard File.



