

SPEED POST



F. No. 196/01/ST/2020—R.A.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110 066

Date of Issue...10/01/22

Order No. 02/22-ST dated 07-01-22 of the Government of India, passed by Shri Sandeep Prakash, Additional Secretary to the Government of India, under Section 35 EE of the Central Excise Act, 1944 read with Section 83 of Finance Act, 1994.

Subject : Revision Application filed under Section 35 EE of the Central Excise Act, 1944 read with Section 83 of Finance Act, 1994 against the Order-in-Appeal No. 30(CRM)ST/JDR/2020 dated 22.01.2020 passed by the Commissioner (Appeals), Central Excise & CGST, Jodhpur.

Applicant : Smt. Pushpa Devi Jaiswal, Jhalawar (Rajasthan).

Respondent : The Commissioner of CGST, Udaipur.

ORDER

A Revision Application No. 196/01/ST/2020-R.A. dated 15.06.2020 has been filed by Smt. Pushpa Devi Jaiswal, Jhalawar (Rajasthan) (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 30(CRM)ST/JDR/2020 dated 22.01.2020 passed by the Commissioner (Appeals), Central Excise & CGST, Jodhpur, wherein the Commissioner (Appeals) has upheld the Order-in-Original No. 12/ST/2019 dated 12.02.2019 passed by the Assistant Commissioner, CE & CGST, Division-I, Kota.

2. Briefly stated, the Applicants herein, were providing taxable services, namely "Supply of Tangible Goods Service" and from 01.07.2012 their service was covered under declared service under Section 66E(f) of Finance Act, 1994 and they appeared to have not paid service tax amounting to Rs. 17,27,790/- on the above said taxable service provided by them during the period July 2012 to June 2017 in contravention of provisions of Section 68, 69 & 70 of Finance Act, 1994 read with Rule 4, 6 & 7 of Service Tax Rules, 1994. The original authority, vide OIO dated 12.02.2019, confirmed the demand of Rs. 17,833/- along with interest, dropped the demand of Rs. 17,09,957/- and imposed penalty of Rs. 17,833/- under Section

78 of the Finance Act, 1994, Rs. 10,000/- under Section 77(1)(a) and Rs. 10,000/- under Section 77(2) of the Finance Act, 1994. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who, vide the impugned Order-in-Appeal, rejected the appeal on the grounds of limitation.

4. The revision application has been filed, mainly, on the grounds that the CA of the Applicant had misguided her that the appeal had been filed before the Commissioner (Appeals) whereas actually it was not filed. Hence, the order of the Commissioner (Appeals) was erroneous and the amount deposited in compliance to the OIO may be refunded

5. Personal hearing, in virtual mode, was held on 07.01.2022. Sh. Sanjay Jaiswal, Advocate appeared for the Applicant and reiterated the contents of the RA. Upon being pointed out that the subject matter of dispute appears to be taxability of a service and corresponding payment of service tax, which is not a matter covered under Section 35EE of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994. Sh. Jaiswal requested that the RA may be allowed to be withdrawn with liberty to approach CESTAT.

6. The Government has carefully examined the matter. The present case relates to taxability of a service and corresponding payment of service tax, which is not a matter covered under first proviso to sub-section (1) of Section 35B of the Central Excise Act, 1944 and, therefore, is not maintainable for revision under Section 35EE of the Central Excise Act, 1944, read with Section 83 of the Finance Act, 1994. As such, the revision application is not maintainable before the Government.

9. In view of the above, the revision application is allowed to be withdrawn with a liberty to the Applicant to file an appeal before the appropriate forum, i.e., CESTAT, as per law.



(Sandeep Prakash)

Additional Secretary to the Government of India

Smt. Pushpa Devi Jaiswal,
W/o late Sh. Rampratap Jaiswal,
M/s Jhalawar Gas Agency,
Najakat Manzil, Near Govt. College,
Jhalawar (Rajasthan) – 326001.

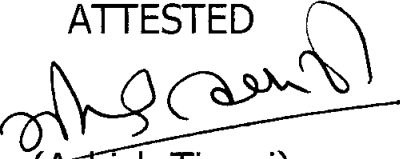
G.O.I. Order No. 02/22-ST dated 07-01-2022

Copy to:-

1. The Commissioner of CGST, Udaipur, 142-B, Sector-11, Hiran Magri, Udaipur (Rajasthan) – 313002.

2. The Commissioner (Appeals), Central Excise & CGST, Jodhpur, G-105, New Industrial Area, Opp. Diesel Shed, Basni, Jodhpur (Raj.) – 342003.
3. Sh. Sanjay Jaiswal, Advocate 4-6-40 Vighyan Nagar, Kota (Rajasthan) – 324005.
- ✓ 4. PA to AS(Revision Application).
5. Spare Copy.
6. Guard File.

ATTESTED



(Ashish Tiwari)

Assistant Commissioner (RA)