



केन्द्रीय उत्पाद शुल्क एवम सेवा कर आयुक्तालय , भावनगर
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX
प्लॉट नं. 6776-बी/1, 'सिद्धि सदन' बिल्डिंग,
PLOT NO. 6776/B-1, "SIDDHI SADAN" BUILDING,
नारायण उपाध्याय मार्ग, भावनगर-364001
NARAYAN UPADHYAY MARG, BHAVNAGAR-364 001.
दूरभाष : (0278) 2523627 फैक्स : 0278-2513086

रजिस्टर्ड डाक पावती द्वारा

By R.P.A.D.

फाईल सं. V/15-17/Dem-ST/HQ/2011-12
F. No.

आदेश की तारीख : 17/12/2012.

Date of Order :

जारी करने की तारीख : 17/12/2012.

Date of Issue :

पारितकर्ता

Passed by

श्री एन के भुजबल

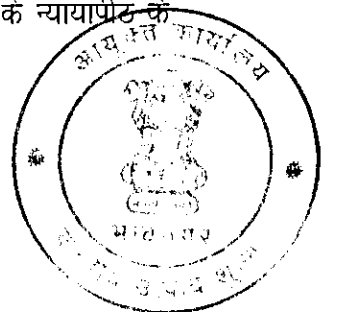
SHRI N. K. BHUJABAL

आयुक्त, केन्द्रीय उत्पाद शुल्क एवम सेवा कर, भावनगर

Commissioner, Central Excise and Service Tax, Bhavnagar

मूल आदेश संख्या Order-in-Original No : 32/BVR/Commissioner/2012

1. यह प्रति उस व्यक्ति को, जिसके लिए यह आदेश जारी किया गया है, उसके व्यक्तिगत उपयोग के लिए निःशुल्क प्रदान की जाती है।
2. इस मूल आदेश से असंतुष्ट कोई भी व्यक्ति उचित प्राधिकारी को अपील निम्नलिखित ढंग से कर सकता है :
सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण को अपील :
3. वित्त अधिनियम, 1994 की धारा 86 के अंतर्गत अपील निम्न को की जा सकती है।
 - 1। पश्चिम क्षेत्रीय पीठ, सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) ऑफ 20, न्यू मेन्टल अस्पताल कंपाउन्ड, मेघाणीनगर, अहमदाबाद 380016।
 - 2। अपीलीय न्यायाधिकरण का वित्त अधिनियम, 1994 की धारा 86 की उप धारा (1) के अंतर्गत अपील, सेवाकर नियमावली, 1994 के नियम 9(1) के अंतर्गत निर्धारित एस.टी.5 में, चार प्रतियों में आदेश प्राप्त के दिनांक से तीन माह के भीतर की जा सकेगी एवं उसके साथ जिस आदेश के विरुद्ध अपील की गई हो उसकी प्रतियाँ भेजी जानी चाहिए (उनमें से एक प्रमाणित प्रति होगी) और वित्त अधिनियम, 1994 की धारा 86 के अंतर्गत निर्धारित किए अनुसार शुल्क लगा होना चाहिए। जिस स्थान पर न्यायाधिकरण की न्यायपीठ स्थित है, वहाँ के नामित सार्वजनिक क्षेत्रा बैंक के न्यायापीठ के सहायक रजिस्ट्रार के नाम से निर्धारित फीस रेखांकित बैंक ड्राफ्ट के रुप में भेजनी होगी।



- 3। वित्त अधिनियम, 1994 की धारा 86 की उपधाराओं (2) एवं (2ए) के अंतर्गत सेवाकर नियमावली, 1994 के नियम 9(2) के अंतर्गत निर्धारित किए गए फॉर्म एस.टी.7 में की जा सकेगी एवं उसके साथ आयुक्त, केन्द्रीय उत्पाद शुल्क या आयुक्त, केन्द्रीय उत्पाद शुल्क (अपील) के आदेश के प्रति (उनमें से एक प्रमाणित प्रति होगी) और आयुक्त/सहायक आयुक्त अथवा उपआयुक्त, केन्द्रीय उत्पाद शुल्क को अपीलीय न्यायाधिकरण में आवेदन करने के आदेश देते हुए सीमा एवं केन्द्रीय उत्पाद शुल्क बोर्ड / आयुक्त, केन्द्रीय उत्पाद शुल्क द्वारा पारित आदेश की प्रति भेजनी होगी।
4. यथासंशोधित न्यायालय शुल्क अधिनियम, 1975 की शर्तों पर अनुसूची1 के अंतर्गत निर्धारित किए अनुसार यथास्थिति मूल आदेश या न्यायनिर्णयनकर्ता प्राधिकारी के आदेश की प्रति पर रुपये 6.50/ का न्यायालय टिकट लगा होना चाहिए।
5. ब्यौरापूर्ण करने हेतु सीमाशुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्यविधि) नियमावली, 1982 की ओर ध्यान आकर्षित किया जाता है।

To,
M/s. Shree Talala Taluka Sahakari Khand Udyog Mandali Limited,
Talala Gir, Sasan Road,
Talala (Gir) – 362 150
Distt. – Junagadh (Guj.)

विषय : कारण बताओ नोटिस संख्या :

Subject: Show Cause Notice F. No. V/15-17/Dem-ST/HQ/2011-12 dated 14.10.2011.



BRIEF FACTS OF THE CASE :-

M/s. Shree Talala Taluka Sahakari Khand Udyog Mandali Limited, Sasan Road, Talala Gir, Distt. Junagadh – 362 150 (hereinafter referred to as the “Noticee”) are engaged in manufacturing of Sugar and having Central Excise Registration as manufacturer. The Noticee is also having Service Tax Registration No. AAAAT2452L ST001 under the category of “Transportation of goods by Road” and paying Service Tax.

2. A show cause notice F. No. V/15-17/Dem-ST/HQ/2011-12 dated 14.10.2011 has been issued to the Noticee proposing demand of Service Tax of Rs. 1,61,57,355/- [including Education cesses] under Section 73(1) of Chapter V of Finance Act, 1994 (herein after referred to as the “Act”), along with Interest at the appropriate rate as applicable till the date of payment of Service tax under Section 75 of the Act and also to impose penalty under Section 76, 77 and 78 of the Act.

3.1 The facts leading to issuance of aforesaid show cause notice are that an intelligence was gathered that the Noticee has also been providing labour to their members and / or the farmers of sugarcane growers for cutting & other purposes and has not been paying any Service Tax on the said taxable service classifiable under ‘Manpower Recruitment or Supply Agency’s Service’. Therefore, an inquiry was initiated against the Noticee under summons proceedings. Accordingly, a summons was issued on 24.03.2011 to the Noticee asking them to remain present and produce copy of (1) Audited reports along with Profit & Loss Accounts for the Financial Year 2006-07 to 2009-10 and from 01.04.2010 to 15.03.2011 and (2) contracts / orders issued by their Mandali / Society for the Financial Year 2006-07 to 2009-10 and from 01.04.2010 to 15.03.2011, along with their ledgers.

3.2 In pursuance to the above summons, Shri Jadavbhai Rajshibhai Ram, Managing Director of the Noticee appeared before the Superintendent of Central Excise (A.E.), H. Q., Bhavnagar and his statement dated 24.03.2011 was recorded under Section 14 of Central Excise Act, 1944 (herein after referred to “CEA, 1944”) read with Section 83 of the Act. On being asked regarding cane harvesting labour supply by their society (Mandali), he stated that they were providing labour to their farmer members and growers of sugar cane; that they were paying labour charge per M.T. to individual labours; that they were paying the labour charges on behalf of their farmer members i.e. sugar cane growers and were adjusting the same from the payment of the respective growers, who were supplying their sugar cane to them; that they were engaging the individual labour for this work by making agreement with the concerned individual labour and submitted a sample copy of that agreement. He further stated that the payment to each individual labour did not exceed the limit of Rs.10,00,000/-. He produced



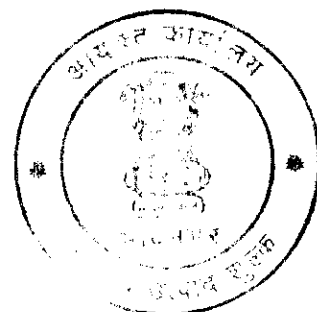
copy of annual report of the 'mandali' for the Financial Year 2006-07 to 2009-10 and after perusal of the same, he stated that in Profit and Loss account, the expenditure made under the head of "Sherdi Katai Kharch" (Sugarcane Cutting Expenditure) is the expenses made by their 'mandali' for payment of labour, as stated above.

3.3 On being asked regarding copy of major contracts/orders issued by their Mandali and their ledgers, he produced copies of contracts/orders with major contractor to whom payment was made by them for providing their services to them for current Financial Year. As regards their ledger, he stated that the same were voluminous and it would take time, hence he produced xerox copy of TDS register for the period from April-2006 to February-2011 wherein all the details in respect of contractors/service providers to whom payment have been made, are available.

3.4 On being asked about the packing and forwarding expenses mentioned in the Profit and Loss account, he stated that the expenditure shown as packing and forwarding contains the details/amount incurred towards purchase of packaging material, transportation charges towards purchase of packaging materials and labour charges towards sugar bags packaging and forwarding, paid to Shri Madhubhai Vikrambhai More.

4. The said noticee with respect to summons dated 24.03.2011 and in continuation to statement dated 24.03.2011, submitted copies of orders placed to the contractors for different type of works, vide their letter dated 25/26.03.2011.

5. Summons were issued on 18.07.2011 and 27.07.2011 to the Noticee, calling them to remain present and produce documents for the Financial Year 2006-07 to 2010-11 viz. (1) copies of account ledgers of Sugarcane payment, sugarcane transportation, sugarcane cutting expenses and packing and forwarding expenses, (2) sample copies of "Sugarcane cutting bill" and (3) copy of Service Tax Registration. In response to summons, Shri Hamir Devsibhai Bera, Account Clerk of the said Noticee appeared before the Superintendent of Central Excise (A.E.), H. Q., Bhavnagar and his statement was recorded on 11.08.2011 under Section 14 of CEA, 1944 read with Section 83 of the Act, wherein he inter-alia stated that he is account clerk of the Noticee since last 30 years and produced xerox copies of (i) Sugarcane Payment ledger, (ii) Sugarcane Transportation expenses ledger, (iii) sugarcane cutting expenses ledger and (iv) packing and forwarding expenses ledgers for the Financial Year 2006-07 to 2010-11 duly self-certified by him. His further statement was recorded in question and answer form, which is reproduced below :-



Q. No. 1:- Please peruse statement dated 24.03.2011 of Shri Jadavbhai Rajshibhai Ram, M/s. Shree Talala Taluka Sahakari Khand Udhog Mandali Limited, Talala and explain.

Ans.:- I have perused statement dated 24.03.2011 of Shri Jadavbhai Rajshibhai Ram, M/s. Shree Talala Taluka Sahakari Khand Udhog Mandali Limited, Talala and agree with the content mentioned therein and I put my dated signature on the same.

Q. No.2:- Are you providing labours to your growers who are supplying to you their sugar cane?

Ans. : Yes.

Q. No.3:- Please produce a copy of Audit Report alongwith profit & loss account for the Financial Year 2006-07 to 2009-10 of your Mandali.

Ans. :- I have already produced the same vide our letter dated 25-3-2011.

Q. No.4: Have you obtained registration for service tax? If yes, for which category the said registration has been obtained?

Ans. :- Yes, we have obtained registration for service tax for the category of transportation of goods by road only. I produce herewith zerox copy of said registration.

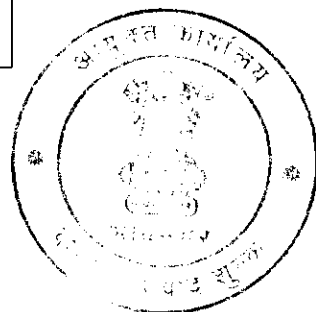
Q. No.5:- Please produce a copy of following documents for the Financial Year 2006-07 to 2010-11 of your Mandali. (i) Sugarcane Payment ledger, (ii) Sugarcane Transportation expenses ledger, (iii) sugarcane cutting expenses ledger (iv) packing and forwarding expenses ledgers.

Ans. : I produce herewith xerox copies of (i) Sugarcane Payment ledger, (ii) Sugarcane Transportation expenses ledger, (iii) sugarcane cutting expenses ledger (iv) packing and forwarding expenses ledgers for the Financial Year 2006-07 to 2010-11, duly self-certified by me.

Q. No 6:- Please produce copies of sugarcane cutting bill for the Financial Year 2006-07 to 2010-11 of your Mandali.

Ans. : I produce herewith one book of each financial year as the documents are voluminous. The details of such books are as under:

Sr. No.	Period	Bill Sr. No.	Year
1	13.04.2007 to 14.04.2007	1 to 100	2007-08
2	10.05.2008 to 10.05.2008	1404 to 1500	2008-09
3	20.02.2009 to 21.2.2009	1 to 100	2008-09
4	13.03.2010 to 14.03.2010	1001 to 1100	2009-10
5	20.04.2011 to 20.04.2011	2201 to 2300	2010-11



As regards the details of 2006-07, I will produce the same within seven days.

Q. No.7: Now, you have been shown a copy of "Sherdi Katai" bill books produced by you as per Question/answer 6 above. Please explain the details mentioned therein.

Ans. : I have perused five books and put my dated signature on first and last page of each books in token of perusing the same. I state that the all the books pertains to payment made to labours in respect of sugarcane cutting charges. I further state that total details of each financial year towards such sugarcane cutting payment/expenses, the relevant ledger already submitted to you in reply of Question 5 above. I further state that the bill contains the details such as name of the labour to whom we have paid the labour charges towards sugarcane cutting charges, number of slips, weight, rate per tonne, amount to be payable etc.

Q. No.8: Are you deducting tax deduction at source (TDS) from the payment made to labours towards sherdi cutting as provided under the Income-Tax Act?

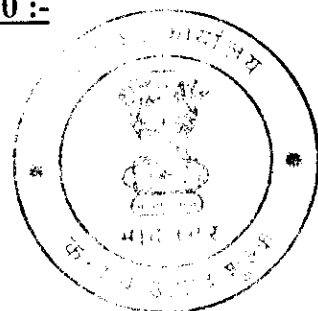
Ans. : No.

6. Further summon was issued to the Noticee on 05.09.2011 to produce documents for the Financial Year 2006-07 to 2010-11 viz. (1) copy of agreement/ resolution passed by Mandali in respect of rates of sugarcane, other deduction for sugarcane transportation, sugarcane cutting and other payment/deduction from sugarcane farmer members, (2) copy of agreement/resolution in respect of 6¼ (?) deduction and detail clarification, if any, (3) copy of agreement/resolution/notification if any towards rate of sugarcane cutting labour charges and (4) detail of payment and deduction made to their members (rate of sugarcane, rate of transportation, loading and unloading etc.). In response to summon, the said noticee vide their letter dated 09.09.2011 produced copies of resolutions passed by the Board of Directors in the meetings in respect of rates of sugarcane, other deduction for sugarcane transportation, sugarcane cutting and other payment/deduction from sugarcane farmer members and copies of agreement/ resolution/notification towards rate of sugarcane cutting labour charges for the Financial Year 2006-07 to 2010-11.

7. **Scrutiny of the documents produced on 24.03.2011:**

The Managing Director of the noticee, at the time of recording statement dated 24.03.2011, submitted documents which are discussed herein below:-

7.1 **Balance sheets for the year 2006-07 to 2009-10 :-**



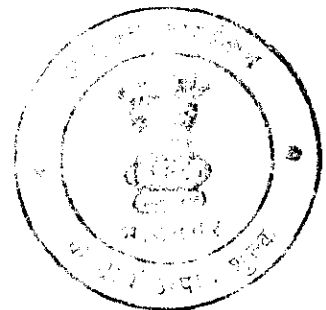
On scrutiny of the Balance Sheets/ Tax Audit Reports for the year 2006-07 to 2009-10, it is observed that in the Profit and Loss account, they have shown expenditure under the head "SHARDI KATAI EXPENDITURE", the details of which are as under :-

Sr. No.	Year	Amount of "Shardi Katai Expenditure" (Sugarcane cutting expenses)
1	2006-07	2,71,75,910/-
2	2007-08	3,24,55,905/-
3	2008-09	2,62,97,808/-
4	2009-10	2,24,15,690/-

From the above, it appeared that they have paid shardi katai charges (sugarcane cutting charges) amounting to a total of Rs. 10,83,45,313/- to their labours during the year 2006-07 to 2009-10.

7.2. Cutting Bill No. 2150 dated 22.03.2010 issued by the Noticee :-

The Noticee vide cutting Bill No. 2150 dated 22.03.2010 paid labour charges to Shri Dadabhav Shaker towards sugarcane cutting at the place of sugarcane farmer. A scanned image of said bill is produced herein below:



SCAN IMAGE OF SUGARCANE CUTTING BILL NO. 2150 DATED 22.03.10

श्री दादाभाऊ बाबूराव शर्दारी यांचा हजेरी घेण्याची बिल नं. 2150
 दि. 22.03.10

बिल नं. 2150
 तारीख: 22.03.10

श्री दादाभाऊ बाबूराव शर्दारी

क्र. नं.	नाम	वर्ग	मती	दर	एकूण	टीप
1	श्री दादाभाऊ बाबूराव शर्दारी	हजेरी	123	15399	1893927	
2	श्री दादाभाऊ बाबूराव शर्दारी	हजेरी	123	15399	1893927	
3	श्री दादाभाऊ बाबूराव शर्दारी	हजेरी	123	15399	1893927	

एकूण: 1893927

श्री दादाभाऊ बाबूराव शर्दारी

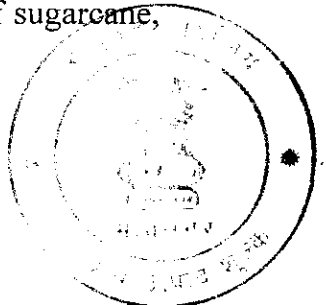
श्री दादाभाऊ बाबूराव शर्दारी

श्री दादाभाऊ बाबूराव शर्दारी

On scrutiny of the above image, it appeared that the same is cutting Bill No. 2150 dated 22.03.2010 issued by the Noticee in respect of labour towards sherdi/sugarcane cutting charges showing the details such as name of labour as Shri Dadabhav Shaker, Quantity of cutting of sugarcane, rate of cutting of sugarcane per ton, amount of cutting charges as Rs. 15,399/-. The said bill has been prepared by the person of said noticee and also checked and verified by the officers appointed by the noticee for the purpose.

7.3. Ledger/ sherdi cutting payment register page No. 258 of the Noticee:

The ledger page No. 258 of 'sugarcane cutting payment' Register of the Noticee contain details of labours who are engaged in cutting of sugarcane,



Place, Quantity of sugarcane in ton, Rate, Advance amount, Net amount payable, Bill No. etc. A scanned image of said ledger/ 'sugarcane cutting payment' Register page No. 258 is produced herein below :-

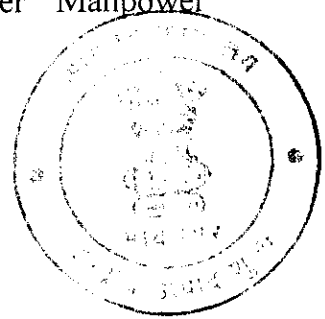
SCAN IAMGE OF SUGARCANE CUTTING PAYMENT REGISTER

PAGE NO.258:

श्री. अशोक-राव (सदस्य)
श्री. अशोक-राव (सदस्य)

क्र.सं.	दिनांक	विवरण	प्रमाणित	अंश	दर	कुल	अग्रिम	शेष
1	12/12/11	श्री. अशोक-राव (सदस्य)	12/12/11	100	100	100	100	0
2	13/12/11	श्री. अशोक-राव (सदस्य)	13/12/11	100	100	100	100	0
3	14/12/11	श्री. अशोक-राव (सदस्य)	14/12/11	100	100	100	100	0
4	15/12/11	श्री. अशोक-राव (सदस्य)	15/12/11	100	100	100	100	0
5	16/12/11	श्री. अशोक-राव (सदस्य)	16/12/11	100	100	100	100	0
6	17/12/11	श्री. अशोक-राव (सदस्य)	17/12/11	100	100	100	100	0
7	18/12/11	श्री. अशोक-राव (सदस्य)	18/12/11	100	100	100	100	0
8	19/12/11	श्री. अशोक-राव (सदस्य)	19/12/11	100	100	100	100	0
9	20/12/11	श्री. अशोक-राव (सदस्य)	20/12/11	100	100	100	100	0
10	21/12/11	श्री. अशोक-राव (सदस्य)	21/12/11	100	100	100	100	0
11	22/12/11	श्री. अशोक-राव (सदस्य)	22/12/11	100	100	100	100	0
12	23/12/11	श्री. अशोक-राव (सदस्य)	23/12/11	100	100	100	100	0
13	24/12/11	श्री. अशोक-राव (सदस्य)	24/12/11	100	100	100	100	0
14	25/12/11	श्री. अशोक-राव (सदस्य)	25/12/11	100	100	100	100	0
15	26/12/11	श्री. अशोक-राव (सदस्य)	26/12/11	100	100	100	100	0
16	27/12/11	श्री. अशोक-राव (सदस्य)	27/12/11	100	100	100	100	0
17	28/12/11	श्री. अशोक-राव (सदस्य)	28/12/11	100	100	100	100	0
18	29/12/11	श्री. अशोक-राव (सदस्य)	29/12/11	100	100	100	100	0
19	30/12/11	श्री. अशोक-राव (सदस्य)	30/12/11	100	100	100	100	0
20	31/12/11	श्री. अशोक-राव (सदस्य)	31/12/11	100	100	100	100	0

On scrutiny of the above image, it appeared that the said ledger/ 'sugarcane cutting payment' Register prepared and maintained by the said noticee showing the details of Invoices, including Invoice No. 2150, as discussed herein above. On comparison of the details mentioned in the ledger with the details mentioned in the corresponding Invoice as discussed in para 6.2 supra, it appeared that the details mentioned in the sugarcane cutting bill tallied with the details mentioned in the 'sugarcane cutting payment' Register/ledger. As per the said bill and 'sugarcane cutting payment' Register/ledger, it appeared that the said noticee had engaged labour for cutting of sugarcane for their farmer member at the place of farmer's farm to whom they were paying cutting charges as per the rates fixed/ prescribed by them. The ledger / 'sugarcane cutting payment' Register and sugarcane cutting bill show and appeared to prove that the Noticee were providing labours to the farmers for cutting of sugarcane and paying the labour charges to the labours which fall under 'Manpower



Recruitment and Supply Agency's Service'. Thus, it revealed that the said Noticee has been engaged in providing services of 'Manpower Recruitment or supply Agency's Service' which is chargeable to Service Tax.

7.4. On scrutiny of the document viz. letter addressed to the Managing Director, Khand Udyog, Talala (Gir) issued by Shri Lakshman Suresh, who appeared to be one of the labour, it appeared that the same is regarding preparation of bills separately for each labour towards sherdi katai/ sugarcane cutting for the year 2010-11. A scanned image of both sides of said letter is produced herein below:

SCAN IMAGE OF LETTER ISSUED BY LABOURERS:

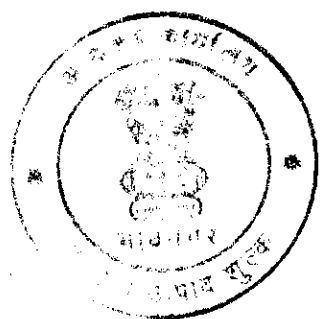
રજીસ્ટર્ડ કરનારનું નામ :
 ગામ :
 તારીખ :

પ્રતિ,
 શ્રી શેનેજીમ ડિરેક્ટર સાહેબ,
 ખાંડ ઉદ્યોગ તાલાલા (ગીર).

વિષય:- શેરડી કટાઈ સીઝન.....માં સંયુક્ત રીતે કટાઈ કરેલ શેરડીનાં વાર્ષિક નામે ધીલો બનાવી રકમનાં ચૂકવણી બાબત.

અમોએ આપની સંસ્થામાં જણાવેલ સીઝનમાં શેરડી કટાઈ કામગીરી કરેલ છે. તે કામગીરી નીચે મુજબનાં જણાવેલ નામોનાં શાખોએ સંયુક્તમાં સાથે રહી કામ કરેલ છે. અને આ કામગીરી કરવા હેતુ અમારી ગરીબદી અનુકૂળતા હેતુ અમારા ઉપરોક્ત રજીસ્ટર્ડ કરનારના નામે કટાઈ કામ કરી આ હેતુની સ્વીકૃતિ કરાવેલ. અને સંયુક્ત રીતે તમામ પ્રકારના ઉપાદા કરેલ છે. પણ વાર્ષિક રીતે અમોએ નીચે મુજબ શાખોએ આ કામગીરી સંયુક્ત રીતે કરેલ હોય તે દરેકનાં વાર્ષિક કટાઈ કામગીરી ધ્યાને લઈ જવા થયેલ આ સંયુક્ત રીતેની એવરેજ કરી દરેકના નામે એવરેજ પ્રમાણમાં સાથ તે રીતે દરેકના નામે નીચે મુજબનાં અલગ - અલગ ધીલો બનાવી વાર્ષિક નામે ચૂકવણી કરવા વિનંતી છે. આ હેતુ અમારી સંયુક્ત કામગીરી સાથે ઉપરોક્ત રજી કરનારના નામે જે તમામ પ્રકારના ઉપાદા છે. તે પણ દરેકની એવરેજ પ્રમાણે બીજામાંથી મજરે કપાત કરવા વિનંતી છે.

કટાઈ કરનાર વાર્ષિક શાખાનું નામ.	દરેક	શેરડી
૧) લાલજી સુરેશ	૫	૫
૨) ભીરુભાઈ રેડીયા	૫	૫
૩) દિવાજીભાઈ જોડીયા	૫	૫
૪) ભીમજી શાહ	૫	૫
૫) ભીમજી સોલંકી	૫	૫
૬) ભાઈ જી	૫	૫
૭) ભીમજી શાહ	૫	૫
૮) શાહજીભાઈ શાહજીભાઈ	૫	૫
૯) ભાઈ ભીમજી	૫	૫
૧૦) ભીમજીભાઈ શિલી	૫	૫



૧૧	લોચા	આલોચાલ	-	૧૦૬૩૧૫	
૧૨	લિચા	આલોચાલ	-	૧૦૬૩૧૫	
૧૩	સુકાચા	આલોચાલ	-	૧૦૬૩૧૫	
૧૪	સુકાચા	આલોચાલ	-	૧૦૬૩૧૫	
૧૫	સુકાચા	આલોચાલ	-	૧૦૬૩૧૫	
૧૬	લિચા	આલોચાલ	-	૧૦૬૩૧૫	
૧૭	સુકાચા	આલોચાલ	-	૧૦૬૩૧૫	
૧૮	લિચા	આલોચાલ	-	૧૦૬૩૧૫	
૧૯	સુકાચા	આલોચાલ	-	૧૦૬૩૧૫	
૨૦	સુકાચા	આલોચાલ	-	૧૦૬૩૧૫	
૨૧	લિચા	આલોચાલ	-	૧૦૬૩૧૫	

ઉપરોક્ત વિગતો સમ્યક્ સહીકૃત મુજબની હોય, તે અનુસાર અમલ કરવા વિનંતી છે.

નામ : શ્રી. જી. ડી. ઓ.

સહી : [Signature]

ઉપરોક્ત મુજબ અમલ કરવા અમારો અભિપ્રાય થાય છે.

મજૂર ભારતી સુપરવાઈઝર

શ્રી. એસ. ઓ.

શ્રી. ડી. ઓ.

હિસાબી શાખા
ખાંડ ઉદ્યોગ તાલાલા (ગીર)

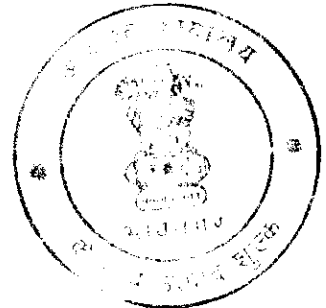
ઉપરોક્ત રજૂઆત મુજબ અમલ કરવો.

મેનેજીંગ ડીરેક્ટર
શ્રી તાલાલા તાલુકા સહકારી,
ખાંડ ઉદ્યોગ મંડળી લીમિટેડ,
તાલાલા (ગીર)

From the above scanned images, it appeared that the different sherdi katai/ sugarcane cutting labours had written a letter, duly signed by them, to the Managing Director, Khand Udyog, Talala (Gir) and requested them to prepare separate bills and payment thereof to individual labours according to their sugarcane cutting work done. The said letter was acknowledged by the said noticee and accordingly the Managing Director of the said noticee, directed concerned department for implementation of the request made by the labours.

8. Scrutiny of the documents produced on 09.09.2011 :-

8.1.1 In response to summon dated 05.09.2011, the Managing Director of the said noticee, vide their letter Ref No. ACCT / CENT. EX.BVNR/ 1117/2011 dated 09.09.2011, submitted copies of resolutions for the year 2006-07, 2007-08, 2008-09, 2009-10 and 2010-11 passed by the Board of Directors in the meeting for fixing of final rate of sugarcane, Rate of sugarcane transportation, Sugarcane cutting rate and sugarcane cutting rate paid to the labours. He also submitted copies of order issued by the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, New Delhi on fixation of the Statutory



Minimum Price (SMP) of sugarcane payable by Sugar Factories etc.
Scanned images of one of the abovementioned documents for the year 2008-09 are reproduced and discussed herein below:

Subject to Talala Jurisdiction
E-Mail : talala_sugar@yahoo.com

(02877) M.D. 222256 Fax No. 221600 રજ.નં. સે/૨૪તા. ૨૮-૧૦-૨૧
C.M. 222412 Gram : KHANDUDYOG C.S.I. No. 24621100067 DI. 30-9-2005
TIN No. 24121100067 DI. 30-9-2005

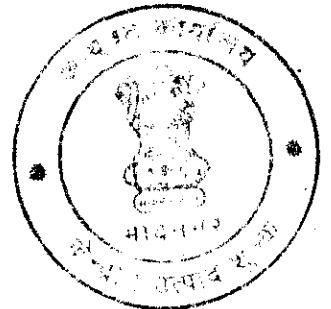
Shree Talala Taluka Sahakari Khand Udyog Mandli Limited, Talala (Gir) શ્રી તાલાલા તાલુકા સહકારી ખાંડ ઉદ્યોગ મંડળી લી. તાલાલા (ગીર)
Sasan Road, Talala (Gir)-362 150 Dist : Junagadh સાસણ રોડ, તાલાલા (ગીર)-૩૬૨ ૧૫૦ જી.જુનાગઢ (ગુજરાત)

મંડળીના બોર્ડ ઓફ ડાયરેક્ટર્સની તા.૨૭/૦૮/૨૦૦૯ની મીટીંગના ઠરાવ નં. ૩ ની ખરી નકલ.

મુદ્દો :- ૩ મંડળીની સને ૨૦૦૮ x ૨૦૦૯ની શેરડી પીલાણ સીજન માટે શેરડીના આખરી ભાવ નક્કી કરવા બાબત.

ઠરાવ :- ૩ ખાંડનિયામકશ્રી ગુજરાત રાજ્ય ગાંધીનગરના પત્ર નં.સરમ / ૦૧ / ૭ / ૧૧૫૫ તથા ૧૧૫૬ / ૨૦૦૯ તા.૨૩/૦૬/૨૦૦૯ જે મંડળીના ચેરમેનશ્રી તેમજ મંડળીના મેનેજીંગ ડીરેક્ટરશ્રીના નામ જોગ સંબોધીને લખેલ છે.તે અનુસંધાને શેરડી પીલાણ સીજન ૨૦૦૮ - ૨૦૦૯ માટે આખરી ભાવના નાણાં સરકારશ્રીની પુર્વ મંજૂરી સીવાય તેમજ એસ.એમ.પી.થી વધુ નહિ ચુકવવા જણાવેલ છે.પત્ર વિગતેનાં જે સંદર્ભ જણાવેલ છે.તેના પત્રના પાસા - ૧ માં તા.૨૮/૧૦/૨૦૦૫ના ઠરાવની વિગતો લખી છે.પણ આ તારીખના ઠરાવની વિગતો આપણને ખાંડ નિયામક સાહેબ તરફથી મળેલ નથી આ બાબતે ખાંડ નિયામક સાહેબની તા.૨૫/૦૬/૨૦૦૯ની આપણી મંડળીની મુલાકાત લખતે તેઓ સાથે ચર્ચા થતાં સદર તારીખનો ઠરાવ આપણને લાગુ પડતો નથી તેમ મોખીક જણાવેલ છે.આ ઠરાવ દક્ષિણ ગુજરાત મધ્ય ગુજરાતની સહકારી ખાંડ ઉદ્યોગ માટે "લીક્વીડિટી સપોર્ટ લોન" રાજ્ય સરકારશ્રીએ મંજૂર કરી છે.તેને લાગુ પડે છે.તેમ મોખીક જણાવેલ વિશેષમાં તેઓશ્રીએ જણાવેલ કે નેરોશીના પત્રના પાસા-૨ માં જણાવેલ રાજ્ય સરકારશ્રીના ઓગસ્ટ-૯૩ ના પરિપત્ર જોગવાઈ અટક કે રાજ્ય સરકારશ્રીનું શેરભંડોળ જે સહકારી ખાંડ ઉદ્યોગને આપેલ હોય અને બાકી હોય તેને લાગુ પડે છે.તે બાબતે આ પરિપત્ર કે ઠરાવ નં.સીએસકે. એસ સી પી. ૧૭૯૭-૨૩૮(૩૪)એચ.તા.૨૭/૦૮/૧૯૯૭ અનુસાર રાજ્ય સરકારશ્રીનું જે સહકારી ખાંડ ઉદ્યોગમાં શેરભંડોળ માટે લિત હોય તે માટેની શરતો નક્કી કરી છે.અને તે જની સહકારી ખાંડ મંડળીઓ કે જેની પાસે શેર ભંડોળ ચુકવવાનું બાકી હોય તેને લાગુ પાડી છે.સદર ઠરાવની શરતો પૈકી શરત નં.૩,૪,૫ માં શેરડી ભાવ ચુકવણા ઉપર રાજ્ય સરકારશ્રીનું નિયંત્રણ રહેશે તેમ જણાવ્યું છે.અને શરતોના ટુકસારમાં લગતા સહકારી ખાંડ ઉદ્યોગની તમામ નાણાંકિય જવાબદારીઓ અદા કરવા નાણાંકિય જોગવાઈ કર્યા પછીજ તીજા ભાવનાં ચુકવણું કરવું તેમ જણાવેલ તે અનુસંધાને મંડળીના બોર્ડ ઓફ ડાયરેક્ટર્સની તા.૦૪/૦૭/૨૦૦૯ની બેઠકના ઠરાવ નં.૧ વિગતે નક્કી થયા અનુસાર રાજ્ય સરકારશ્રીનું રા. ૬૪/- લાખનું શેરભંડોળ પરત કરી આપેલ છે.જે વિગતોની નોંધલેવામાં આવી અને આ રીતે રાજ્ય સરકારશ્રીના મંડળીમાં કોઈ નાણાંકિય લિત હવે રહેતા નથી.

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Subject to Talala Jurisdiction
E-Mail : talala_sugar@yahoo.com

(02877) M.D. 222256 Fax No. 221600 રજ.નં. સે/૨૪ તા. ૨૮-૧૦-૯૮
C.M. 222412 Gram : KHANDUDYOG C.S.T. No. 24621100067 Dt. 30-9-2005
TIN No. 24121100067 Dt. 30-9-2005

Shree Talala Taluka Sahakari Khand Udyog Mandli Limited, Talala (Gir) **શ્રી તાલાલા તાલુકા સહકારી ખાંડ ઉદ્યોગ મંડળી લી. તાલાલા (ગીર)**
Sasan Road, Talala (Gir)-362 150 Dist : Junagadh સાસણ રોડ, તાલાલા (ગીર)-૩૬૨ ૧૫૦ જી. જુનાગઢ (ગુજરાત)

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શેરડી પીલાણ સીજન ૨૦૦૮-૨૦૦૯ માટે આપણી કેક્ટરી માટે ભારત સરકારશ્રીએ જાહેર કરેલ કેક્ટરી બેઠાં શેરડી ભાવ વિગતોમાં :-

દર.દરે

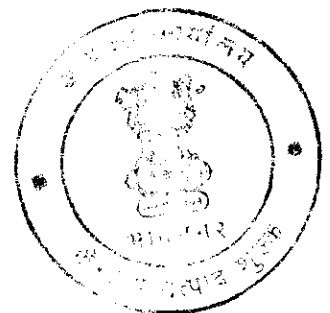
S.M.P. કેક્ટરી બેઠાં	રૂ.૯૪૬-૮૦ પે.નક્કી કરેલ છે.
આણખા કટાઈ ખર્ચ	રૂ.૧૮૫-૭૫
આણખા વાહતુક ખર્ચ	રૂ. ૬૯-૫૯
કુલ :-	રૂ.૨૫૫-૩૩ રાઉ-૩ કીગર લેતા રૂ.૨૫૫/-
S.M.P.	રૂ.૯૪૬-૮૦ સામે રૂ.૯૨૨ એડવાન્સ ચૂકવેલ છે.

જેમથી બાદ રૂ.૨૨/-કરજીયાત ધાપણ તથા એરીયા વિકાસ ફંડના બાદ જતાં રૂ.૯૦૦/- (રૂપિયા નવસો-પુરા) રોકડા એડવાન્સ બે હપ્તામાં ચૂકવી આપેલ છે. આ ભાવ આપણે ખેતર બેઠાં રૂ.૯૨૨/- ચૂકવેલ છે. એટલે કે કટાઈ અને વાહતુક ખર્ચ આ એડવાન્સ ચૂકવણીમાં ગણતરીમાં લીધેલ નથી સગરકેન ક-ટ્રોલ ઓફેરના કલોજ પ A અનુસાર એરીશનલ કેન પ્રાઈસ માટે ખેડનો હકદાર છે. અને તે સામે S.M.P. ક્યાને લઈએ તો S.M.P. રૂ. ૧૪૬૦-૨૦ પે.નારે વિગતે થશે.

ઉપરોક્તમાં હવે ભાગવ કોમ્પ્લેટ એટલે કે એસ-સીયલ કોમ્પોઝીટી એક્ટ કલોજ 5(A) પ્રમાણે એરીશનલ કેન પ્રાઈસની ગણતરી કરીએ તો તે માટે પીલાણ સીજન ૨૦૦૮ x ૨૦૦૯ની ઉભયદીત ખાંડની તા.૩૦/૦૬/૨૦૦૯ સુધીમાં ઉપજેલ એવરેજ કિંમત ધ્યાને લેતાં દરદરે તે રૂ.૫૧૩-૪૦ પેસા થાય અને તે વિગત ધ્યાને લઈએ તો :-

આપણી એસ.એમ.પી. (ન્યુનતમ કિંમત) એરીશનલ કેન પ્રાઈસ	રૂ.૯૪૬-૮૦ પે.દરદરે
	+ રૂ.૫૧૩-૪૦ પે.દરદરે
	રૂ.૧૪૬૦-૨૦ પે.થાય
કટાઈ અને વાહતુકની ૨૬મ ઉપરોક્ત વિગતે બાદજતાં ખેતર બેઠાં	રૂ. ૨૫૫-૩૩ દરદરે
	રૂ.૧૨૦૪-૮૭ દરદરે

..૩..



Subject to Talala Jurisdiction
E-Mail : talala_sugar@yahoo.com

(02877) M.D. 222256 Fax No. 221600
C.M. 222412 Gram : KHANDUDYOG

જા.નં. સે/૨૪ નં. ૨૮-૧૦-૨૧
C.S.T. No. 24621100067 Dt. 30-9-2005
TIN No. 24121100067 Dt. 30-9-2005

શ્રી તાલાલા તાલુકા સહકારી ખાંડ ઉદ્યોગ મંડળી લી. તાલાલા (ગીર)
સાસણ રોડ, તાલાલા (ગીર)-૩૬૨ ૧૫૦ જી.પુનગઢ (ગુજરાત)

..૩..

શેરડીની કિંમત ૨૦૦૮ x ૨૦૦૯ માટે રૂ.૧૨૦૪-૮૭ એડીશનલ કેન પ્રાઈસ ધ્યાને લેતાં થાય છે. જે એસ-સીયલ કોમોડીટી એક્ટ કલોજ પ-એ હેઠળ આપણે જે ગણતરી કરી છે. તે ઉપરાંત વિગતે રૂ.૫૧૩-૪૦ પે. થાય છે. સુગર કેન કન્ટ્રોલ કલોજ પ-એ અનુસાર એડીશનલ કેન પ્રાઈસ તથા S.M.P ધ્યાને લઈ અને શેરડી વાલતુક અને કટાઈ ખર્ચ સંસ્થા કરે છે. તે અનુસાર શેરડી કટાઈ અને વાલતુક ખર્ચ જે રૂ.૨૫૫-૩૩ પે. ૬૨૨ને થાય છે તે એડીશનલ કેન પ્રાઈસ રૂ.૫૧૩-૪૦ પે. માંથી મજરે બાદ ગણીએ તો બાકી રહેલ રૂ.૨૫૮-૦૭ પે. થાય.

ચૂકવવાપાત્ર રૂા. ચૂકવાયેલ રકમ રૂા. ચૂકવવા બાકી રૂા.

(૧) શેરડીના ૬૨૨ને ન્યૂનતમ કિંમત	૯૪૬-૮૦	૯૨૨-૦૦	૨૪-૮૦
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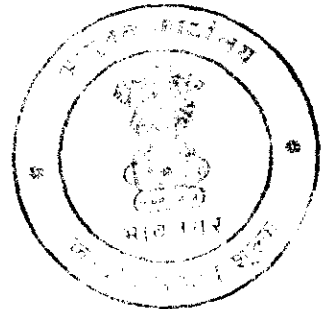
(૨) કલોજ પ(એ) મુજબ એડીશનલ કેન પ્રાઈસ	૫૧૩-૪૦	૨૫૫-૩૩	૨૫-૦૭
૬૨૨ને	૧૪૬૦-૨૦	૧૧૭૭-૩૩	

એટલે કે રૂ.૯૪૬-૮૦ + ૨૫૮-૦૭ મળી કુલ રૂ.૧૨૦૪-૮૭ એટલે કે રૂ.૧૨૦૫ ૬૨૨ને કુલ થાય જેની સામે ખાતર જંતુનાશક દવા વિગેરેનો ભાવ વધારો અને ખાસ કરીને ગોળ સબ્સીડીની બિનનંદુરસ્ત હારિકાઈ અને નેઓ દ્વારા આ વિસ્તારમાં શેરડીના વધારે ભાવો ચૂકવતા સામે સંસ્થાએ ટકી રહેવા વિગતો ધ્યાને લઈ સીઝન ૨૦૦૮ x ૨૦૦૯ માટે ખેતર બેઠાં કાર્બનલ ભાવ ૬૨૨ના રૂ.૧૨૨૪/- નક્કી કરવા કરાવવામાં આવે છે. અને તે ધ્યાને લેતાં રૂ.૯૨૨/- એડવાન્સ રકમ ચૂકવી આપેલ છે. જેથી બાકી રહેતી ૬૨૨ને રૂ.૩૦૨/- (રૂપિયા ત્રણસો બે) લેખેની રકમ નાણાકિય સગવડતા અનુસાર ચૂકવણા કરી આપવા કરાવવામાં આવે છે.

કરાવ સર્વાનું મતે મંજૂર

ખરી નકલ

એવેન્ટ ડિરેક્ટર,
શ્રી તાલાલા તાલુકા સહકારી ખાંડ
ઉદ્યોગ મંડળી લી. તાલાલા (ગીર)



Subject to Talala Jurisdiction

E-Mail : talala_sugar@yahoo.com

(02877) M.D. 222256
C.M. 222412

Fax No. 221600

Gram : KHANDUDYOG

રજ.નં. સી/૨૪ તા. ૨૮-૧૦-૯૮

C.S.T. No. 24621100067 Dt. 30-9-2005

TIN No. 24121100067 Dt. 30-9-2005

Shree Talala Taluka Sahakari Khand
Udyog Mandli Limited, Talala (Gir)
Sasan Road, Talala (Gir)-362 150 Dist : Junagadhશ્રી તાલાલા તાલુકા સહકારી ખાંડ
ઉદ્યોગ મંડળી લી. તાલાલા (ગીર)
સાસણ રોડ, તાલાલા (ગીર)-૩૬૨ ૧૫૦ જી.જુનાગઢ (ગુજરાત)

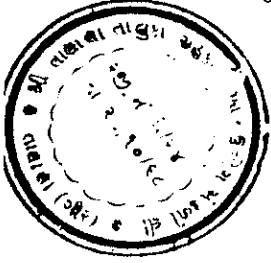
મંડળીની એકઝીક્યુટીવ કમીટીની તા. ૧૪/૦૩/૨૦૦૮ના રોજ મળેલ બેઠકના ઠરાવ નં. ૧૨ ની ખરી નકલ

મુદ્દો:-૧૨ સને ૨૦૦૮-૦૯માં શેરડી કટાઈ મજૂરોને ચુકવેલ કટાઈ દર અને અન્ય સહાયની મંજૂરી નોંધ લેવા બાબત.

ઠરાવ:-૧૨ ગુજરાત રાજ્ય સહકારી ખાંડ ઉદ્યોગ સંઘના પત્ર નં.તતસ/૪/૧૦૭૬/તા.પ-૧૨-૨૦૦૮ના પત્ર સાથે ગુજરાત રાજ્યના શ્રમ અને રોજગાર વિભાગના નોટીફિકેશન નં.કે એમ આર ૨૦૦૮-૧૯૨/એમ ડબલ્યુએ ૧૦૯૮-૧૧૩૪ એન્ડ (૨) તારીખ ૧ ડીસેમ્બર ૨૦૦૮ની નકલ મોકલેલ છે. જે અનુસાર શેરડી કટાઈ દર દરતન દીઠ રૂ.૧૭૦/- નક્કી કરેલ છે. તેમજ શેરડી કટાઈ મજૂરોનું આવક જાવકનું ભાડું તેના બીલોમાંથી વસુલાત કરતા હોય, અને દક્ષિણ ગુજરાતની કેક્ટરીઓ કરતાં આપણું અંતર વધારે થાય છે. કટાઈ મજૂરી વળતરમાં સામ્યતા રહે તે હેતુને ધ્યાને લઈ જવાનો વાહતુક ખર્ચ કે જેમાં જવાના કોચતા સંખ્યા ૧૩૫૩ ને લાવવામાટે કોચતા દીઠ રૂ. ૬૩૦/- ખર્ચ થયેલ તે પ્રમાણે ગણતરી કરી રૂ. ૮.૫૨,૭૦૫/- થાય જેની સામે ૧ લાખ ૨૦ શેરડીનું પીલાણ ગણતાં દરતને રૂ. ૮ : ૫૨ પૈસા થાય રાઉન્ડઅપમાં લેતા દરતને રૂ. ૯ (રૂ. ૬ મજૂરોના વતા ૩ મુકાદમ કમીશન) પ્રમાણે ભાવ વધારો તેમજ દક્ષિણ ગુજરાતમાં શેરડીના આગ્રા કટાઈ મજૂરોની માલીકીના થાય છે. અને આપણી નજીકની કોડીનાર સુગર કેક્ટરીમાં આગ્રા બાંધવાની મજૂરી પેટે દર તને રૂ. ૧૨/- લેખેની સીસ્ટમ છે. જે ધ્યાને લેતા આપણા ખેડુતો દર તને રૂ. ૭ (સાત) આપે છે. અને તેમા સામ્યતા રહે તે હેતુ રૂ. ૫ (રૂ. ૩ મજૂરોના અને રૂ. ૨ મુકાદમ કમીશન) ભાવ વધારો આપવો જોઈએ.

આમ તમામ વિગતો ધ્યાને લઈ પીલાણ શીજન ૨૦૦૮-૦૯માં શેરડી કટાઈ મજૂરોને મજૂર વાહતુક સહત અને આગ્રાના પુળાની મજૂરી તકાવતનાં મળીકુલ રૂ. ૧૪ (રૂ. ૯ મજૂરો ના વતા રૂ. ૫ મુકાદમ કમીશન) દરતને ભાવ વધારો ચુકવવા ઠરાવવામાં આવે છે.

ઠરાવ સર્વાનુમતે મંજૂર



ખરી નકલ

મેનેજિંગ ડિરેક્ટર,
શ્રી તાલાલા તાલુકા સહકારી ખાંડ
ઉદ્યોગ મંડળી લી. તાલાલા (ગીર)





दूरभाष / Phone: 26263425, 26263426, 26263696, 26263891, तार / Grant: FEDSUCOP
FAX : (91-11) 26263658 E-mail : nfcf@ndb.vsnl.net.in • nfcf@spectranet.com
Website : Coopsugar.org.

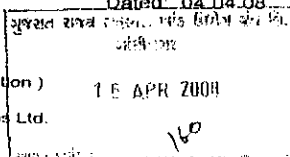
NATIONAL FEDERATION OF COOPERATIVE SUGAR FACTORIES LIMITED
राष्ट्रीय सहकारी शक्कर कारखाना संघ लिमिटेड
ANSAL PLAZA, BLOCK C, 2ND FLOOR, AUGUST KRANTI MARG, NEW DELHI 110049
असल प्लाजा, ब्लॉक - सी (दूसरी मंजिल), अगस्त क्रांति मार्ग, नई दिल्ली - 110049

F: 13-109/SP/2008

Dated: 04.04.08

To,

All Member Cooperative Sugar Factories (In Operation)
&
All State Federations of Cooperative Sugar Factories Ltd.



Sub: Fixation of the Statutory Minimum Price (SMP) of sugarcane payable by sugar factories for 2008-09 sugar season.

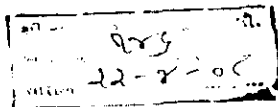
Dear Sir,

The Govt. India, Ministry of Consumer Affairs, Food & Public Distribution, Directorate of Sugar, Krishi Bhawan, New Delhi vide its order no.3 (8)/2007-SP II dated 31ST March, 2008 has decided to fix the Statutory Minimum Price (SMP) of sugarcane payable by sugar factories for 2008-09 sugar season at Rs. 81.18 per quintal linked to a basis recovery of 9% subject to a premium of Rs. 0.90 for every 0.1% point increase in the recovery above that level. Copy of the order is enclosed for your ready reference.

P
4/16/4

This is for your kind information.

Thanking you,



Yours faithfully,

(VIKRANT KUMAR)
MANAGING DIRECTOR

JLMD.

*Delhi
22.04.08
- 22.04.08 - Agri
- 22/4*

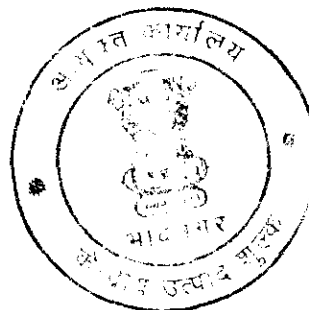
**GUJARAT STATE FEDERATION OF CO-OP. SUGAR FACTORIES LTD.,
GANDHINAGAR.**

*in hand
22/4
Delhi
22/4*

Ref.No:TTS-4/HAV /2008. 17th April, 2008

Copy f.w.cs. to the Managing Directors, all member sugar factories for information and ready reference.

(K.N.BHATT)
Administrative Officer



Most Immediate

No.3 (8)/2008-SP.II
Government of India
Ministry of Consumer Affairs, Food & Public Distribution
Department of Food & Public Distribution

Krishi Bhavan, New Delhi-110 001
Dated the 31st March, 2008

To

The Chief Secretaries of
Sugar Producing States
(List attached)

Subject: Fixation of the Statutory Minimum Price (SMP) of sugarcane payable by
sugar factories for 2008-09 sugar season.

Sir,

I am directed to inform that the Government of India has decided to fix the
Statutory Minimum Price (SMP) of sugarcane payable by sugar factories for 2008-09
sugar season at Rs.81.18 per quintal linked to a basic recovery of 9% subject to a
premium of Rs.0.90 for every 0.1% point increase in the recovery above that level. It
is requested that this decision may please be given wide publicity by your
Government.

Yours faithfully,

(Signature)
31/03/08
(N. Sanyal)

Joint Secretary to the Govt. of India
Tel: 2338 2512

F.No.3-17/2008-SP.II
Government of India
Ministry of Consumer Affairs, Food & Public Distribution
Department of Food & Public Distribution

Krishi Bhavan, New Delhi.
Dated: 9th March, 2009

To

All the sugar factories listed in the Schedule to the Order.

Subject: - Fixation of factory-wise statutory Minimum Price (SMP) of sugarcane for
2008- 2009 sugar season.

Sir,

I am directed to enclose a copy of this Ministry's Notification G.S.R
No.129(B)/Ess.Com./Sugarcane dated 28th February, 2009 fixing factory-wise Statutory
Minimum Price of sugarcane payable by the sugar factories specified therein for 2008-
2009 sugar season for information and necessary action.

Yours faithfully,

(Signature)
(R.L. Khosla)
Under Secretary (SP-II)
Tel: 23385726

Rs 946.80
Total

Encl: As Above

Boiler Board
RC
Copies - 2
AC - Agri
RC
8/4

26
5-8-08



भाग II—खण्ड 3(1)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
(Department of Food and Public Distribution)

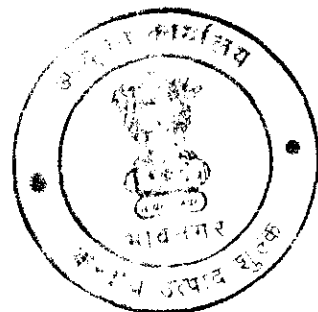
ORDER

New Delhi, the 26th February, 2009

G.S.R. 129(E)/Ess.Com./Sugarcane.— In exercise of the powers conferred by clause 3 of Sugarcane (Control) Order, 1966 and having regard to the various factors mentioned in sub-clause (1) thereof, the Central Government, after consultation with such authorities, Bodies and Associations as are considered necessary by it to be consulted and on the basis of the basic minimum price of sugarcane at Rs. 81.18 per quintal linked to a basic recovery of 9% sugar subject to a premium of Rs. 0.90 for every 0.1% point increase in the recovery above that level hereby fixes the price specified in column (4) of the Schedule hereto annexed as the minimum price that shall be payable by the owners of the vacuum pan process sugar factories specified in the corresponding entry in column (3) of the said Schedule or their agents for the sugarcane delivered at the gate of the factory or any purchasing centre for the sugar year 2008-2009, ending the 30th September, 2009 subject to the rebates payable therefor under clause 3A of the said Order

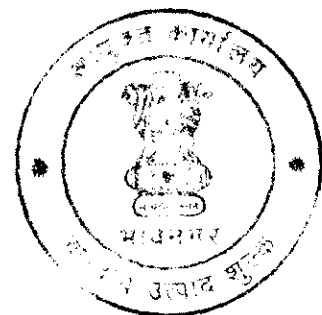
SCHEDULE

Serial Number	Plant Code and Short Name	Name of the factory	Minimum sugarcane price in Rupees per quintal
(1)	(2)	(3)	(4)
PUNJAB			
1.	00101 Gurdaspur	Gurdaspur Cooperative Sugar Mills Ltd., (Unit Gurdaspur), Post Box No. 27, Gurdaspur, Distt. Gurdaspur-143521. Punjab	81.78
2.	00201 Batala	The Batala Cooperative sugar Mills Ltd., P.O. Batala, Gurdaspur -143505. Punjab.	82.98
3.	00301 Fazilka	Fazilka Cooperative Sugar Mills Ltd. P.O. Fazilka, District Ferozepur-152124. Punjab.	81.88
4.	00401 Morinda	The Morinda Cooperative Sugar Mills Ltd., P.O., Morinda, Distt. Roopnagar -140101. Punjab.	89.28
5.	00501 Bhogpur	The Bhogpur Coop. Sugar Mills Ltd., Bhogpur - 144 201, Distt. Jalandhar, Punjab	91.08



36		THE GAZETTE OF INDIA: EXTRAORDINARY	Part II - Sec. 30
164.	11301 Talala	Shree Talala Taluka Sahakari Khand Udyog Mandli Ltd., Sasan Road, Talala, Distt. Junagarh, Pin : 362150, Gujarat.	94.68
165.	32101 Vataria	Shree Ganesh Khand Udyog Sahkari Mandli Ltd., Vataria, Tal: Valia, Distt. Bharuch, Gujarat.	94.68
166.	40901 Dharikheda	Shree Narmada Khand Udyog Sahakari Mandli Ltd., Dharikheda, PO Timbi, Distt. Narmada, Gujarat. Pin : 393140.	94.68
167.	41001 Gandhara	Shree Vadodara Distt. Coop. Sugarcane Grower's Union Ltd., Gandhara, Karjan, Distt. Vadodara - 391210, Gujarat.	95.58
168.	41101 Kosamba	Shree Khedut Sahakari Khand Udyog Mandli Ltd., Kosamba, Hansot, Distt. Bharuch, Gujarat. Pin : 394120.	88.38
169.	57901 Kukarmunda	Govardhan Sugar Industries, Kukarmunda, Nizar, Distt. Vyara (Tapi), Pin : 394380, Gujarat.	83.88
MAHARASHTRA			
170.	11801 Niphad	Niphad SSK Ltd., Pimpas, Post. Bhausahbnagar, Tq. Niphad, Distt. Nasik, Maharashtra. Pin : 422301	105.48
171.	11901 Karamveer	Karamveer Kakasaheb Wagh SSK Ltd., Leased to Vaidyanath SSK Ltd., Pangari, Tq. Parli, Distt. Beed, Maharashtra	104.58
172.	12001 Materwadi	The Kadwa SSK Ltd., Materwadi, Rajaramnagar, Tq. Dindori, Distt. Nasik, Mah. Pin : 422209.	108.18
173.	12101 Pake	Nasik SSK Ltd., Pake, Tq. & Distt. Nasik, Maharashtra. Pin : 422101.	105.48
174.	12201 Vithewadi	Vasantao Dada Patil SSK Ltd., Vithewadi, Tq. Deoli, Distt. Nasik, Maharashtra	103.68
175.	12301 Sanjivani	The Sanjivani (Takli) SSK Ltd., Sahajanandnagar, PO: Shinganapur, Taluka Kopergaon, Distt. Ahmednagar, Maharashtra	111.78
176.	12401 Kopergaon	The Kopergaon SSK Ltd., Gautamnagar, Post: Kolpewadi, Tq. Kopergaon, Distt. Ahmednagar, Pin: 423602, Maharashtra	106.38
177.	12501 Gausa Nagar	Shri Ganesh SSK Ltd. PO: Rajurgaoan (Khard), Tq. Rahata, Distt. Ahmednagar, Mah.	105.48
178.	12601 Ashok Nagar	Ashok SSK Ltd., Post Karegaon Factory, Shirampur, Distt. Ahmednagar, Maharashtra.	107.28
179.	12701 Pravaranagar	Padamshri Dr. Vitthalrao Vikhe Patil SSK Ltd., Pravaranagar- 413712, Tq. Rahata, Distt. Ahmednagar, Maharashtra.	113.58
180.	12801 Rahuri	Rahuri SSK Ltd., Shrishivajinagar, Tq. Rahuri, Distt. Ahmednagar, Maharashtra.	100.08
181.	12901 Shrigonda	The Shrigonda SSK Ltd., PO: Shrigonda, Tq. Shrigonda, Distt. Ahmednagar, Mah.	103.68

8.1.2. From the above scanned images, it appeared that the Government of India, Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, after consultation with the National Federation of Cooperative Sugar Factories Limited, New Delhi and other associated parties, fixes the Statutory Minimum Price (SMP) of sugarcane payable by sugar factories every year and the rate so fixed is per quintal ex-sugar factory rate. Accordingly, the Statutory Minimum Price (SMP) of sugarcane payable by M/s Shree Talala Taluka Sahakari Khand Udyog Mandali Limited, Talala Gir for the year 2008-09 was fixed at ex-factory rate of Rs. 94.68 per quintal as per Sr. No. 164 of the list as per order dated 26.02.2009 of Government of India. On the basis of the order dated 26.02.2009 of Government of India, the said noticee passed the resolution No. 3 in the meeting of the Board of Directors of the Mandali held on 27.08.2009 and fixed ex-factory SMP (Statutory Minimum Price) rate of



sugarcane as Rs. 94.68 per quintal (Rs. 946.80 per MT) for their season 2008-09. They also resolved the rate of sugarcane transportation as Rs. 69.58 per MT and rate of sugarcane cutting as Rs. 185.75 per MT. As per clause 5A of sugarcane control order, the sugarcane farmers were entitled for additional cane price amounting to Rs. 513.40 per MT and considering the same, Rs.1460.20 per MT (Rs. 946.80 + Rs. 513.40) was the SMP (Statutory Minimum Price) for 2008-09, which was required to be paid to sugarcane farmers and rates were ex-factory. Out of the same, total amount of Rs. 255.33 towards sugarcane cutting charges (Rs. 185.75 per MT) and transportation charges (Rs. 69.58 per MT) was deducted by the noticee and remaining amount was paid to the farmers. The amount of sugarcane cutting charges so deducted is towards the labour/ manpower supplied by the noticee to the farmers. The noticee has paid the amount of sugarcane cutting charges (Rs. 185.75 per MT) to the labours.

9. Scrutiny of the documents produced on 11.08.2011:

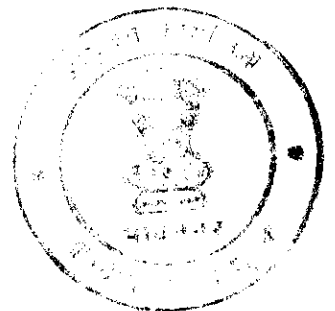
The Account clerk of M/s Shree Talala Taluka Sahakari Khand Udyog Mandali Limited, Talala Gir, Shri Hamir Devsibhai Bera submitted documents as called for at the time of recording statement dated 11.08.2011, which have been discussed herein below:

9.1. Sugarcane Cutting Bills:

Shri Hamir Devsibhai Bera, Account Clerk of said noticee produced five bill books, one book for the year 2007-08, 2009-10 and 2010-11 and two books for the year 2008-09, while recording his statement. On scrutiny of the bill books, it is observed that the said Noticee was issuing bills towards sugarcane cutting charges and accordingly paying labour charges to the labours as per the name shown in the said labour charges bill and same has been discussed in detail in para 6.2 supra.

9.2. Ledgers:

9.2.1 On scrutiny of the ledgers, it is observed that the said Noticee was maintaining different type of ledgers viz. Sugarcane purchase expenses, sugarcane packing and forwarding expenses, sugarcane cutting expenses, sugarcane transportation expenses etc. From the sugarcane cutting expenses ledgers for the period from 2006-07 to 2010-11, it is observed that they have paid sugarcane cutting charges during last five years as under :-



Sr. No.	Year	Amount of "Sugarcane cutting Expenditure"
1	2006-07	2,71,75,910/-
2	2007-08	3,24,55,905/-
3	2008-09	2,62,97,808/-
4	2009-10	2,24,15,690/-
5	2010-11	3,16,52,898/-

9.2.2. From the above, it appeared that they have paid sugarcane cutting charges total amounting to Rs.13,99,98,211/- to their labours during the financial year 2006-07 to 2010-11. It is also observed that they have not shown entries as per the sugarcane cutting bills issued on daily basis but have shown one entry for each month. The said expenditures were towards payment of labour charges of sugarcane cutting, at the place of sugarcane farmer, which were provided by the said noticee to their sugarcane farmer members.

10. The statutory definitions of some of the relevant terms related to 'Manpower recruitment or supply Agency', as defined under the provisions of the Finance Act, 1994 are as under:

Section 65(105)(k)

"taxable service" means any service provided or to be provided to any person, by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner;

Section 65(68)

"Manpower recruitment or supply agency" means any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, any person.

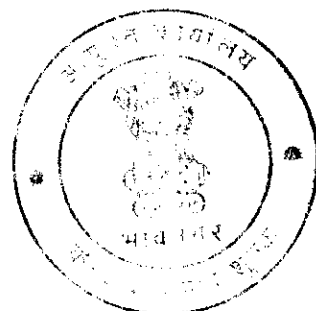
11.1 From the foregoing, it appeared that the Government of India, Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, fixes the ex-factory Statutory Minimum Price (SMP) of per quintal sugarcane, payable by respective sugar factories to their farmer members/farmers of sugarcane. Accordingly, the ex-factory Statutory Minimum Price (SMP) of per quintal sugarcane payable by the noticee to their farmer members/farmers of sugarcane for the year 2008-09 was fixed at Rs. 94.68 per quintal (Rs. 946.80 per MT). Thus, the noticee



was required to pay Rs. 94.68 per quintal of sugarcane to their farmer members/farmers of sugarcane in respect of sugarcane delivered at factory gate by the farmers. Therefore, all the expenses incurred for bringing the sugarcane up to factory gate of the Noticee, including the expenses towards labour charges for cutting of sugarcane and expenses towards transportation of sugarcane from farm to factory, are required to be borne by the farmers. The Government of India, Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, every year fixes the ex-factory Statutory Minimum Price (SMP) of per quintal sugarcane which is ex-sugar factory gate, for which they have issued separate circular/letter/notification and accordingly, the concern sugar factory have passed necessary resolution in their meeting.

11.2 It further appeared that in the present case, the noticee is supplying labours/ manpower to farmers for cutting sugarcane for which rates have been fixed on the basis of per tonne cutting of sugarcane. However, it appeared that as per the arrangements made between the Noticee and the farmers and resolutions passed by the Noticee in their meetings of the Board of Directors, instead of farmers paying the amount to the Noticee towards labours supplied by it, the Noticee deduct the amount of labour/ manpower supply charges towards sugarcane cutting at the farm of the farmers from the amount of sugarcane payable to the farmers. Thus, the labour/ manpower is supplied by the Noticee to the farmers for which the Noticee is paying labour charges towards cutting of sugarcane to the labours and showing expenditure in their books of account/balance sheet/profit and loss account and recovering the said amount from the farmers by deducting the amount payable i.e. Statutory Minimum Price (SMP) fixed by the government every year to farmers towards purchase of sugarcane.

11.3. Further it appeared that on the basis of the orders issued by the Government of India every year fixing Statutory Minimum Price (SMP) of sugarcane payable by the sugar factories to their farmers every year and the rate so fixed is per quintal ex- sugar factory rate towards purchase of sugarcane, the said Noticee in the meeting of the Board of Directors of the Mandali, passed the resolution and fixed ex-factory SMP rate of sugarcane. They also resolved the rate of sugarcane transportation and rate of sugarcane cutting labour. Out of the total amount i.e. SMP rates, the amount towards sugarcane cutting charges and transportation charges was deducted by the Noticee and remaining amount was paid to the farmers. Thus, it appeared that the sugar factory is required to pay Statutory Minimum Price (SMP) of sugarcane to their sugarcane farmer members. As against it, the said Noticee was paying the amount after deducting sugarcane transportation and sugarcane cutting charges to the sugarcane farmer members, as the said Noticee was providing labours to their sugarcane farmer members for cutting of sugar cane and paying labour charges directly to the labours and showing the same as expenditure. The amount of sugarcane cutting charges so deducted is towards the labour/ manpower supplied by the noticee to the



farmers and is income for the said noticee. Hence, the said Noticee appeared to be providing services which falls under "Manpower Recruitment or Supply Agency's Service" as defined under Section 65 (105) (k) of the Act, which is chargeable to Service Tax.

12.1 From the above, it appeared that the said Noticee was paying sugarcane cutting charges directly to the labours supplied by them to the sugarcane farmers and showing the same as expenditure in their books of accounts. The amount paid to the labours were deducted from the amount of sugarcane payable to farmers i.e. Statutory Minimum Price (SMP) of sugarcane fixed by the Government of India which is ex-factory rate. The amount so deducted by the Noticee from the amount payable to farmers is the income of the Noticee towards services of providing Manpower Recruitment or Supply Agency. Thus, the activity of providing/ supplying labour for cutting of sugarcane to the farmer members at the place of sugarcane farmers by the Noticee falls under the definition of 'Manpower Recruitment or Supply Agency' defined under Section 65 (68) of the Act and service so provided by the Noticee falls under the definition of taxable service as provided under Section 65 (105) (k) of the Act viz. 'Manpower Recruitment or Supply Agency's Service'.

12.2 As per the definition of 'Manpower Recruitment and Supply Agency's Service' as defined under Section 65 (105) (k) of the Act, the activities of providing any service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, falls under the services of 'Manpower Recruitment and Supply Agency's Service' and chargeable to service tax.

12.3 Section 67 of the Act provides for the valuation of taxable services for charging service tax, which is reproduced herein below.

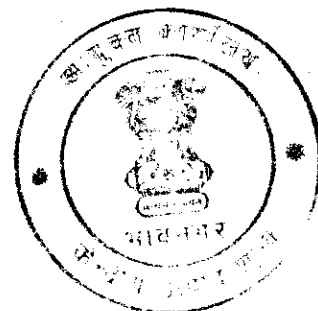
67. Valuation of taxable services for charging Service tax. –

(1) Subject to the provisions of this Chapter, service tax chargeable on any taxable service with reference to its value shall,—

(i) in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him;

(ii) in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money, with the addition of service tax charged, is equivalent to the consideration;

(iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.



(2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.

(3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed.

Explanation.—For the purposes of this section,—

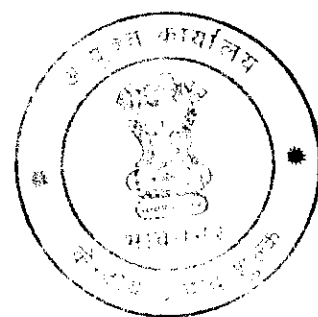
(a) “consideration” includes any amount that is payable for the taxable services provided or to be provided;

(b) “money” includes any currency, cheque, promissory note, letter of credit, draft, pay order, travellers cheque, money order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value;

(c) “gross amount charged” includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and any amount credited or debited, as the case may be, to any account, whether called “Suspense account” or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.

12.4 Thus, Section 67 of the Act provides that where service tax is chargeable on any taxable service with reference to its value, then such value shall be the gross amount charged by the service provider for such service provided or to be provided by him. Further, as per explanation (c) of said Section 67, “gross amount charged” includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and any amount credited or debited, as the case may be, to any account, whether called “Suspense account” or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.

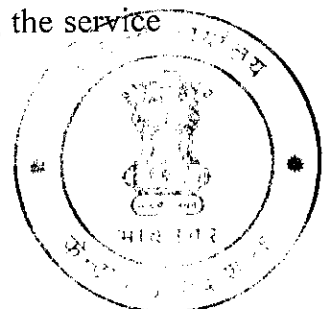
12.5 Therefore, the amount of “Sugarcane/ Sherdi cutting expenses” deducted from the amount of sugarcane payable to farmers appeared to be gross amount charged by the Noticee for providing service of ‘Manpower Recruitment and Supply Agency’s Service’ by supplying labour to farmers. Thus, the amount i.e. “Sugarcane/Sherdi cutting expenses” were towards the amount paid for labours supplied by the Noticee to their farmer members



and the amount deducted from the amount of sugarcane payable to farmers were towards gross amount charged by Noticee for providing service of 'Manpower Recruitment and Supply Agency's Service' by supplying labour to farmers and the same appeared to be falling under the head of 'Manpower Recruitment and Supply Agency's Service' and chargeable to Service Tax.

13. From the documents submitted by the Managing Director and Account Clerk of the said noticee while recording statements and as discussed hereinabove, it appeared that the Noticee, while paying the Statutory Minimum Price (SMP) of sugarcane fixed by the Govt. of India, which is ex-factory rate to the sugarcane farmer, was deducting the sugarcane transportation charges and sugarcane cutting charges as they were providing labours to sugarcane farmer. It revealed that the amount shown in the books of account under the head of "Sugarcane/Sherdi cutting expenses" is nothing but the income occurred on account of amount deducted from the payment of farmers towards supply of labours and thus, the said Noticee was providing taxable service of labour supply to their farmers members, which in terms of section 65A of the Act are classifiable as 'Manpower Recruitment or Supply Agency's Service' as defined under Section 65 (105) (k) of the Act, without payment of service tax leviable thereon under the Act and the Rules framed thereunder. Therefore, it appeared that as per the provisions of Section 68 of the Act, the Noticee is the person liable for paying the service tax for the services provided by them. Further, it appeared that as per Section 67 of the Act, service tax on these services is leviable on the gross amount charged by the service provider. Thus, from the figures of expenses as shown in profit & loss account and sugarcane cutting expenses ledgers, it appeared that during the year 2006-07 to 2010-11, the said Noticee have paid Rs. 13,99,98,211/- in respect of labour charges for labour provided to sugarcane farmer members for sugarcane cutting, and the same amount is received by the Noticee from the farmers by way of deducting the same from amount payable to farmers towards purchase of sugarcane, which is taxable services. Therefore, it appeared that service tax at the appropriate rate on the services provided by the Noticee amounting to Rs.1,61,57,355/- as calculated & described in the **Annexure-A** to the show cause notice is liable to be recovered under Section 73 of the Act along with interest under Section 75 of the Act.

14. It also appeared that the Noticee have suppressed the facts that they were engaged in providing services of 'Manpower Recruitment or Supply Agency's Service' from the department, in as much as they have not mentioned the same in ST-3 Returns filed by them from time to time in respect of services provided by them under the category of 'Goods Transport Agency'. It also appeared that the Noticee had neither obtained Service Tax registration under the category of 'Manpower Recruitment or Supply Agency's Service' nor filed any ST-3 Return for providing services of 'Manpower Recruitment and Supply Agency's Service' as prescribed under Rule 7 of the Service Tax Rules, 1994 (hereinafter referred to as the Rules) and thereby suppressed the facts that they were liable for paying the service



tax for the services provided under the categories of 'Manpower Recruitment or Supply Agency's Service' which appeared to have been done with willful intent to evade payment of Service Tax.

15. From the above, it also appeared that the Noticee has contravened the following provisions of the Act and the Rules framed there under with willful intent to evade payment of service tax:

(i) Section 69 of the Act read with Rule 4 of the Rules in as much as they failed to apply for registration / add 'Manpower Recruitment or Supply Agency's Service' as the category of services provided by them in their Service Tax Registration already held by them,

(ii) Section 68 of the Act read with Rule 6 in as much as they failed to pay Service Tax at the appropriate rate prescribed under Section 66 of the Act from time to time on the value of the taxable services i. e. 'Manpower Recruitment or Supply Agency's Service' provided by them during the period from 2006-07 to 2010-11,

(iii) Section 70 of the Act read with Rule 7 of the Rules in as much as they failed to assess the Service Tax payable on the value of taxable services received for providing various services as discussed hereinabove and to furnish Returns in Form ST-3 duly mentioning the details of taxable services provided by them during the period from 2006-07 to 2010-11.

16. Therefore, it appeared that since the Noticee have suppressed the facts and contravened various provisions of the Act and the Rules as discussed hereinabove with willful intent to evade payment of Service Tax, extended period as contemplated under proviso to Section 73 (1) of the Act is invokable for recovery of Service Tax not levied and/or paid by the Noticee.

17. From the above, it appeared that for the acts of suppression of facts of providing taxable services as mentioned hereinabove & liability of the Noticee to pay service tax on it and contravening various provisions of the Act and the Rules as discussed hereinabove with willful intent to evade payment of service tax, the Noticee have rendered themselves liable to penalty under Section 78 of the Act. Similarly, for the act of not applying for registration under the category of Manpower Recruitment or Supply Agency's Service under Section 69 of the Act read with Rule 4 of the Rules and for the act of non-submission of required details of amount received for providing Manpower Recruitment or Supply Agency's Service in the prescribed returns under Section 70 of the Act read with Rule 7 of the Rules as discussed hereinabove, the Noticee have rendered themselves liable to penalty under Section 77 of the Act.

18. From the above, it also appeared that the Noticee admitted the facts of non-payment of Service Tax payable by them as per the provisions of Section 68 of the Act on the taxable services provided by them. Thus, it

